

**Zoning Board of Adjustment
November 7, 2022 6:30 p.m.
City Hall Council Chambers
3 Washington Street, 2nd Floor**

AGENDA

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: September 19 & October 3, 2022
- III. Unfinished Business:
- IV. Hearings:

Continued ZBA 22-13: Petitioners, Brian & Amalia Harmon, requests a Variance for property located at 27-29 Center St., Tax Map #568-016-000-000-000 that is in the Downtown Transition District. The Petitioners requests a Variance to permit a multi-family dwelling with three units on a lot with 3,049 sq. ft. where 18,800 sq. ft. is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations.

ZBA 22-18: Petitioner, Keene Mini Storage, of 690 Marlboro Rd., requests a Variance for property located at 678 Marlboro Rd., Tax Map #214-107-000-000-000 that is in the Industrial District. The Petitioner requests a Variance to permit an electronically activated changeable copy sign per Chapter 100, Article 10.3 Prohibited Signs of the Zoning Regulations.

- V. New Business:
 - Rules of Procedure updates
- VI. Communications and Miscellaneous:
- VII. Non Public Session: (if required) permean
- VIII. Adjournment:

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1 **City of Keene**
2 **New Hampshire**

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5 **ZONING BOARD OF ADJUSTMENT**
6 **MEETING MINUTES**
7

8 **Monday, September 19, 2022**

6:30 PM

Council Chambers
City Hall

Members Present:

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

Staff Present:

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

Members Not Present:

Jane Taylor

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10
11 **I) Introduction of Board Members**
12

13 Chair Gorman called the meeting to order at 6:30 PM and explained the procedures of the
14 meeting.
15

16 **II) Minutes of the Previous Meeting**
17

18 **III) Unfinished Business**

19 **A) House Bill 1661: Notice of Decision outlining the Findings of Fact**
20

21 John Rogers, Zoning Administrator, stated that he wanted to remind the Board about House Bill
22 1661, which they spoke about at their last meeting. He continued that during deliberations of
23 applications, the Board could make sure they delve into the reasoning of their decisions. Staff
24 will take notes during the deliberations so they can adjust their Notice of Decisions to reflect
25 statements made by the Board. As he stated before, the Board already does a good job with this;
26 it is just something to keep in the back of their minds.
27

28 **IV) Hearings**
29

30 **A) ZBA 22-15: Petitioner, 310 Marlboro St., LLC, requests a Variance for**
31 **property located at 310 Marlboro St., Tax Map #595-001-000-000 that is in the**
32 **Business Growth & Reuse District. The Petitioner requests a Variance to permit five**
33 **total stories above grade where three stories above grade are permitted per Chapter**
34 **100, Article 5.4.4 of the Zoning Regulations. ZBA 22-16: Petitioner, 310 Marlboro**

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

39
40 Chair Gorman introduced ZBA 22-15. He continued that tonight the Board would be hearing
41 ZBA 22-16, which has the same Petitioner, so he will ask for staff's input on both.

42
43 Mr. Rogers noted that Jane Taylor is not present tonight due to illness, so there is a four-member
44 Board tonight. Chair Gorman replied that as he understands, the Applicant is aware and wishes
45 to proceed.

46
47 Michael Hagan, Plans Examiner, stated that 310 Marlboro St. is located on 4.5 acres in the
48 Business Growth & Reuse District (BGR). He continued that it is 78,312 square feet, built of
49 brick, CMU, and metal in 1947. He could not find any Variances on file, as far as the City's
50 records go back. The intent of the BGR is *"to serve as an additional downtown zoning district*
51 *that provides opportunity for redevelopment and revitalization of a former industrial area, in an*
52 *environmentally sensitive manner that is of a scale and type compatible with the adjacent*
53 *residential neighborhoods. The development in this District should be oriented toward*
54 *pedestrian and bicycle access. All use in this district shall have City water and sewer services."*

55
56 Chair Gorman asked if anyone had questions for Mr. Hagan. Hearing none, he asked to hear
57 from the Petitioner.

58
59 Randall Walter of Westmoreland stated that he is involved in the redevelopment of 310 Marlboro
60 St. He continued that he is an architect and his colleague Hillary Harris, also an architect and
61 developer, is here with him tonight. As architects, their goal is to understand what a place,
62 building, or site should be or what it best serves. They are not housing developers or any
63 specific kind of developers; rather, they are looking at each opportunity through the lens of their
64 training. They read the neighborhood, read the existing conditions, and are receptive to what is
65 intended to happen in the BGR District and that is what they bring forth tonight. They are
66 acutely aware of the housing shortage, which encourages action.

67
68 Mr. Walter continued that they are also aware that the City of Keene has put a number of
69 documents and commitments together regarding sustainability, clean energy, and resiliency in
70 the City. Many of those are highlighted in the passage Mr. Hagan read about the goals of the
71 BGR District. He and Ms. Harris are compelled by that acronym. Regarding business, they have
72 a mixed-use building that they have been redeveloping since July 2021, bringing back into a vital
73 component of the downtown, which 310 Marlboro St. has the opportunity for growth. The most
74 interesting part is the notion of adaptive reuse, as this is a previous manufacturing facility. The
75 building was initially launched by the Pittsburgh Plate Glass Company as a paintbrush factory in
76 1947 through the late 1970s, then sold to the Kingsbury Company, where it was added it to their

77 collection of buildings in the neighborhood and used for about another 20 years. Mr. Walter
78 stated they are interested in picking up the vitality and the opportunity from there.

79
80 Mr. Walter continued that he and Ms. Harris see this property as a unique and distinct project,
81 based on the ability to look at housing, to redevelop 310 Marlboro St., and to make use of a
82 building that is not what it may seem. Mr. Walter compared the building next door, 312
83 Marlboro St. as both buildings are about 60 feet wide, and appear similar but could not be more
84 different. Built in 1920, 312 Marlboro St. is a 2-story timber building. It is just what it appears
85 to be and that is all it can be. By contrast, 310 Marlboro St. is a steel structure. The Pittsburgh
86 Company built a robust steel structure and then made it look like a mill building, cladding it in
87 brick and making it appropriate for the City of Keene. They have the opportunity to do
88 something and take advantage of the robust steel structure in a sustainable way.

89
90 Mr. Walter stated that they are also intent on producing housing without clearing any trees or
91 using any more open land in Cheshire County. He continued that there is a lot of property they
92 could develop, but it has become apparent to them, through the course of this work, that building
93 on top of an existing building is held in high regard, not just around the US and Canada, but all
94 throughout Europe. Everyone is looking for housing solutions, and they are looking for solutions
95 that have the least impact and most benefit. They see this as an aspirational opportunity where
96 they can create high-performance housing, which is housing that will be net zero and generate as
97 much electricity and energy as it needs to consume. It will reinvigorate the District with already
98 some good activity in the District, with Keene ICE and some other properties. They hope this
99 would be a way to jumpstart and eventually see something good happen with the rest of the
100 Kingsbury properties. They will show tonight how it supports the City's goals, and how they
101 believe they will reduce the carbon footprint.

102
103 Hillary Harris stated that she is an architect, developer, and colleague of Mr. Walter. She
104 continued that they have worked together for about 20 years in varying capacities. She has been
105 interested in working on solutions to climate change challenges by designing buildings with the
106 utmost highest standards for sustainability. She worked with Mr. Walter on the first net zero
107 house build in Maine in 2008, for Unity College, a collaboration with Bensonwood Homes and
108 MIT. She says this to make the case that sustainability and high performance buildings are in her
109 and Mr. Walter's wheelhouses and are of paramount importance to them.

110
111 Ms. Harris continued that in thinking about the design strategy for this project, sustainability was
112 central to their goals. The goal of the State of NH's Climate Action Plan (CAP) is to reduce
113 greenhouse gasses by 80% by the year 2050. This project addresses the majority of the
114 overarching strategies as laid out in the NHCAP. It maximizes energy efficiency; decreases the
115 impact on forests, keeping forests open because they are not proposing a greenfield development;
116 and sequesters carbon, both by using the existing structure to its highest potential - foundations
117 are often the highest component of carbon in a building - and using a mass timber design. They
118 are trying to take all angles on this to make this the most high performance building possible.

119

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

122
123 *“The new plan likewise affirms the City’s long-standing preference for concentrating*
124 *development within the areas bounded by the Route 9/10/12 bypass and Route 101 to create a*
125 *walkable community. The new plan also supports an established Keene goal, one with an*
126 *official history stretching back to the 19th century, of creating and protecting green spaces,*
127 *trails, parks, and natural wildlife corridors.”*

128
129 Ms. Harris continued that lastly, this project is in line with the Sustainability Energy Plan that
130 was adopted by unanimous vote by the City of Keene on January 21, 2021. The number one
131 pathway to achieving net zero is to reduce energy use. This project does it, by optimizing the
132 surface to volume ratio, which pertains to the reason for wanting to build three stories; utilizing
133 the existing infrastructure; creating a walkable and bikeable community; encouraging live/work;
134 and using renewable energy. They have had widespread support on this project thus far. They
135 have received grants from the Department of Energy and REDL (the Rural Economic
136 Development Loan & Grant Program), the 79-E tax credit, and funding through the NHCDDFA
137 (New Hampshire Community Development Finance Authority).

138
139 Chair Gorman stated that before Mr. Walter gets into the Variance criteria, he wanted to let him
140 and Ms. Harris know that if there is any overlap between the information they will be providing
141 for the two applications, the Board is happy to hear the information once. The Board will have
142 to deliberate separately on each application, but the presentation can overlap and dovetail. Mr.
143 Walter replied that the narrative for both is indeed similar, so he will go through it now and then
144 not repeat it. Chair Gorman replied that he and Ms. Harris could add whatever specifics for the
145 second one that they need to.

146
147 Mr. Walter stated that he thinks the application touched on many of the details of ownership and
148 property description, but he wants to give more information about the goals and purpose. He and
149 Ms. Harris believe that approval of this Variance is critical to allow them to develop a variety of
150 housing units to help alleviate the housing shortage in Cheshire County. Multi-family housing is
151 a permitted use in the BGR, so it was clearly the City’s intent. The key is how they are going
152 about it, with their proposal 57 housing units.

153
154 *1. Granting the Variance would not be contrary to the public interest because:*

155
156 Mr. Walter stated that he and Ms. Harris believe that underutilized industrial buildings can be,
157 and often are, contrary to the public interest. They want to revitalize this area, not just the
158 building, but also the entire site. They have applied to the InvestNH Housing Fund, which was
159 part of the reason for the acceleration of the schedule. They are behind schedule with that,
160 because they do not have their building permit, which was required on the submission date, and
161 this meeting is critical to moving forward. InvestNH encouraged them to apply regardless, and
162 they have told InvestNH that if successful with both the Planning Board and the Zoning Board,

163 they would be able to submit a building permit by the end of the year. More importantly, he and
164 Ms. Harris went through many strategies to be able to complete this project on the same schedule
165 that they originally set out, which is for occupancy in the spring of 2024. They can catch up,
166 even though they started out behind.

167
168 Mr. Walter continued that the reason for housing is multi-faceted. If there is a simple supply and
169 demand argument, the more supply there is, the more costs will be reduced. Additionally, they
170 are talking about a different type of housing, a high quality, high performance home that would
171 reduce the carbon impact of new construction. Mayor George Hansel is a member of the Ad Hoc
172 Committee on Housing Stability and has been supportive of the project from the outset. It is in
173 the awareness of employers and all sorts of people, and they believe that it is clear that housing
174 as a development strategy would be in the public interest to advance 310 Marlboro St.

175
176 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

177
178 Mr. Walter stated that with hearing the description of the BGR District and noting that housing is
179 one of the permitted uses, it is evident to him that the staff and planners who developed this
180 district, envision this type of development. It is intended to serve *“as an additional downtown*
181 *zoning district that provides opportunity for redevelopment and revitalization of former*
182 *industrial areas in an environmentally sensitive area that is of a scale and type compatible with*
183 *the residential neighborhoods.”* Each of those phrases strikes him as nearly describing the
184 project that he and Ms. Harris have created. They intend to create something that is of a scale,
185 five stories total, which would be permitted downtown. They are revitalizing a former industrial
186 area, and they are focusing on the environmental sensitivity. Furthermore, the development of
187 the district oriented toward bicycle and pedestrian access is ideal, given that 310 Marlboro St.
188 has two fronts – the traditional front on Marlboro St., and a second front that faces the rail trail,
189 which connects right to downtown. They will touch more on that opportunity and asset in the
190 next application.

191
192 Ms. Harris stated that the image the Board sees right now is a rendering of the proposed design
193 as seen from Marlboro St. She continued that while it is an additional three stories on top of that
194 two-story building, the visual impact of it on Marlboro St. is very slight.

195
196 Mr. Walter stated that again, their proposal intends to use the existing building as a foundation,
197 called a “vertical addition.” This environmentally sensitive opportunity does not exist in most
198 buildings. A study in Europe showed that about 20% of European buildings have the capacity to
199 take one or more stories; so again, this is part of something larger. This is the most sensitive way
200 to not increase foundations, and not increase sight disturbances, by building upwards.

201
202 Mr. Walter continued that there are other benefits to this proposed design. First, it puts a high
203 insulated “hat” on top of the existing building, so not only are they producing new and high
204 quality living environments, but also the addition will improve the base building by insulating it.
205 The size/height of the three stories has to do with the surface area analysis - as they go taller; the

206 surface area diminishes and can lose heat energy per floor. Therefore, they will also use fewer
207 materials as a one-story structure would require many more materials and use a lot more heat,
208 and be a less aesthetic and less functional outcome.

209
210 Mr. Walter continued that he and Ms. Harris have seen, in downtown Keene, other projects that
211 address the housing concern. The housing project on Roxbury St. was successful and now has a
212 waiting list, but he laments the sports field that used to be there. The purpose of this project is to
213 try to preserve open space and existing buildings and homes to avoid using up green fields.

214
215 Mr. Walter continued that regarding the scale and the rendering on the screen, a careful analysis
216 was done as to the positioning of this three-story addition. They have worked and looked at
217 different locations. By locating it approximately in plane with 312 Marlboro St., they feel that it
218 has less impact on the adjacent residential neighborhoods. The low-density neighborhood is
219 directly across the street. They also think it is appropriate to align with the neighbor and create
220 some compatibility, which is one of the reasons they have set it back as far as they have.

221
222 3. *Granting the Variance would do substantial justice because:*

223
224 Mr. Walter stated that the built outcome clearly optimizes the location and the stated goals for
225 the district. He continued that it takes advantage of an existing building and structure that has
226 the capacity to carry additional floors. The structural engineers on the design team have
227 analyzed the existing building, and the fact that manufacturing was happening on the second
228 floor resulted in the way the building was built. There was over a 300 pound per square foot
229 load capacity. The second floor is very robust, and the addition will not rest on the second floor,
230 but that second floor compelled the engineers to produce columns that were capable of carrying
231 that load.

232
233 He continued that there are multiple floors currently used for a different purpose. There is no
234 longer manufacturing on the second floor. There is a video studio, architecture office, other
235 offices, and workout facilities for activities using mats and gym equipment. Thus, the existing
236 building's load rating has gone down, leaving a remainder of probably about 75 to 100 pounds
237 per square foot for each additional floor. They want to take advantage of that capacity and use it
238 to carry new, relatively lightweight structure, a mass timber structure. A wood structure
239 sequesters carbon. It is far less heavy than steel and concrete, which allows them to produce this
240 five-story overall composition, with three stories of lightweight wood on top of this base/pedestal
241 that can carry it. This is the piece of the puzzle they do not see in, for example, the neighboring
242 building, nor do they see it in most of the older buildings in Keene. It is a product of steel
243 structures, thus, it is a relatively unique situation. It is definitely a unique situation for the BGR
244 District. Their goal is to create a scale that is consistent with the neighborhood and
245 simultaneously produce a significant number of housing units.

246
247 4. *If the Variance were granted, the values of the surrounding properties would not be*
248 *diminished because:*

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

259
260 Mr. Walter continued that it is vitality built in to both this site and the overall street, and he
261 thinks what is clearest is that the activity that exists proposed is all toward the rear of the project,
262 more toward the rail trail. They are not changing the front, not adding to the front building.
263 They have already put solar panels on the first block of brick that is in the photo, and on the
264 metal building. It is their understanding that this will be an improvement to the neighborhood
265 and to the City.

266
267 Ms. Harris stated that she wants to add that a number of studies support the fact that well
268 designed, multi-family projects like this do increase the value of surrounding properties, and
269 there is no evidence that they decrease it.

270
271 5. *Unnecessary Hardship*

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

274
275 Mr. Walter stated that two significant attributes of 310 Marlboro St. distinguish it from other
276 properties. First is the size of the existing building relative to its lot size. It is about 80,000
277 square feet and sits on just over four acres, which sounds like a lot, but there is over an acre of
278 footprint alone. Thus, with the setbacks, the building is conforming but there is not a lot of
279 additional area. That compels them to go vertically instead of horizontally. Second is the
280 structural capacity that defines this as a unique property. “Property” is defined as both land and
281 buildings, so they do not just look at the land; they look at the overall composition and the way it
282 has been developed to date. The structural capacity and the ratio of building to lot size are the
283 criteria that distinguish this property from others in the district.

284
285 i. *No fair and substantial relationship exists between the general public purposes of the*
286 *ordinance provision and the specific application of that provision to the property because:*

287
288 Mr. Walter stated that the definition of the BGR District, as conceived about three or four years
289 ago, is relevant here. They propose to build a five-story overall outcome when three stories is
290 allowed, with four stories allowed with parking. Four stories with parking would have the same
291 impact visually, regardless of the parking, so in many ways they are looking at an additional

292 story relative to that outcome. They do not intend to park cars in the building; he is not
293 suggesting that, but it is worth noting that they are essentially asking for a story larger than could
294 be the outcome. To that end, the Board has heard the district intention which was written by the
295 City itself - to create a downtown district, a place that feels compatible with that kind of density.
296 It is noteworthy that the Downtown District allows seven-story buildings in a number of zones.
297 He and Ms. Harris chose five, looking at a balance between the number of apartments they could
298 create, an appropriate setback from Marlboro St., and the ratio of surface area to floor area.
299

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

311 *and*

312 *ii. The proposed use is a reasonable one because:*

313

314 Mr. Walter stated that he and Ms. Harris believe the proposed use is a reasonable one, for all the
315 reasons stated. He continued that at this moment, the needs of the City and its employers to
316 produce high quality housing to attract people to the area, and to improve people's opportunity to
317 have a pedestrian life and a lower carbon footprint, are significant.
318

319 Mr. Walter continued that given that they have defined and met the criterion of 5.A., he does not
320 think he needs to go on to 5.B., which is only relevant if they have not established 5.A.
321

322 Mr. Hoppock asked for more information about the 57 units, such as whether they will be one-
323 bedroom, two-bedroom, etc. Mr. Walter replied that they are sort of in a "cart before the horse"
324 situation. He continued that about two thirds will be one-bedroom, one third will be two-
325 bedroom, and it worked out spatially that there is a studio on each floor. In theory, that could
326 change, depending on final design, but they need to get through the request for the Variance to
327 determine whether they will move forward with the project and a final design of the units. He
328 believes that unit mix is likely to remain, in large part because the research they did suggests that
329 is where the need is based and this project is about the live/work community. They are focusing
330 on a variety of different groups, but the one-bedroom is the least common in Keene, so they
331 focused on that.
332

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

335 Chair Gorman asked staff if it is correct that parking requirements are based on the number of
336 units, and are not related to the number of bedrooms in a unit. Mr. Rogers replied that is correct,
337 the BGR District requires two parking spaces per dwelling unit.
338

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

350
351 Chair Gorman asked for public comment.
352

353 Richard Grant of 285 Marlboro St. stated that the Applicants had displayed a photo that showed
354 the street view of the building with the new proposed building sitting on top. That photo was
355 taken from in front of his house. He continued that he has talked with several of his neighbors,
356 and with the setback as far back as it is going to be, he and his neighbors have no objection to the
357 project.
358

359 Mark Froling of 240 Roxbury St. stated that he is a business owner of a facility on 20
360 Manchester St. He continued that he is also a contractor for 310 Marlboro St., involved with the
361 renewable heating energy that is going into that building, and he disclosed that because he has
362 some gain from this project. He wanted to speak in favor of this project from a personal
363 perspective because he is in the renewable energy field. He commends the ownership group and
364 the development group here for going forward with these goals, because it is easy to make a
365 statement about having everything renewable by 2050, but few people actually engage in the
366 goals and fulfill them. Very few people put their money where their mouth is, so this intrigued
367 him early on when he was in discussions about doing some work for Mr. Walter. He realized
368 there was a lot at stake for the future and aligning the City's goals with Mr. Walter's goals and
369 his own goals, involved with the renewable energy world as a business owner. It is very dear to
370 him, and important, and he would like to see support for this project.
371

372 Carolyn Jones of 14 Monadnock St. stated that she appreciates this project because it is going up
373 instead of out, and will not be using a cornfield or a place where a playground could be. She
374 continued that she appreciates all of the work that has been done to get it this far and is in favor
375 of the project. She walks on Marlboro St. all the time, and thinks it needs a little pizzazz. She
376 thinks this building could do that.
377

378 Cory Conderino of 6 Summit Rd. stated that having recently entered the Keene Young
379 Professionals Network, he could personally attest to the housing crisis in Keene. He continued
380 that during two separate housing searches between the summers of 2021 and 2022, he and his
381 partner were faced with waitlists of 50 to 75 parties at multiple apartment buildings located in or
382 around downtown Keene. Due to this, they settled for an oversized housing option in west
383 Keene, potentially taking away a housing opportunity from someone who needs the extra space.
384 He continued that had this project been developed at the time of his housing search it would have
385 provided him and his partner with a sustainable, walkable, and future-driven opportunity for
386 housing just outside of downtown Keene. The current housing climate creates a dangerous
387 situation for tenants like him, as rent prices seem to have no ceiling right now. These conditions
388 are enough to cause some people in his demographic to leave Keene in search of something
389 available and/or affordable. From a sustainability standpoint, a building like the one the
390 Petitioner is proposing is only going to push all future buildings to come to Keene in the right
391 direction. He has always held a deep appreciation for Keene since he entered the community in
392 2017, but it is clear that something needs to be done about the housing crisis. He thinks what the
393 Petitioner proposes is not only something but the right thing for the future of the City. He firmly
394 believes that this project will promote the City's mission to advocate for and implement
395 sustainable structures in Keene.

396
397 Chair Gorman stated that the Board also received a letter, which he will read into the minutes.

398
399 *“Dear Chairman Gordon and members of the Zoning Board of Adjustment:*

400
401 *As a local real estate broker and one who is aware of and excited about the project being*
402 *proposed by 310 Marlboro St., LLC., it was my intention to speak on behalf of this much needed*
403 *housing project, but due to a commitment to another Zoning Board of Adjustment, I submit this*
404 *for your consideration.*

405
406 *As you are well aware, Keene is in desperate need of additional housing of all economic strata*
407 *and type. The rental market, in particular, is under stress with a vacancy rate of 1%, when a*
408 *vacancy rate of 5% is considered healthy. With the lack of single-family houses available for*
409 *sale and the substantial increase in the sales price of single-family homes, many who would*
410 *otherwise purchase a home are now required to find rental apartments. While the State of NH*
411 *has experienced the housing need, the shortfall of adequate housing is especially acute in Keene.*
412 *This has made it difficult for existing businesses to maintain market share and grow while also*
413 *acting as an impediment to companies considering establishing in Keene, due to the lack of*
414 *adequate housing for employees.*

415
416 *Allowing an increase of the number of stories from 3 to 5, will permit the construction of 57*
417 *housing units utilizing sustainable building techniques and achieving energy efficiencies that are*
418 *two of the stated goals of the leadership in Keene. Permitting this in an underutilized industrial*
419 *building will also serve to create the live/work environment that Keene desires as well. By*
420 *granting a variance to accommodate this vertical expansion, on a building which has the*

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

423
424 *Approving this variance will provide substantial justice for 310 Marlboro St., LLC, as well as the*
425 *broader Keene community, as the ZBA will be providing an additional 57 housing units with no*
426 *negative impact on the surrounding neighborhood. Denying the variance will have a negative*
427 *impact on the developer as well as the Keene community with no corresponding benefit to the*
428 *surrounding properties.*

429
430 *Approving the variance will not have a negative effect upon surrounding property values, rather*
431 *it could improve surrounding property values as this is another example of a substantial increase*
432 *in the investment in properties on Marlboro Street.*

433
434 *Granting the variance will observe the spirit of the ordinance, which in part states a desire to:*
435

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

443
444 *The ZBA may grant the Special Exception for reduced parking by utilizing the current parking*
445 *usage standards as expressed in the VBH Engineering analysis. It is reasonable to consider that*
446 *parking spaces would be used by residents in the evening and commercial tenants during the*
447 *day. There are other properties in Keene that use their onsite parking area in a similar manner.*
448

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

451
452 *Respectfully submitted,*

453
454 *Bill Hutwelker, Broker*
455 *SVN The Masiello Group*
456 *69A Island Street”*

457
458 Chair Gorman stated that sums it up for public input, and he is now closing the public hearing.
459 He asked the Board to deliberate.

460
461 *1. Granting the Variance would not be contrary to the public interest.*
462

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

466
467 Mr. Welsh stated that he would add that the Applicant has done a good job with the narrative and
468 written application, expressing conformance with the CMP and the intent of the BGR District.
469 He continued that it is a compelling argument that the public interest is addressed by this
470 proposal.

471
472 Chair Gorman stated that he agrees.

473
474 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

475
476 Chair Gorman stated that some of what Mr. Welsh said regarding the first criterion applies to the
477 second as well.

478
479 Mr. Hoppock stated that the intent of the BGR District is clearly met by this project, as stated in
480 the application.

481
482 3. *Granting the Variance would do substantial justice.*

483
484 Mr. Hoppock stated that this could be a positive in both directions if the Variance were
485 approved. He continued that refurbishing a former industrial building and repurposing it for
486 residential and retail use allows a tremendous gain to the neighborhood, the City, and the public
487 at large, because developing the area means it will not be run down, abandoned, or left the way it
488 is. The way the building would be built, would be around for a long time. He continued that
489 putting the building to a residential use in this particular environment is almost a necessity. He
490 thinks the gain to the public is high, and the gain to the Owner/Applicant would be great if this
491 were approved, and what they are intending to do with the project is a public benefit.

492
493 Chair Gorman stated that he agrees, and thinks this is one of those anomalous situations where it
494 is a win/win for both the Applicant and the public. He continued that it seems like across the
495 board, it fits with the intentions set forth in the Zoning Code, making this is good cause for a
496 Variance.

497
498 4. *If the Variance were granted, the values of the surrounding properties would not be*
499 *diminished.*

500
501 Chair Gorman stated that it is plain to see the repurposed use in an industrial building in an area
502 of the City that has begun some form of rebranding or gentrification. He continued that the
503 whole Marlboro St. area has a ton of potential. A person tonight said it needs some “pizzazz,”
504 which he thinks is aptly put. He thinks this project will give the area that, and as a result, will
505 raise property values. He cannot see any possible manner in which it would lower them.

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

510

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

514

515 5. *Unnecessary Hardship*

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

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

520 *and*

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

522

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

538

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

548

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

550

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

552

553 Granted with a vote of 4-0.

554

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

556

557 Granted with a vote of 4-0.

558

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

560

561 Granted with a vote of 4-0.

562

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

564

565

566 Granted with a vote of 4-0.

567

568 5. *Unnecessary Hardship*

569 A. *Owing to special conditions of the property that distinguish it from other properties in the*

570 *area, denial of the variance would result in unnecessary hardship because*

571 *i. No fair and substantial relationship exists between the general public purposes of the*

572 *ordinance provision and the specific application of that provision to the property*

573 *and*

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

575

576 Granted with a vote of 4-0.

577

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

579

580 **B) ZBA 22-16: Petitioner, 310 Marlboro St., LLC, requests a Special Exception**

581 **for property located at 310 Marlboro St., Tax Map #595-001-000-000-000 that is in**

582 **the Business Growth & Reuse District. The Petitioner requests a Special Exception**

583 **from Chapter 100, Article 9.2.7.C.2.a & b. of the Zoning Regulations, Major**

584 **Parking Reduction Request.**

585

586 Chair Gorman asked for feedback from Staff. Mr. Rogers stated that regarding the question that

587 came up earlier, the requirement would still be for two parking spaces per dwelling unit, as well

588 as if there would be some parking calculations that Staff would need to do for an overall

589 reduction. He continued that the Applicant might have that as part of his application and he will

590 let him speak to that. There would be the other parking requirements based on the first two

591 floors and the current or future uses, so the Applicant would have to provide those calculations.

592 As he said, the first two floors are still under some vacancies, some occupancies, and new
593 occupancy is happening. There would still be the requirement for the three floors going up, for
594 114 parking spaces for the 57 dwelling units.
595

596 Mr. Rogers continued that the new LDC has several options for parking reductions that can
597 occur. First, the Zoning Administrator has the ability for a 10% reduction of the overall
598 requirement if certain criteria are met. Second, is the one the Applicant is before the Board, a
599 49% reduction in parking requirements, continuing the required parking study is part of the
600 application. While deliberating on this Special Exception request, the Board will need to
601 consider items A through G in Section 25.6.6, as well as two criteria under C.2. in Section 9.2.7
602 of the LDC. This type of parking reduction is something new for the Board, and ultimately the
603 Applicant could still seek a Variance for anything over that 49%. The Applicant is before the
604 Board tonight seeking that Special Exception, the middle of the different types of reduction
605 requests that exist.
606

607 Chair Gorman stated that the Special Exception could be granted; that is one course this could
608 go. He continued that in the event that it is not, the Applicant could still pursue a Variance or
609 off-site parking. He asked if that is what Mr. Rogers is saying. Mr. Rogers replied yes, if the
610 Special Exception were denied, the Applicant could still apply for a Variance. He continued that
611 as Chair Gorman mentioned, the Zoning Code has an allowance for "Remote Parking." For
612 example, if the Applicant needed to have 100 parking spaces and only had 60, under the Code,
613 the Applicant has the ability – through staff, and done administratively – to obtain leases on
614 other properties that have extra parking. They have to be parking spaces that are not required to
615 meet the Zoning Code for that other property. The Applicant could speak to that, but he believes
616 he has obtained some parking spaces off-site with a lease with an abutting property that had
617 some extra spaces, so the Applicant has taken steps to try filling some of this need.
618

619 Mr. Welsh asked if there is the potential, with the space and given the size of the lot, to build
620 more parking spaces while complying with setbacks. Mr. Rogers replied that he will let the
621 Applicant speak to this in more depth, but he thinks that between setbacks and lot coverages, it
622 would be very difficult for him to be able to expand the parking that is there. There is quite a bit
623 of pavement and parking already on the site.
624

625 Chair Gorman asked to hear from the Applicant.
626

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

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

636
637 Mr. Walter continued that they would shift the curb cut to the west. That is the primary entrance
638 and exit, and shifting the curb cut means they will no longer zigzag through the property, but
639 rather will go straight in and create a separate lot to serve some of the tenants toward the front of
640 the building. The second piece of the high level is that the east side, which some people have
641 started to call “the alley,” will be designed as a one-way only. People will be able to come in
642 and out of the west side of the property, but anyone who loops the property will only exit to
643 Marlboro St. That allows an increase in parking there, angled spots of an appropriate depth, in
644 an area where chaos currently reigns. They will manage to pick up a handful of spots in the
645 reorganization of the property relative to parking. They are interested in reducing their
646 impervious area and improving their greenspace, which is not particularly a topic for the Board,
647 but it is related. They are in non-conformity of their impervious surface, so they can keep it the
648 same or it needs to go down, otherwise there is relief they would be seeking on that. He would
649 not want to develop that western green area, but in theory, if it was not for impervious area, they
650 could increase parking there. Mr. Walter stated they are not pursuing that option.

651
652 Mr. Walter continued that there is a parking study to dig into, which addresses the ways that a
653 live/work community can use parking in different ways that are acknowledged and supported by
654 statistics. There are ways to use the same parking spot multiple times throughout a day. Before
655 he gets into that, he wants to clarify that this entire application and packet includes the two-story
656 base building/pedestal as if it were fully occupied, in addition to the 57 proposed units. He
657 mentioned that VHB Engineering was able to do the study. Apparently, he is the first owner of
658 the last two that let the Assessing Office staff go through the building, so he has a reporting of
659 the uses. Mr. Walter stated that parking ratios go to use with different uses requiring more or
660 less parking. Thus, this analysis does assume the parking needed for the current condition and
661 the 57 apartments. They are ahead of schedule on filling the base buildings, which means they
662 have good insight into how that is playing out, with the mix of manufacturing, offices, and gyms.

663
664 Mr. Walter stated that regarding the idea of reduced parking requirements, what they are doing is
665 not saying 57 times 2 is 114, and 114 plus the potential parking need of the base building would
666 result in 258 parking spaces needed. He continued that that big number of 258 assumes that once
667 you have used a parking space it is as if that space is blocked forever. For example, if a person
668 came to the building to buy a pie from Saxy Chef then left, the 258 number would suggest that
669 that parking space is no longer available to anyone else. By contrast, VHB’s study looks at
670 commonly understood use patterns. He showed a bar chart stated that it is a study of when the
671 current tenants need their parking. There is a natural pattern of residency; people living there
672 will go to work around 7:00 or 7:30 AM, and the business needs begin at 8:00 or 9:00 AM, and
673 by 5:00 PM the business needs are gone and the residents are returning. Thus, they can overlap
674 the parking. The same spaces can be used during the day and then they go back to the residents.
675

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

681
682 He continued that this way of looking at parking is regularly done and was not completely
683 familiar to him and Ms. Harris. Because of that, they will also talk about some relief valves, or
684 extra parking, which will at least ensure them that a good result will come of this project. If they
685 do not do a good job of designing a parking solution, it is actually going to affect them and their
686 ability to rent space and have satisfied tenants. He thinks it is of equal interest to him and his
687 colleagues as it is to the City that these are reasonable. They are requesting a 49% parking
688 reduction, which is consistent, as Mr. Rogers mentioned, with the regulations in the LDC.
689 Getting into that, as he mentioned, a single space can be used as many as three different times by
690 three different users. They see this with some of their current tenants. Two gyms are in 310
691 Marlboro St., and the gym communities have unusual hours - people are there at 5:00 AM and
692 are pulling out at 7:00 AM when he arrives. Gym traffic picks back up again late in the day, and
693 there is some Saturday activity as well. This mixed use actually helps with parking. By contrast,
694 if it were a factory again, it would have homogenous use.

695
696 Mr. Walter stated that another factor to be aware of is the rail trail. He continued that Making
697 Community Connections, more commonly known as MC2, is a 75-student charter high school in
698 the first floor of the building. He stated that some of these students arrive by bicycle. There is
699 the ability to use other means to reduce parking taking that into consideration such as there is
700 also public transportation. Their neighbor at 312 Marlboro St. runs some of the City shuttle
701 busses, and 310 Marlboro St. is a natural stop on the public transportation route. All of this goes
702 to how this project, in this location, with the intentions of the LDC, are working in a harmonious
703 way. They are approaching the maximum use of spaces, not just peak load. They are rethinking
704 how it is a dynamic, rotating use over a 24-hour period.

705
706 *A. The nature of the proposed application is consistent with the spirit and intent of the*
707 *Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies*
708 *with all applicable standards in the LDC for the particular use.*

709
710 Mr. Walter stated that what he just said applies to this criterion.

711
712 *B. The proposed use will be established, maintained and operated so as not to endanger the*
713 *public health, safety or welfare.*

714
715 Mr. Walter stated that he cannot impress enough that approval of this application allows him and
716 his colleagues to redesign the site, and this site will be greatly safer, for the reasons of the curb
717 cut and clarifying circulation. He continued that they also propose a drop-off lane, which is not
718 paramount to parking, but it goes to the fact that the school's lease does not have parking for all
719 the students, with most students are dropped off. He continued that they are anticipating that

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

726

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

730

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

737

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

740

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

747

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

750

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

754

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

757

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

764

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

767

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

774

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

782

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

790

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

799

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

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

809
810 Mr. Walter stated that before he speaks to the a. and b. criteria, he wants to highlight that there
811 are additional things he and Ms. Harris have become aware of that factor into parking. First is
812 that Marlboro St. has on-street parking available, on both sides, extending in both directions.
813 Over 100 spots are available within walking distance of 310 Marlboro St. However, they are
814 aware that in 2023/2024, there is a proposal, potentially, to redevelop the Marlboro St. scape
815 with what is often referred to as a “chicane plan.” They are aware that would reduce the parking
816 from the graphic that is on screen, but it would still give a 20-30 car relief of on-street parking
817 that would be available to anyone on Marlboro St., including 310 Marlboro St.

818
819 Mr. Walter continued that he probably should have mentioned this regarding ZBA 22-15, but
820 secondly, they have support from and are working closely with their neighbor, 312 Marlboro St.
821 It is a tenant of 310 Marlboro St. and houses the Meals on Wheels vehicles and community
822 shuttles, in a building in the northwest corner. Their business model has evolved, largely due to
823 COVID-19, and they have excess parking. As a relief valve, 310 has already negotiated a lease
824 with 312, just to make it a non-issue. 310 currently leases 10 spots from 312, on a trial basis, to
825 see how it impacts 310’s needs and whether it is something they want to continue. The
826 agreement allows a provision for another 30 spots to the north of the 310 building. These two
827 properties used to be one parcel and have been subdivided. In order to build this building, there
828 will be chaos, for about 7 to 12 months. During that time, they need to provide the current
829 tenants of 310 with somewhere to park and/or stage the construction work. Thus, negotiating
830 this relationship with their neighbor has been an effective strategy that gives them confidence
831 that they can go forward. As he said before, the standard for him and his colleagues is just as
832 important as the process. They want to make sure people lease, work, and enjoy their ability to
833 get to 310 Marlboro St. and find somewhere to park. That agreement with 312 is included in the
834 agenda packet for the Board to review. They do not know whether they will need to trigger the
835 additional spots, but 312 is supportive and thinks it is a good development for the neighborhood.
836 Overall, there is on-street parking, additional neighborly parking, and they can file this with the
837 City if needed. At this point, it seems more natural that they are doing it of their own volition,
838 instead of doing it for required purposes. He does not believe the City talks about parking during
839 construction, but he is acutely aware of it. This building will be pre-fabricated, so they will be
840 shipping large components of it to the site and will need a place to store that. Staging materials
841 is what he would first put in some of those 30 spots, so they can develop the building rapidly.

842
843 *a. The specific use or site has such characteristics that the number of required parking spaces is*
844 *too restrictive.*

845
846 Mr. Walter stated that number would be 258, citing the analysis. He continued that the report
847 concludes a much lower number by using the overlap strategies or shared parking spaces, in that
848 a peak load of 128 spaces would be adequate, as opposed to the 258 required by the ordinary
849 process. There is a surplus of 17 spots built into their application.

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

852

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

861

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

873

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

881

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

886

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

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

894

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

913

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

916

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

931

932 Mr. Grant stated that he has another concern, this one with the MC2 students who are there from
933 9:00 AM to 3:00 PM. Today there were nine cars parked in front of his house and his neighbor
934 to the east. Four were on his side of the road and five were on the other side. Mr. Grant

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

950
951 Mark Froling of 240 Roxbury St. stated that he is in favor of this project and specifically the
952 parking Special Exception application. He continued that he thinks this parking solution, even
953 though it is far below the City standard, is right in line with the rest of the development, where it
954 is carefully reviewed and studied. He continued that it falls in line with being a green building
955 and a green development, using the resources several times over rather than doubling up the
956 parking spaces to meet the Ordinance requirements. He thinks it is a good use of natural
957 resources and not expanding pavement.

958
959 Chair Gorman asked if there was any further public comment. Hearing none, he asked Mr.
960 Walter if he wanted to respond.

961
962 Mr. Walter stated that he is slightly embarrassed and was unaware of this flooding. He
963 continued that it sounds like a maintenance issue. There are three storm drains in the photo, one
964 at corner of the metal building, and as Mr. Grant mentioned, one next to the truck and one north
965 of the truck. Those all flow toward Marlboro St., gathering mostly surface water from the
966 parking lot with the roof drains on the metal building diverting water to the front of the building.
967 He believes there may be an issue that he was unaware existed. Interestingly, he did not hear
968 about this from any tenants, and they are usually good at passing information. He and his
969 colleagues will certainly look into this. There are two strategies to this; one they want to gather
970 water off the impervious surface into storm drainage where it collects with the rest of the city
971 drainage. Two, the pervious area to the west of that parking is a low-lying area, and not much of
972 that is 310's property, owning only a small portion. He believes a lot of drainage comes from in
973 the vicinity into that loosely defined swale, and then it does re-percolate. The good news is
974 Keene's sand base reabsorbs water rather quickly, so that is normal. There is more of a pond that
975 happens even further north of that and to the west, also.
976

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

991
992 Mr. Walter stated that in the areas to either extent of that green area, the City has cross-stripped
993 the on street parking. In the region shown on the slide, it is not cross-stripped. In other words,
994 there is less input about how to park. Cross striping is something he has talked with a few folks
995 about it. By cross striping, the parking on the street would naturally stripe to stay away from
996 driveways to create better sightlines. Those are things where they all just have to work together
997 and figure it out. He knows that if they get the chicane plan they will get cross striping and they
998 will get that clarity that should give better buffers.

999
1000 Ms. Harris stated that they forgot to mention that in the proposed parking plan for 310, the new
1001 curb cut is actually not directly across from a house. It is across from a fence that is in between
1002 two houses. They believe that is a better situation for the people across the street.

1003
1004 Chair Gorman closed the public hearing and asked the Board to deliberate on the seven criteria
1005 as well as a. and b.

1006
1007 *A. The nature of the proposed application is consistent with the spirit and intent of the*
1008 *Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies with*
1009 *all applicable standards in the LDC for the particular use.*

1010
1011 Mr. Hoppock stated that viewing the application in the broadest sense possible, it is consistent
1012 with the spirit and intent of the regulations, as they demonstrated in the Variance case. He
1013 continued that it is repurposing an industrial zone, and the Applicants are using what is there,
1014 which is a rather large lot with a rather large building on it. Thus, he would have to say it is
1015 consistent with the spirit and intent of the Zoning regulations, the LDC, and the CMP, for those
1016 reasons. It does not comply with all applicable standards in the LDC, though, because they are
1017 struggling with the parking problem. They have room to play with the joints a little, so he does
1018 not think this means exactly all applicable standards, because one of the applicable standards is a
1019 way to get around the applicable standards. He is satisfied this criterion is met, having just tried
1020 to explain the inconsistency of the criterion.

1021 Chair Gorman stated that he agrees, and he thinks there is relevance to the mixed uses and the
1022 undeniable fact that there will be some traffic rotation/parking rotation throughout the day. He
1023 continued that the one use that is not consistent with the other, in terms of parking toll. It will be
1024 busy at night as a result of the dwelling units, and busy during the day as a result of the other
1025 uses, he suspects. The parking study further supports that.

1026
1027 *B. The proposed use will be established, maintained and operated so as not to endanger the*
1028 *public health, safety or welfare.*

1029
1030 Mr. Hoppock stated that the Applicant's suggestion with the adjusting curb cut, leading to more
1031 parking spaces, and placing it in a position where it is not interfering with the driveway across
1032 the street, is helpful. He continued that the traffic pattern within the site is well thought out, with
1033 one entrance and two exits. For those reasons, it will be maintained and operated so as not to
1034 endanger the public health, safety, or welfare.

1035
1036 Chair Gorman stated that he also thinks the storm water runoff issue the neighbor brought up is
1037 relevant, but they are building up, so they are not increasing that sort of storm drainage. He
1038 continued that he thinks there will be slightly more pervious surface area at the completion of
1039 this project. That, culminated with the repair of the problem they just found out about, will help
1040 with public health, safety, and welfare in terms of any potential flooding.

1041
1042 *C. The proposed use will be established, maintained and operates so as to be harmonious*
1043 *with the surrounding area and will not impede the development, use, and enjoyment of*
1044 *adjacent property.*

1045
1046 Chair Gorman stated that the one-way lane and all of the steps that are being taken, such as the
1047 relocation of the curb cut, would be an improvement, as the abutter himself stated. The green
1048 area around the building that will be established will also be an improvement.

1049
1050 Mr. Welsh stated that the proposed use with regard to the parking and the paved areas around it
1051 would also increase public access to the rail trail, which is an improvement to surrounding
1052 properties.

1053
1054 Mr. Hoppock stated that it is interesting to note that one of the adjacent property owners will be
1055 interested in resolving some of the parking issues with this Applicant by allowing 310 Marlboro
1056 St. to use up to 30 spaces. Other people here speaking in support of the application, helped him
1057 realize that this proposed use will not impede the development, use, and enjoyment of adjacent
1058 property.

1059
1060 Chair Gorman replied that a footnote to that is that the person spoke about some of the
1061 challenges that could occur from the on street parking. He continued that it is his opinion is that
1062 this project is separate from that, and if the on street parking is a problem that is more of an issue
1063 for the Public Works Department (PWD), such as delineating it properly. He suggests to Mr.
1064 Grant reaching out to the PWD to see if they can do anything to keep the driveway more open.
1065 He does not think this project is specific to creating a problem there, nor does he think it would
1066 be. Either the on street parking is allowed the way it is, or it is not, regardless of what happens at

1067 310 Marlboro St. He does not think the Board should factor on street parking into a calculation
1068 anyway. He continued that it is nice that there is on street parking, and will help during the day
1069 with any possible overflow, but he is not willing to put it into the calculation.

1070
1071 *D. The proposed use will be of a character that does not produce noise, odors, glare and/or*
1072 *vibration that adversely affects the surrounding area.*

1073
1074 Chair Gorman stated that he thinks the Applicant put it well when he said that some of these
1075 things may not specifically be geared towards parking, but nonetheless, they do need to try to
1076 answer this criterion.

1077
1078 Mr. Hoppock stated that he is being facetious, but unless there is an abundance of people from
1079 New York and New Jersey who do not like to wait for parking spaces and are blaring their horns,
1080 he does not see this as an issue. He continued that he does not find this criterion that applicable.
1081 There will be cars coming in and out, and the traffic study seems to be a well-educated
1082 estimation as to what that level will be. Cars going in and out of parking lots go rather quickly,
1083 not make a lot of noise. He does not find this criterion to be problematic at all.

1084
1085 Chair Gorman replied that he agrees, and if they had to grasp at one straw, they could say that
1086 the project is improving some potential glare by relocating the curb cut so that it is pointing more
1087 toward a fence instead of being directly across from a residence. Mr. Hoppock added, that
1088 managing the internal traffic the way they described, with one way in and two ways out will also
1089 be a benefit. Chair Gorman agreed.

1090
1091 *E. The proposed use will not place an excessive burden on public improvements, facilities,*
1092 *services, or utilities.*

1093
1094 Mr. Hoppock stated that he heard nothing tonight that would suggest that the use would place an
1095 excessive burden on the sidewalk, the road itself, public services, Police, Fire, rescue. He
1096 continued that certainly utilities would be affected by this. He does not think there will be any
1097 burden on public improvements, facilities, services, or utilities.

1098
1099 Chair Gorman agreed.

1100
1101 *F. The proposed use will not result in the destruction, loss or damage of any feature*
1102 *determined to be of significant natural, scenic or historic importance.*

1103
1104 Chair Gorman stated that they did touch upon the original look of the brick building. He
1105 continued that although it is not as dated as some of the historically significant properties in
1106 Keene, it is nice to see it being preserved. He does not see anything else that has any historic
1107 integrity, that he is aware of, that is suffering because of this.

1108
1109 Mr. Hoppock stated that the only feature they could affect would be topping the parking lot, and
1110 that will be an improvement. He continued that is not of historic value, though. He is satisfied
1111 this criterion is met.

1112

1113 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*
1114 *level of traffic congestion in the vicinity of the use.*

1115
1116 Mr. Hoppock stated that on this particular factor he would rely on the chart, Table 2, Parking
1117 Demand Summary. He continued that for the reasons they heard, he thinks it is the best educated
1118 guess they are going to get on the volume of traffic. It does not seem to be an unreasonable
1119 level, and it is not to the level of creating a safety hazard or an increase to the traffic level or
1120 congestion of the area.

1121
1122 Chair Gorman stated that he agrees and thinks that the nature of the street is one that is designed
1123 to handle a rather heavy traffic load. He continued that it is sort of an artery for that side of
1124 town.

1125
1126 *a. The specific use or site has such characteristics that the number of required parking*
1127 *spaces is too restrictive.*

1128
1129 Chair Gorman stated that he thinks they have heard adequate testimony. He continued that when
1130 you consider some of the overlap, one spot being able to perform two separate functions, being
1131 overlooked, which certainly helps.

1132
1133 Mr. Welsh replied yes, the key phrase here is “the specific use” of the site they are planning. He
1134 continued that the proposed plan is one that creates a parking situation that is different than if
1135 you were to open a set of stores or restaurants. Chair Gorman agreed.

1136
1137 Mr. Hoppock stated that the variety of mixed uses allows that overlap to work to the advantage
1138 of the parking.

1139
1140 *b. The requested reduction will not cause long-term parking problems for adjacent*
1141 *properties or anticipated future uses.*

1142
1143 Chair Gorman stated that 310’s neighbors are offering some parking spaces, so he does not think
1144 it will create a problem for them. He continued that the parking study goes a long way in
1145 answering these questions.

1146
1147 Mr. Hoppock replied that is what he would rely on. He continued that he does not think it will
1148 cause long-term parking problems for adjacent properties or for this property.

1149
1150 Chair Gorman stated that with one-bedroom apartments, there is a strong likelihood that a
1151 significant number of them will have a single person living with one car, or a couple living with
1152 one car. He continued that is more likely to be the outcome than a family of six with four cars,
1153 which is not to say that cannot or will not happen, but it is not as likely in this particular
1154 proposal.

1155

1156 Mr. Hoppock made a motion to approve the Special Exception request for ZBA 22-16, for all the
1157 reasons just stated. Mr. Welsh seconded the motion.

1158
1159 Mr. Rogers stated that for the sake of clarity, for Staff's benefit, he asks that the motion dictate
1160 the percentage discount. He continued that the Applicant is asking for a 49% reduction.

1161
1162 Chair Gorman asked if they should redo math based on 145 spots, or if that is accurate. Mr.
1163 Rogers replied that he thinks the percentage would be easier for staff to work with, especially as
1164 they move forward with the Applicant as he is developing the rest of the building, as opposed to
1165 a set-in-concrete number of spots.

1166
1167 Mr. Hoppock stated that for the reasons discussed with respect to the applicable criteria, he
1168 makes a motion to approve a parking reduction of 49% for ZBA 22-16. Mr. Welsh seconded the
1169 motion.

1170
1171 *A. The nature of the proposed application is consistent with the spirit and intent of the*
1172 *Zoning Regulations, the LDC and the City's Comprehensive Master Plan, and complies*
1173 *with all applicable standards in the LDC for the particular use.*

1174
1175 Granted with a vote of 4-0.

1176
1177 *B. The proposed use will be established, maintained and operated so as not to endanger the*
1178 *public health, safety or welfare.*

1179
1180 Granted with a vote of 4-0.

1181
1182 *C. The proposed use will be established, maintained and operates so as to be harmonious*
1183 *with the surrounding area and will not impede the development, use, and enjoyment of*
1184 *adjacent property.*

1185
1186 Granted with a vote of 4-0.

1187
1188 *D. The proposed use will be of a character that does not produce noise, odors, glare and/or*
1189 *vibration that adversely affects the surrounding area.*

1190
1191 Granted with a vote of 4-0.

1192
1193 *E. The proposed use will not place an excessive burden on public improvements, facilities,*
1194 *services, or utilities.*

1195
1196 Granted with a vote of 4-0.

1197
1198 *F. The proposed use will not result in the destruction, loss or damage of any feature*
1199 *determined to be of significant natural, scenic or historic importance.*

1200

1201 Granted with a vote of 4-0.

1202

1203 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*
1204 *level of traffic congestion in the vicinity of the use.*

1205

1206 Granted with a vote of 4-0.

1207

1208 *a. The specific use or site has such characteristics that the number of required parking*
1209 *spaces is too restrictive.*

1210

1211 Granted with a vote of 4-0.

1212

1213 *b. The requested reduction will not cause long-term parking problems for adjacent*
1214 *properties or anticipated future uses.*

1215

1216 Granted with a vote of 4-0.

1217

1218 The motion to approve ZBA 22-16 passed with a unanimous vote of 4-0.

1219

1220 **V) New Business**

1221

1222 Chair Gorman asked if there was new business. Mr. Rogers replied that he would like to
1223 introduce the new Community Development Director, Jesse Rounds. Chair Gorman thanked Mr.
1224 Rounds for coming tonight.

1225

1226 **VI) Communications and Miscellaneous**

1227

1228 **VII) Non-public Session (if required)**

1229

1230 **VIII) Adjournment**

1231

1232 There being no further business, Chair Gorman adjourned the meeting at 8:43 PM.

1233

1234 Respectfully submitted by,
1235 Britta Reida, Minute Taker

1236

1237 Reviewed and edited by,
1238 Corinne Marcou, Zoning Clark

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1 City of Keene
2 New Hampshire

3
4
5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, October 3, 2022**

6:30 PM

Council Chambers

Members Present:

Joseph Hoppock, Vice Chair
Jane Taylor
Michael Welsh
Richard Clough

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk

Members Not Present:

Joshua Gorman, Chair

9
10 **I) Introduction of Board Members**

11
12 Vice Chair Hoppock, Vice Chair, called the meeting to order at 6:30 PM and explained the
13 procedures of the meeting. Roll call was conducted.

14
15 Vice Chair Hoppock stated that he has two announcements – first, the applicant for ZBA 22-13
16 asked to continue the matter. He asked for a motion.

17
18 Ms. Taylor made a motion to continue ZBA 22-13 to the next regularly scheduled ZBA meeting
19 on November 7, 2022. Mr. Welsh seconded the motion.

20
21 Vice Chair Hoppock stated that the reason the applicant wants the continuance is that there are
22 only four ZBA members tonight and the applicant wants five members. The motion passed
23 unanimously.

24
25 Vice Chair Hoppock stated that the second announcement is that the applicant for ZBA 22-14
26 has withdrawn his petition. He continued that at the previous ZBA meeting, the public hearing
27 on ZBA 22-14 concluded, and they had planned to deliberate on the matter tonight. However,
28 with the applicant withdrawing his petition, there will be no further action from the ZBA. The
29 withdrawal is without prejudice.

30
31 **II) Minutes of the Previous Meeting: September 6, 2022**

32
33 Ms. Taylor stated that she has the following edits:

- 34 - Line 45: the words "Notice of Discussion" should be "Notice of Decision."
35 - Lines 88-89 read, "The second Variance was granted on October 3, 1994, to convert the
36 home office apartments into offices only." She believes it should read "...to convert the
37 apartments...", because it was not an issue of home offices when it was going from
38 apartments to offices.

39
40 Vice Chair Hoppock stated that he recalls that about lines 88-89 and agrees with Ms. Taylor.

41
42 Ms. Taylor continued:

- 43
44 - Line 264 reads "...especially with the Sununu Center closed," but the Sununu Center is
45 not scheduled to close until March of next year, so this should say "closing" instead of
46 "closed."
47 - Lines 366-367 read, "He has been with the agency since 1998, other than a 2.5-year
48 hiatus, when he returned was to close the Walpole, MA campus then to reopen it." There
49 is something missing from this sentence and she does not know what it is supposed to
50 say. She proposed having the minute taker review the recording to figure that out. Mr.
51 Rogers agreed.
52 - Line 640 - "Hampton Hospital" should read "Hampstead Hospital."
53 - Line 1266 reads, "...he asks that sponsor of the group home, and be required to
54 provide..." The comma and the word "and" should be deleted so that the phrase reads,
55 "he asks that sponsors of the group home be required to provide..."

56 Vice Chair Hoppock stated that those corrections seem appropriate. He asked if anyone had
57 objections. Hearing none, he asked if Ms. Taylor had any other edits for the Board to address.
58 Ms. Taylor replied that there were just some basic typos.

59 Mr. Welsh made a motion to approve the meeting minutes of September 6, 2022 as amended.
60 Mr. Clough seconded the motion, which passed by unanimous vote.

61
62 **III) Unfinished Business**

63
64 Vice Chair Hoppock asked staff if there was any unfinished business. Mr. Rogers replied no.

65
66 **IV) Hearings**

67
68 **A. Continued ZBA 22-13: Petitioners, Brian & Amalia Harmon, requests a Variance**
69 **for property located at 27-29 Center St., Tax Map #568-016-000-000- 000 that is in**
70 **the Downtown Transition District. The Petitioners requests a Variance to permit a**
71 **multi-family dwelling with three units on a lot with 3,049 sq. ft. where 18,800 sq. ft.**
72 **is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations.**

73
74 **B. WITHDRAWN: ZBA 22-14: Petitioner, The Home for Little Wanderers of 10 Guest**
75 **St., Boston, MA, represented by BCM Environmental & Land Law, PLLC of 41**

76 **School St., Keene, requests a Variance for property located at 39 Summer St., Tax**
77 **Map #568-037-000-000-000 that is in the Downtown Transition District and owned**
78 **by William K. Schofield, 27 Dublin Rd., Jaffrey, NH. The Petitioner requests a**
79 **Variance to permit a large group home for youth where a large group home is not a**
80 **permitted use per Chapter 100, Table 4-1 and Table 8-1 of the Zoning Regulations.**
81

82 **C. ZBA 22-17: Petitioner, Sydney Janey, of 61 Summer St., requests a Variance for**
83 **property located at 61 Summer St., Tax Map #568-034-000-000-000 that is in the**
84 **Downtown Transition District, owned by Townsend Capital Trust. The Petitioner**
85 **requests a Variance to permit a 4th residential unit on a 14,374.8 sq. ft. lot where**
86 **24,200 sq. ft. is required per Chapter 100, Article 4.6.1 of the Zoning Regulations.**
87

88 Vice Chair Hoppock introduced ZBA 22-17 and asked to hear from staff.
89

90 Mr. Rogers stated that this property is on Summer St. in the Downtown Transition District (DT-
91 T), abutted by the High Density District on three sides the north, south, and west. The DT-T is
92 to the east of this property. In 2001, this property went to the Board, but it was really trying to
93 make a determination about an administrative decision. It was ultimately determined that it was
94 not an administrative decision that was before them, so the Board did not take any action. In the
95 City's files, a Certificate of Occupancy (CO) that the Building Department issued in June 1999
96 shows this property having three apartments and the office. The DT-T purpose is "*intended to*
97 *accommodate a variety of residential, open space, and other low intensity uses in a mixed use*
98 *environment of attached and detached structures. Development within the DT-T is intended to*
99 *complement and transition into an existing residential neighborhood adjacent to the downtown.*"
100

101 Mr. Welsh stated that Mr. Rogers mentioned that High Density surrounds the property. He asked
102 which directions. Mr. Rogers replied west, north, and south, across the street. He continued that
103 as seen on the screen, the property is on the corner of School St. and Summer St., which is where
104 the High Density District connects. All the property on the other side of School St. and many of
105 the properties to the north on School St. are in the High Density District.
106

107 Ms. Taylor asked if it is correct that in 1999 there was not a specific Variance. She continued
108 that she is confused about what the Variance was. Mr. Rogers replied no, at that point in time,
109 there was not. He continued that they were trying to see what was there; he noticed that there
110 had been many different proposals for this building at that time, and at one point, it was to be
111 mostly offices with maybe one apartment. They ultimately ended up landing on three apartments
112 with one office. The Board at the time was dealing with an administrative decision that turned
113 out not to be such. It was determined that the Board did not have the authorization or authority
114 to hear the appeal at that time. Other than that, the City does not have many records for this
115 property prior to the renovation resulting in the CO issued in 2001.
116

117 Ms. Taylor stated that she was trying to match what the requirements are in the Zoning
118 Ordinance with the statements made in the application. She asked if Mr. Rogers could go into
119 what is required, what there is, and what the Applicant is asking for.

120
121 Mr. Rogers replied that only dwelling units have a property square footage requirement
122 associated with them. He continued that this property would be legal non-conforming, as a
123 three-unit to begin with, because in the DT-T the first dwelling unit requires 8,000 square feet
124 and each additional dwelling unit would be 5,400 square feet. Thus, even with the three
125 dwelling units, they are short. He does not know what it was back in 2001 when they were
126 granted that CO. Today, they are a legal non-conforming with 14,000 square feet, whereas the
127 narrative talked about needing 24,000 square feet to be Code compliant.

128
129 Ms. Taylor asked what the four units would require. Mr. Rogers replied 24,200 square feet,
130 where they currently have 14,374 square feet. Ms. Taylor asked if the part of the application that
131 references the 2,074 square feet in the residential unit space, 2,800 square feet, is not relevant to
132 the Board's review. Mr. Rogers replied no, under the Zoning Ordinance, they are only looking at
133 the square footage of the overall property/land, not the structures.

134
135 Vice Chair Hoppock asked if the 1999 CO was issued for just three apartment units. Mr. Rogers
136 replied three apartment units and one office. Vice Chair Hoppock stated that he is coming up
137 with a 9,625.2 square foot shortage on the lot size, based on the application. Mr. Rogers replied
138 that sounds correct.

139
140 Vice Chair Hoppock asked if there were further questions for Mr. Rogers. Hearing none, he
141 asked to hear from the Applicant.

142
143 Sydney Janey and Celeste Janey, both of Townsend Capital Trust, 61 Summer St. introduced
144 themselves. Sydney Janey stated that she originally came to the Board with a question about
145 what the occupancy was. They purchased the property from the Pattavinas, the foot doctors
146 currently using the office, who have plans to leave at the end of the year. Townsend Capital
147 Trust purchased the property, intending for her mother to retire there from Boston. She (Celeste
148 Janey) is a textile and fabric designer, and is handicapped. The building, beautifully located to
149 downtown, is already equipped with first floor handicap access. It has an external handicap
150 ramp and more than ample parking for the units already in the building. Thus, they are trying to
151 make sure that they are compliant with all the rules and regulations of the new area that they will
152 be residing in. She wanted to know when the Pattavinas switched from it being all residential to
153 some residential and part commercial. That is when she came to the Board and found out that it
154 was not necessarily very clear when it was switched to residential and commercial but she
155 needed to come to the Board to have it back to all residential.

156
157 Celeste Janey stated that they also plan to renovate the garage area so it will be her studio. The
158 back of the facility will have a studio and educational center. Sydney Janey stated that her
159 mother is an educator.

160 Sydney Janey asked what else the Board needs from her, continuing that she has never attended a
161 Board meeting. Vice Chair Hoppock replied that the Board has five criteria by which they judge
162 every application. He continued that Ms. Janey could read her application to them, and/or add
163 anything else she wants to say.

164

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

166

167 Ms. Janey stated that it would allow a disabled person to live within the community. She
168 continued that they would be converting the unit from commercial to residential, which would
169 ultimately reduce street traffic. There would not be a lot of coming and going on the street
170 during the day or night. Her mom is a quiet person and does many of her activities online. This
171 property has ample off street parking. It has a paved driveway and parking in the back of the
172 property. They are not proposing any structural changes or footprint changes; they are just trying
173 to restore the property. The property was primarily a residential space, and is a historical house.
174 It used to have a plaque in the lobby.

175

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

177

178 Ms. Janey stated that it is intended to accommodate a variety of residential and other low
179 intensity uses in the existing residential neighborhood. She continued that currently, the street
180 has single-family homes, multi-family homes, and commercial spaces, so this would fit right in
181 with the spirit of the Ordinance and the use of the surrounding spaces.

182

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

184

185 Ms. Janey stated that it would allow someone with disabilities to live in/be part of the
186 community.

187

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

190

191 Ms. Janey stated that she thinks the values of surrounding properties would be greatly enhanced.
192 She continued that her mom is a world-traveled, published, highly sought after artist. She has
193 had shows at the MFA (Museum of Fine Arts), in Ghana, and in New York City. She would be a
194 great addition to the neighborhood and a valued member of the community. This would return
195 the unit to a previous use, and would help cut back on traffic. At one point, Summer St. had two-
196 way traffic all the way between Court St. and School St., and now it only has two-way traffic
197 halfway. It seems like they were trying to mitigate some pass-through traffic on the street at one
198 point. This might help cut down on additional pass-through traffic.

199

200 5. *Unnecessary Hardship*

- 201 A. *Owing to special conditions of the property that distinguish it from other*
202 *properties in the area, denial of the variance would result in unnecessary hardship*
203 *because:*
204 i. *No fair and substantial relationship exists between the general public*
205 *purposes of the ordinance provision and the specific application of that provision*
206 *to the property because:*
207

208 Ms. Janey stated that this property was purchased with the intended purpose of using it as a
209 primarily residential space, for her mom in her retirement. She continued that when the trust was
210 looking for a property in this area her cousin had the mindset of looking for something that was
211 accessible for (Celeste Janey), because mobility is a problem for her. She has been having a
212 couple good months and thus does not have all of her apparatuses with her tonight, but usually
213 she has assistive devices that she needs due to not being able to walk well. The first floor unit
214 has a ramp on the outside, level ground, and ADA-compliant bathrooms. She and her family
215 love old houses and she is passionate about restoring them. She wants her mom to have a safe,
216 comfortable home. She herself was unaware that this was not zoned as residential use on
217 purchase. Since being in the community, she and her family have looked at surrounding
218 properties and discovered a lack of accommodations for people with disabilities in the immediate
219 area. It would made staying here much harder if this Variance were denied. She continued that
220 her mom really likes it here. They have to go back and forth a lot for her medical appointments,
221 and she does not relish having to go back to Roxbury, MA, but she would have to make the
222 move if they could not stay.

- 223
224 and
225 ii. *The proposed use is a reasonable one because:*
226

227 Ms. Janey stated that it was previously all residential. She continued that it was all a single-
228 family home at one point.

- 229
230 B. *Explain how, if the criteria in subparagraph (A) are not established, an*
231 *unnecessary hardship will be deemed to exist if, and only if, owing to special conditions*
232 *of the property that distinguish it from other properties in the area, the property cannot*
233 *be reasonably used in strict conformance with the ordinance, and a variance is therefore*
234 *necessary to enable a reasonable use of it.*
235

236 Ms. Janey stated that the property is already made to accommodate a disabled person, with only
237 a few modifications, which would be an overall benefit. Say, for her example, her mom decided
238 to move to Florida, another person with mobility issues could easily rent the space. Thus, it
239 would still be a benefit to the community, as a residential space for someone with mobility
240 issues.

241
242 Ms. Taylor stated that this was purchased by a trust. She asked if Celeste Janey and Sydney
243 Janey are the trust. Sydney Janey replied yes, 50/50 ownership.

244 Ms. Taylor asked if Sydney Janey would be moving here as well. Sydney Janey replied part-
245 time and that she is a graphic designer with most of her clients are in Boston.

246
247 Ms. Taylor asked if the units are currently rented. Celeste Janey replied yes, two are rented and
248 the other will be hers. Sydney Janey stated that the three units are currently rented, but one of
249 the tenants – the doctor, who is using one of the residential units as well - is planning to leave at
250 the end of the year, vacating the office and the residential unit.

251
252 Mr. Welsh stated that he has a technical question. He continued that Sydney Janey mentioned
253 that there was sufficient parking for the residents of the house as it is now. He questioned if
254 there were to be a fourth unit, would the current parking be sufficient. Mr. Rogers replied that
255 from the renovations that happened in 2001 they have a plot plan, although he would not call it a
256 site plan, which shows up to 14 parking spaces on the site as well as a couple spaces at the barn,
257 though the Applicants did state they might do something with the barn. Fourteen spaces by far
258 meets the Zoning requirement for parking.

259
260 Sydney Janey stated that for clarification, she does not know if there are 14 spaces. She
261 continued that she counts at least 8 to 10. Vice Chair Hoppock replied that cars are bigger today
262 than they were in 1999, so maybe Ms. Janey and Mr. Rogers are both right. He asked Mr.
263 Rogers if that is the most recent plan, he has seen. Mr. Rogers replied that is what the
264 Community Development Department has on file. He continued that this would require a
265 minimum of eight parking spaces, and it sounds like that requirement are met.

266
267 Ms. Taylor stated that she has a question for Mr. Rogers. If the barn were to be renovated for
268 use as a home office or studio, and if there were customers coming, would that need to come
269 back to the Board for another Variance. Mr. Rogers replied that staff would need to look at
270 exactly what is being proposed. He continued that there are certainly other uses that would be
271 allowed in the existing district, as an example a home office with the occupant living there, that
272 would be an allowed accessory use. If it were to be another type of office, there would be
273 additional parking requirements. He would need more information to answer Ms. Taylor's
274 question.

275
276 Vice Chair Hoppock asked to hear from the public, starting with people who are in favor of the
277 application.

278
279 Tom Savastano of 75 Winter St. stated that he does not have anything to say for or against the
280 application, but has a point of clarification. He continued that he thinks he heard Mr. Rogers say
281 the property was surrounded by the High Density District, but he has a map from September
282 2021 that shows that the Low Density District is to the north, west, and south. Mr. Rogers
283 replied that he apparently mixed up High and Low, and Mr. Savastano is correct, it is Low
284 Density.

285

286 Anthony Tremblay of 67 Summer St. stated that he lives next door to this property, and is here to
287 ask for clarification. He continued that the property currently has three apartments, plus the
288 commercial space that is Dr. Pattavina's office, which is a two-story space. The application
289 appears to show that the fourth unit was to be the first floor. It is not clear to him what would
290 happen to the second floor and whether the owners intend to continue to rent the third apartment,
291 which is on the first floor. The back of the property has an apartment above the barn, a second
292 apartment on the second floor (two rooms), and a small apartment under that. The main house's
293 first floor has been the doctor offices and there has been living space on the second floor that has
294 occasionally been occupied by members of the Pattavina family. He is not clear on what the
295 Petitioner expects to happen to one of the existing apartments, and whether they might be in
296 effect creating five units, as opposed to three plus the commercial space.

297
298 Vice-Chair Hoppock stated that in a few minutes, he will invite the Applicants back to address
299 that point, but first the Board will hear from any members of the public who wish to speak in
300 opposition to the application.

301
302 Frank DePippo of 33 Center St. stated that he is not objecting, but has some questions for
303 clarification. He continued that he does not understand the parking layout. He wants to know if
304 there is adequate parking, because he is comparing this to the Applicant who is not here now,
305 from 27 Center St., who was asking for three units and does not have adequate parking. He asks
306 what the City's parking requirement is for this current request for four units. Mr. Rogers replied
307 that the Zoning Code requires two parking spaces per dwelling unit. He continued that they
308 eight parking spaces are required for four units, and by the Applicant's statement, there is a
309 minimum of eight on site and perhaps more. The City has a plot plan showing upwards of 14
310 spaces from 2001. It appears that the Applicant meets the Zoning requirements for parking.

311
312 Mr. DePippo stated that at a prior meeting, Mr. Rogers had explained that parking spaces have to
313 meet a size requirement. He asked if these spaces seem to meet the requirement. Mr. Rogers
314 replied that he has not been to the site, but it is an existing condition, and if the Applicant is not
315 making changes to the parking lot then what they have is what they have. If they were to build
316 new, there are size requirements to be met, but this is an existing parking lot with the capability
317 of at least eight spaces and possibly up to fourteen.

318
319 Mr. DePippo asked for clarification on whether the Applicant is doing away with any office or
320 studio use in the building and swapping it out for a fourth residential unit. Vice Chair Hoppock
321 replied that his understanding is that they are swapping out the office for the residential unit, but
322 if he is wrong about that, the Applicant will have a chance to clarify. Mr. DePippo stated that he
323 is not objecting; he just wanted clarity, because Sydney Janey said her mother is an artist and it
324 sounds as though they are doing away with space that could be used as a studio/office in return
325 for a dwelling unit.

326
327 Vice Chair Hoppock asked to hear from the Applicant again, regarding whether their intention is
328 to get rid of the office space and convert it to the fourth residential unit.

329 Sydney Janey stated that what started this whole process was her attempt to get the property
330 zoned all residential. She continued that the reasoning is that her mother will be on the first
331 floor, and she will be on the second floor. Yes, currently a tenant occupies two rooms of the
332 second floor while the Pattavinas have the front part of what they call their office. Technically,
333 however, that is supposed to be all one unit and the tenant is only paying to use two rooms of
334 that one unit. Thus, that is the third unit. The Pattavinas took the rest of their unit and added it
335 to their office. They are using it as a residential space, but it is zoned for commercial.
336 Downstairs, the Pattavinas use it as commercial space for their office. It is upstairs/downstairs
337 commercial zoned. A gentleman rents two rooms of the back of the second floor, as a unit.
338 Another gentleman is on the first floor, underneath him, and then there is a unit above the barn.
339 Sydney Janey stated that it is indeed confusing. It took her a long time to figure out how they
340 reconfigured the house in the first place. She looked at the architectural plans and walked
341 through the building several times, and it still took her a while to understand. She will probably
342 have to consult an architect when they reconfigure that third unit on the second floor.

343
344 Vice Chair Hoppock asked if Ms. Janey wanted to add anything else in response to public
345 comment.

346
347 Sydney Janey stated that her intention is to keep this house at four units. She continued that
348 there would be legal ramifications for going from four to five units, and it would be quite
349 expensive, requiring sprinklers, insurance, and so on and so forth. Her intention is to stay at four
350 units, for many reasons.

351
352 Ms. Taylor stated that probably the most difficult criterion the Board has to review is in regards
353 to hardship. She continued that she wonders if Ms. Janey had a specific statement to make
354 regarding what she sees as the hardship that could get the Board to approve this application.

355
356 Sydney Janey replied she was told that the Board cannot make decisions based on financial
357 issues, but that is a consideration for her in this matter. She continued that the property being
358 “commercial” is a major financial problem for her.

359
360 Celeste Janey stated that she was a Kindergarten teacher for 34 years, which resulted long
361 hospital stays with kidney failure, heart issues, and back issues related to sitting in child-sized
362 chairs. She continued that she had to retire early from teaching due to her health issues. She
363 could not afford her medication along with living in Boston, so she left and moved to Keene.
364 She stated loves it here and found this house that had the ramps and accessible structure, and
365 everything she could afford, but she could not afford the healthcare. Thus, she is going back and
366 forth to Boston about once a week for healthcare, but here is a house she could possibly live in,
367 with the ramps and the accessible structure, but it still needs a little work. She cannot afford to
368 live in MA but she can afford the house here in Keene. Her daughter promised to help her with
369 the house, but she cannot afford the house and the healthcare. Her son is helping, too. She does
370 not like telling people about her health and finances, but this is a generosity from her children,
371 and that is why she is here. They are trying to put this dream together.

372 Vice Chair Hoppock asked if there is any special condition of this property that stands out from
373 the properties in the immediate area, which would make applying the lot size restriction unfair to
374 this property. He continued that is another way to phrase the question in the fifth criterion.
375

376 Sydney Janey asked if it is correct that most of the properties in Keene, like in the DT-T and
377 High Density District, would have to apply for a Variance if they were looking to go from
378 commercial to residential or residential to commercial. Vice Chair Hoppock replied that what
379 she is doing, though, is looking to increase residential unit size from three to four when the lot
380 size is not big enough in this zone, stating this is the question before the Board. He is trying to
381 understand if there is a special condition of Ms. Janey's property that makes the application of
382 that lot size rule unfair to her.
383

384 Sydney Janey replied that her neighbors have what they have, and she cannot build up or build
385 out. She continued that there is no way to increase the lot size. She assumes the lot size rule's
386 intention is to avoid crowding. Vice Chair Hoppock replied yes, the intention is to restrict
387 properties from being too densely populated. He continued that he is trying to see if Ms. Janey
388 can identify a special condition that would make it unfair to the property to apply the lot size rule
389 to the property's circumstances here. Ms. Janey replied that it was already all a residential
390 property at one point. Vice Chair Hoppock replied that usually a special condition of a property
391 would be, as an example, a large building on a small lot. Ms. Janey replied that this is a large
392 house on a narrow lot, with a paved parking lot behind it, continuing that it is a skinny farmhouse
393 on a narrow lot. Indicating the image on the screen, she showed the locations of the driveway,
394 pavement, and grass. Vice Chair Hoppock asked if the northern boundary is mostly grass. Ms.
395 Janey showed the grass and pavement again. She stated that if she wanted to go somewhere with
396 the footprint of this house, she probably could not, because everything is spoken for.
397

398 Ms. Janey stated that looking at the overall square footage of the house versus the living area,
399 where Vice Chair Hoppock stated that the application says 14,374.8 square feet. Ms. Janey
400 replied that is correct. Vice Chair Hoppock replied that is a little over a third of an acre. Ms.
401 Janey replied yes, it is a large house on a sliver of a piece of narrow property. She continued that
402 she assumes this house was on a farm at one point and had a lot of land surrounding it, which the
403 owners later sold off when they were building the town house, not thinking that they should
404 probably keep some of it.
405

406 Mr. Welsh stated that one special condition is the existing ADA compliance of the first floor and
407 the handicapped ramps. He continued that perhaps that would be seen as a special condition if it
408 was turned into an apartment and one was seeking renters who did not need an ADA compliant
409 space. That might be a limiting condition. He sees the ADA compliance as something positive,
410 but he imagines that someone might see it as a negative, if there are renovations and the owner is
411 looking for occupation. Vice Chair Hoppock replied that without getting into deliberations
412 prematurely, he is not sure how to answer that question, legally, but it would still have to have
413 some relationship with the application of the Ordinance to this property, and he is not seeing that
414 connection.

415 Vice Chair Hoppock asked if the Board had further questions for the Applicant. Hearing none,
416 he asked if there was anything further, the Applicant wanted to add. Sydney Janey replied no.

417
418 Vice Chair Hoppock asked if anyone in the public had anything to add, based on the last round
419 of public comments.

420
421 Jeananna Farrar of 59 School St. stated that it was music to her ears when they said they wanted
422 to restore this home and live in it. She continued that it brings her back to the 1950's when she
423 lived at 31 Summer St., and every house on that side of the street was a doctor's office and the
424 families of the doctors lived in those homes. To restore this home and have it be a place where
425 someone who has disabilities can live safely, after having served her profession for 34 years,
426 would be lovely. She is concerned/wondering if they could get along with just the three
427 apartments. If that is not a possibility, then she supposes they need to abide by the law or a
428 Variance, she does not know. She would not be opposed to them living next door. If they could
429 get along with the three apartments already in place, there would not be a problem.

430
431 Kristen Leach of 37 Middle St. and 24 Summer St. stated that her request is for the Board to
432 understand that the individual decisions the Board makes have a collaborative consequence in
433 the neighborhood. She continued that she knows they are hearing one story tonight, but there are
434 three units to four, two units to three, and although a petition has been withdrawn, there will be a
435 group home in this neighborhood that complies with Zoning. There will be a cell tower, too.
436 She is bothered by the parking situation, which was not entirely about one-way traffic, but
437 parking and permitted parking that she has no access to in front of her house. She cannot
438 purchase it, because it is owned. She asks the Board to please consider her neighborhood, her
439 street and her home. Everyone who has petitioned for a Variance has had great reasons, as do
440 she and the other homeowners in the neighborhood.

441
442 Vice Chair Hoppock asked if there was any further public comment. Hearing none, he closed the
443 public hearing and asked the Board to deliberate.

444
445 1. *Granting the Variance would not be contrary to the public interest.*

446
447 Ms. Taylor stated that she does not believe it would be contrary to the public interest to add more
448 residential uses, as opposed to office use, to this neighborhood.

449
450 Mr. Welsh stated that they heard testimony that at least as traffic and parking go, switching the
451 use from commercial to residential would have a minimizing or less impactful effect on the
452 neighborhood. He continued that he finds that a reasonable argument. He has a question for
453 staff about that regarding the commercial office space, and if a Variance would be needed today.
454 Mr. Rogers replied not in the DT-T, because it is an allowed use. He continued that as he stated
455 before, there is not a density/square footage factor that is part of that.

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

457 Ms. Taylor stated that it does not appear that this would alter the essential character of the
458 neighborhood or threaten the public health, safety, or welfare. She continued that there seems to
459 be ample off street parking, which would be one of the public safety concerns.

460
461 Vice Chair Hoppock stated that he agrees with those comments. He continued that he thinks this
462 is in the spirit of the Ordinance and is not contrary to the public interest, for the reasons stated.
463 He thinks that there is no issue with parking, based on what they heard if the office space was
464 converted to a fourth residential unit. His concern is the density problem would increase with
465 the Variance would run with the land, questioning future uses. As the last speaker mentioned,
466 what the Board does with each property in an area has a cumulative effect. Other properties will
467 grow, too. That is his concern about this application.

468
469 3. *Granting the Variance would do substantial justice.*

470
471 Vice Chair Hoppock stated that he is trying to figure out if the loss to the individual would be
472 outweighed by any gain to the public, and he is not convinced that it would. The loss to the
473 individual would be significant, the ability to use the property as they deem fit within the Zoning.
474 He thinks the third criterion is met.

475
476 Mr. Welsh stated that he agrees. He continued that he knows they are looking at the loss to the
477 Applicant and the gain to the public, but the nature of the loss to the public is not something he is
478 convinced is stronger than the gain. Mr. Welsh further stated that less traffic and adequate
479 parking in the back of residential units are kinds of benefits to the property and the public.
480 Looking forward, possible other uses for the commercial space could potentially have a more
481 negative impact, depending on what they are.

482
483 Mr. Clough stated that he agrees. He continued that looking at the narrative, the size of the
484 commercial space is almost 40% of the usable space. That is a large amount of space to dedicate
485 to just one office. If someone were to go into that space, 2,000 square feet that could be cut up
486 into many offices. Turning it residential, it relates to the hardship; such a large portion of this
487 property is commercial or office.

488
489 Ms. Taylor stated that one of the things the Board has to weigh in the substantial justice factor is
490 whether there would be some particular harm to the public and those consequences. When she
491 tries to weigh it, from her knowledge of how much pedestrian and vehicular traffic there is from
492 a residential use versus a commercial use, she thinks there is probably less of an impact from a
493 residential use than from an ongoing commercial use.

494
495 Vice Chair Hoppock asked if she means thereby enhancing the gain to the public. Ms. Taylor
496 replied yes. Vice Chair Hoppock replied that that makes sense to him, too.

497
498 4. *If the Variance were granted, the values of the surrounding properties would not be*
499 *diminished.*

500 Vice Chair Hoppock stated that he does not see any reason why this proposed use would affect
501 property values in the area, just being a lot size versus a number of unit size. From the outside,
502 nothing will change. They have already talked about how parking and traffic would not appear
503 to have an impact on this property. For those two reasons, he does not think there would be any
504 diminution of property values in the surrounding area if this application were approved.
505

506 Mr. Clough stated that he agrees, and looking forward to what it would be 30 years from now,
507 there would not be a significant change in that usage, either. They are looking at two more
508 vehicles because it was an additional residential unit. Again, there would not be much extra
509 vehicular traffic or foot traffic.
510

511 5. *Unnecessary Hardship*

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

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

518 *and*

519 ii. *The proposed use is a reasonable one because:*
520

521 Ms. Taylor stated that when she was listening to the presentation, what immediately jumped into
522 her mind was the Farrar case. She continued that one of the key issues in that particular case was
523 that when you have a very large house that was residential, on a very small lot that in itself
524 creates a type of hardship. She does not know if that is adequate to say that is a total interference
525 with the reasonable use, but she does think that the size of the building – and she knows the
526 Board has considered this with other properties – compared to the size of the physical property
527 really does impede the use of the building. This is because it is unlikely that if that were to be re-
528 converted to a single-family residential unit this would be before the Board, but it would be
529 unlikely. She questioned if this property would not be a single-family residential unit, would it
530 be reasonable, in this case, for it to be four units.
531

532 Vice Chair Hoppock asked Mr. Clough to elaborate on the size of the office space. Mr. Clough
533 stated it struck him that the three units only had 2,800 square feet and the office space was 2,074
534 square feet, which is a strange proportion. They heard afterwards that the upstairs, which
535 technically was part of the office, was also used as a pseudo-residential area. If they were being
536 completely accurate, it would have almost been a fourth residential unit and a commercial unit
537 underneath, to cut all that in half. He thinks that is what brought up some of the questions of
538 how the second floor was being used, making this an odd situation. It seems to him that the front
539 unit, first and second floor, are interconnected and count as one unit. It would possibly be quite
540 difficult to repurpose that in a different way. That, to him, creates a hardship, because it is such
541 a big space.
542

543 Vice Chair Hoppock stated that it appears to him that they have identified three potential special
544 conditions: the size of the house compared to the size of the lot, the size of the building
545 compared to the size of the lot, and the size of the office space to be converted in relation to the
546 sizes of the other units. He continued that the question then becomes, what is the relationship of
547 the Zoning Ordinance to those special conditions, how does that make it unfair to impose the
548 Zoning Ordinance on this property and why does that create the unnecessary hardship. He is not
549 sure if conversion costs are an appropriate consideration.

550
551 Ms. Taylor stated that she thinks the financial impact can be a consideration, although it certainly
552 cannot be the sole consideration. The Board can consider it in the big picture, in relationship to
553 other issues, such as such a large house on such a small lot. She questioned if you cannot
554 undertake the effort to convert it into some sort of usable space, does that mean that it is not
555 reasonable. She thinks she said that backwards. Vice Chair Hoppock replied that he understands
556 what she means.

557
558 Mr. Welsh stated that he is still not sure if he understands, but he is still thinking about another
559 special condition regarding the ADA compliance that is an existing condition of this building and
560 whether if, in future uses, the existence of that ADA compliance is a liability or not. He
561 questioned that for this use, the ADA is a benefit, but would that become a liability if it were to
562 remain a commercial office space. If so, they would be looking at the necessity of converting the
563 space away from ADA compliance, which is not necessary at this time. He will add that
564 unfortunately, he is not sure what the relationship of that is to the lot size.

565
566 Vice Chair Hoppock stated that he is persuaded that the special conditions they identified are
567 useful in this application. He continued that he appreciates the relationship between those
568 special conditions and why they would make the application of the lot size part of the Zoning
569 Ordinance unfair and burdensome. The Farrar case that Ms. Taylor was talking about states you
570 can consider financial impact as one criterion in the big picture, and the big picture is that they
571 are getting rid of the commercial use. The day-to-day traffic coming in and out of this place will
572 be reduced over time, there will be one extra residential unit, and for the time being, one person
573 will be living there. He understands that things may change in 30 years, but as Mr. Clough
574 mentioned, in 20 or 30 years it will not be that much different if the uses remain. There is plenty
575 of parking, streetwise and on the lot. He does not think there will be any cumulative effect on
576 the neighborhood that would be detrimental to the neighborhood.

577
578 Ms. Taylor made a motion to approve ZBA 22-17 for a Variance for property located at 61
579 Summer St., Tax Map #568-034-000-000-000, in the Downtown Transition District, to permit a
580 4th residential unit on a 14,374.8 sq. ft. lot where 24,200 sq. ft. is required per Chapter 100,
581 Article 4.6.1 of the Zoning Regulations. Mr. Clough seconded the motion.

582
583 *1. Granting the Variance would not be contrary to the public interest.*

584
585 Granted with a vote of 4-0.

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

587

588 Granted with a vote of 4-0.

589

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

591

592 Granted with a vote of 4-0.

593

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

596

597 Granted with a vote of 4-0.

598

599 5. *Unnecessary Hardship*

600

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

603

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

606

607 Granted with a vote of 4-0.

608

609 *and*

610

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

611

612 Granted with a vote of 4-0.

613

614 The motion passed with a unanimous vote of 4-0.

615

616 V) **New Business**

617

618 Vice Chair Hoppock asked if there was any new business. Mr. Rogers replied no.

619

620 VI) **Communications and Miscellaneous**

621

622 Vice Chair Hoppock asked if there were any communications or miscellaneous items to address.
623 Mr. Rogers replied no.

624

625 VII) **Non-public Session (if required)**

626

627 VIII) **Adjournment**

628

There being no further business, Vice Chair Hoppock adjourned the meeting at 7:50 PM.

629 Respectfully submitted by,
630 Britta Reida, Minute Taker
631
632 Reviewed and edited by,
633 Corinne Marcou, Zoning Clerk

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27-29 CENTER ST. ZBA 22-13



Petitioner requests a Variance to permit three dwelling units on a 3,049 sq. ft. lot where 18,800 sq. ft. is required per Chapter 100, per Article 4.6.1 of the Zoning Regulations.



City of Keene

New Hampshire

NOTICE OF HEARING

ZBA 22-13

A meeting of the Zoning Board of Adjustment will be held on Monday, August 6, 2022, at 6:30 PM in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition. Petitioners, Brian & Amalia Harmon, requests a Variance for property located at 27-29 Center St., Tax Map #568-016-000-000-000 that is in the Downtown Transition District. The Petitioners requests a Variance to permit a multi-family dwelling with three units on a lot with 3,049 sq. ft. where 18,800 sq. ft. is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm. or online at <https://keenenh.gov/zoning-board-adjustment>

Corinne Marcou, Zoning Clerk
Notice issuance date July 21, 2022



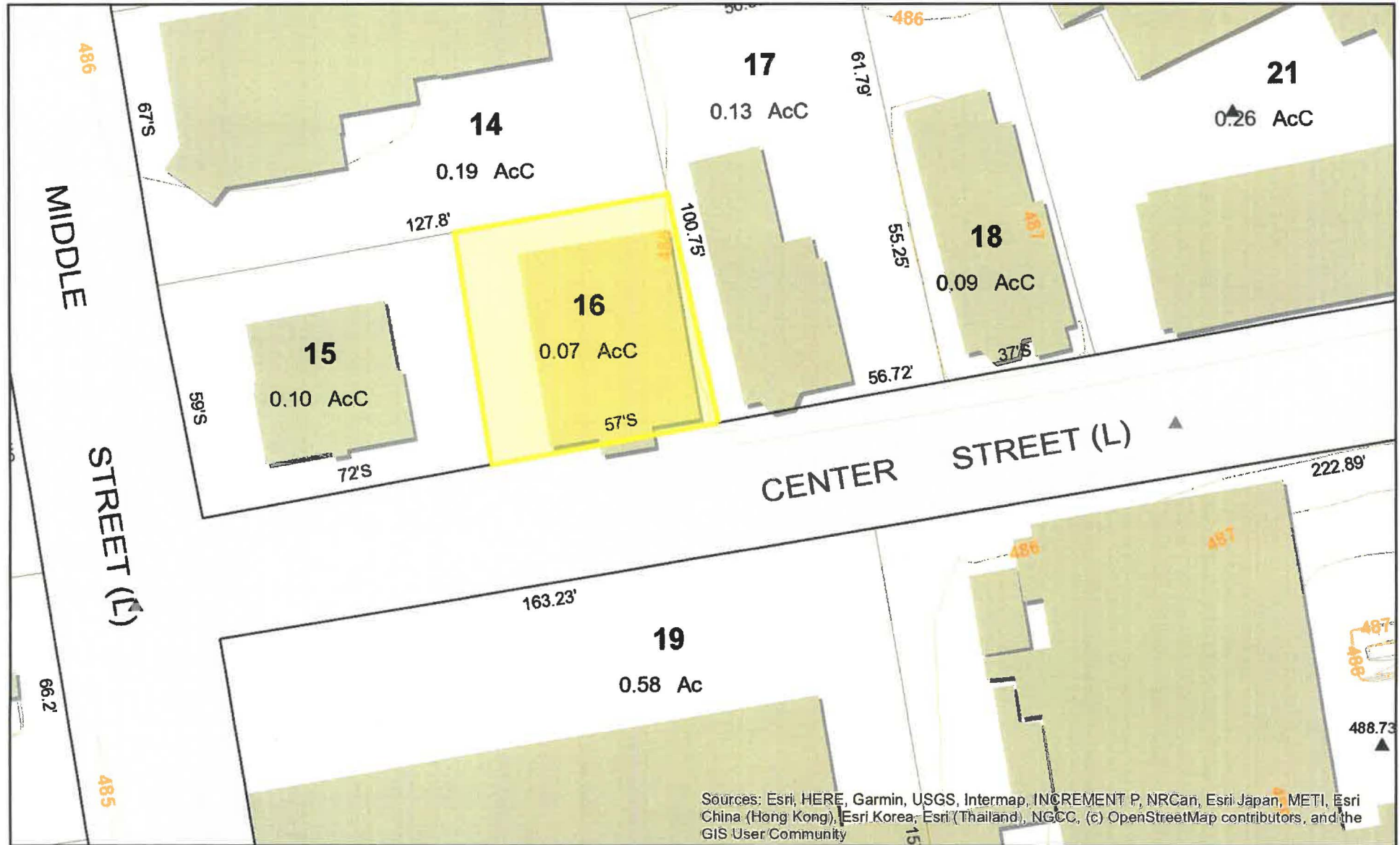
Keene, NH



July 21, 2022

1 inch = 34 Feet

www.cai-tech.com



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Zoning Board of Adjustment Variance Application



| | |
|-----------------------------|----------|
| For Office Use Only: | |
| Case No. | 2BA22-13 |
| Date Filled | 7/21/22 |
| Rec'd By | CM |
| Page | 1 of |
| Rev'd by | |

If you have questions on how to complete this form, please call: (603) 352-5440 or email: communitydevelopment@keeneh.gov

SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY: Brian and Amalia Harmon

MAILING ADDRESS: 184 Colby Rd, Danville, NH 03819

PHONE: 617 201-6008 603 216 7348

EMAIL: majorconstructinc@gmail.com amalia1529@gmail.com

SIGNATURE: *[Signature]* *[Signature]*

PRINTED NAME: BRIAN HARMON Amalia L. Harmon

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

| | | | |
|---|------------------|----------------------------|---------------------|
| Property Address: | 27-29 CENTER ST. | | |
| Tax Map Parcel Number: | 568-016-000 | | |
| Zoning District: | Zoning Districts | OFFICE DOWNTOWN Transition | |
| Lot Dimensions: | Front: 57 | Rear: 54.1 | Side: 59 Side: 58.1 |
| Lot Area: | Acres: .07 | Square Feet: | 3049.2 |
| % of Lot Covered by Structures (buildings, garages, pools, decks, etc): | Existing: 70 | Proposed: | N/A |
| % of Impervious Coverage (structures plus driveways and/or parking areas, etc): | Existing: 90 | Proposed: | N/A |
| Present Use: | OFFICE | | |
| Proposed Use: | RESIDENTIAL | | |

SECTION 3: WRITTEN NARRATIVE

Article 25.5.4.A.: Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

A request to add an additional unit to 27-29 Center Street, Keene, NH property. We, my husband Brian and I have owned the property since March of 2021, Construction began shortly after May and now is halted due to the increase of construction materials and lack of work force in the field. The purpose of this request is to apply for the new grant program Invest NH which Gov Sununu just recently launched. The grant program is designed specifically for projects like ours. He wants to expand & accelerate housing and construction by incentivizing with such grants to alleviate our housing shortage. However the program requires applicants to have at least 3 units. We would be able to transform this building into 3 units very easily. There is plenty of room to create three safe, functional and affordable dwellings for this community.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 4.6.1 of the Zoning Regulations to permit:

We are requesting the needed variance to add a third unit to our existing two unit. Though the downtown transition zoning requires 18,800 s.f. and we only have 3,049 s.f.

Briefly describe your responses to each criteria, using additional sheets if necessary:

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

Granting the variance would not be contrary to the public interest because Keene is currently experiencing a housing shortage crisis. This would allow three dwelling units to provide the much needed affordable housing. The essential character of the neighborhood would not be altered. There are ~~many~~ residential units in the area, a few multi-unit.

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

The spirit of the ordinance would be observed because this proposed change (additional unit) is necessary to continue construction on this property. Inflation has impacted our ability to move forward on our own. In order to accelerate the completion, this grant is needed - the grant requires 3 units for application submittal for INVEST NH Housing Fund. "This uses federal American Rescue Plan Act dollars to get at one of the state's most critical needs: more workforce housing to help support businesses in need of more workers."

MANCHESTERINKLINK.COM

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would supply Keene with 3 living units to house the much needed work force. Governor Sununu "predicts the money will go a long way to help ease the housing crunch the state is now facing."

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

The building is beautiful, historic, an asset to the neighborhood. Cities prosper and succeed by attracting young professionals/work force to the area. This will increase the value of surrounding properties and improve the security and longevity of Keene's economy.

5. Unnecessary Hardship

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

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

i. This building does not impact the general public.

and

ii. The proposed use is a reasonable one because:

The proposed use is reasonable because:

"NH housing shortage won't be going away soon" Local news 6/3/21
Casey McDermott NH public radio reported "New Hampshire's housing landscape is pretty brutal" "... apartment vacancy rates are low and the pandemic has exacerbated many aspects of a pre-existing housing crisis" - article 11/7/2020 ^{sentinal source}

- Time is of the essence to apply for the grant. The Grant requires the additional unit to this property for acceptance. The third unit is much needed by the community. Commissioner Taylor Caswell said the percent of available two bedroom rentals in the state is below 1 percent and consider unhealthy from the business community's perspective.

B. 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.

If the criteria in sub para A are not established an unnecessary hardship will be deemed to exist in that the intent of creating/constructing crucially needed housing may not be tangible. The building will sit empty and ~~therefore create~~ we cannot maintain an empty building without financial hardship as well as a negative impact on the neighborhood.



200 foot Abutters List Report

Keene, NH
July 20, 2022

Subject Property:

Parcel Number: 568-016-000
CAMA Number: 568-016-000-000-000
Property Address: 27-29 CENTER ST.

Mailing Address: HARMON BRIAN HARMON AMALIA
184 COLBY RD.
DANVILLE, NH 03819

Abutters:

Parcel Number: 568-010-000
CAMA Number: 568-010-000-000-000
Property Address: 8 MIDDLE ST.

Mailing Address: PLANNED PARENTHOOD OF
NORTHERN NEW ENGLAND
784 HERCULES DR. SUITE 110
COLCHESTER, VT 05446-8049

Parcel Number: 568-011-000
CAMA Number: 568-011-000-000-000
Property Address: 16 MIDDLE ST.

Mailing Address: POLLOCK, CAITLIN M.
43 PLEASANT HILL AVE. #34
MATTAPAN, MA 02126

Parcel Number: 568-012-000
CAMA Number: 568-012-000-000-000
Property Address: 22 MIDDLE ST.

Mailing Address: SOUSA PAULA NOLAN
22 MIDDLE ST.
KEENE, NH 03431

Parcel Number: 568-013-000
CAMA Number: 568-013-000-000-000
Property Address: 28 MIDDLE ST.

Mailing Address: 28 MIDDLE STREET REALTY LLC
99 VALLEY PARK DR.
SPOFFORD, NH 03462

Parcel Number: 568-014-000
CAMA Number: 568-014-000-000-000
Property Address: 29 MIDDLE ST.

Mailing Address: ESPIEFS PETER S. REV. TRUST
29 MIDDLE ST.
KEENE, NH 03431

Parcel Number: 568-015-000
CAMA Number: 568-015-000-000-000
Property Address: 33 CENTER ST.

Mailing Address: BLUE SPRUCE OCEAN HOLDINGS LLC
PO BOX 1347
HAMPTON, NH 03843

Parcel Number: 568-017-000
CAMA Number: 568-017-000-000-000
Property Address: 23 CENTER ST.

Mailing Address: MONADNOCK UNITED FUND
23 CENTER ST.
KEENE, NH 03431

Parcel Number: 568-018-000
CAMA Number: 568-018-000-000-000
Property Address: 17 CENTER ST.

Mailing Address: MGJ REALTY LLC
PO BOX 562
KEENE, NH 03431

Parcel Number: 568-019-000
CAMA Number: 568-019-000-000-000
Property Address: 33 WINTER ST.

Mailing Address: CHESHIRE COUNTY
33 WINTER ST.
KEENE, NH 03431

Parcel Number: 568-020-000
CAMA Number: 568-020-000-000-000
Property Address: 12 COURT ST.

Mailing Address: COUNTY OF CHESHIRE
12 COURT ST.
KEENE, NH 03431



www.cai-tech.com

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200 foot Abutters List Report

Keene, NH
July 20, 2022

Parcel Number: 568-021-000
CAMA Number: 568-021-000-000-000
Property Address: 26 COURT ST.

Mailing Address: MGJ REALTY LLC
PO BOX 562
KEENE, NH 03431

Parcel Number: 568-022-000
CAMA Number: 568-022-000-000-000
Property Address: 34 COURT ST.

Mailing Address: 34 COURT LLC
63 EMERALD ST. #468
KEENE, NH 03431-3626

Parcel Number: 568-023-000
CAMA Number: 568-023-000-000-000
Property Address: 42-44 COURT ST.

Mailing Address: EIGHTY-EIGHT LAMBERT AVENUE
NOMINEE TRUST
17 ROXBURY ST.
KEENE, NH 03431

Parcel Number: 568-024-000
CAMA Number: 568-024-000-000-000
Property Address: 18 SUMMER ST.

Mailing Address: ZOLL, MICHAEL J. ZOLL JENNIFER L.
18 SUMMER ST.
KEENE, NH 03431

Parcel Number: 568-025-000
CAMA Number: 568-025-000-000-000
Property Address: 37 MIDDLE ST.

Mailing Address: LEACH JODY A. LEACH KRISTEN
37 MIDDLE ST.
KEENE, NH 03431

Parcel Number: 568-026-000
CAMA Number: 568-026-000-000-000
Property Address: 38 MIDDLE ST.

Mailing Address: BERGERON, JOHN GROISS LINDA
38 MIDDLE ST.
KEENE, NH 03431

Parcel Number: 568-038-000
CAMA Number: 568-038-000-000-000
Property Address: 31 SUMMER ST.

Mailing Address: ARRUDA MEGAN E. ARRUDA JOHN G.
31 SUMMER ST.
KEENE, NH 03431

Parcel Number: 568-039-000
CAMA Number: 568-039-000-000-000
Property Address: 21 SUMMER ST.

Mailing Address: CUNHA-VASCONCELOS SOFIA C.
21 SUMMER ST.
KEENE, NH 03431

Parcel Number: 568-040-000
CAMA Number: 568-040-000-000-000
Property Address: 56 COURT ST.

Mailing Address: BURK NANCY E.
PO BOX 413
KEENE, NH 03431



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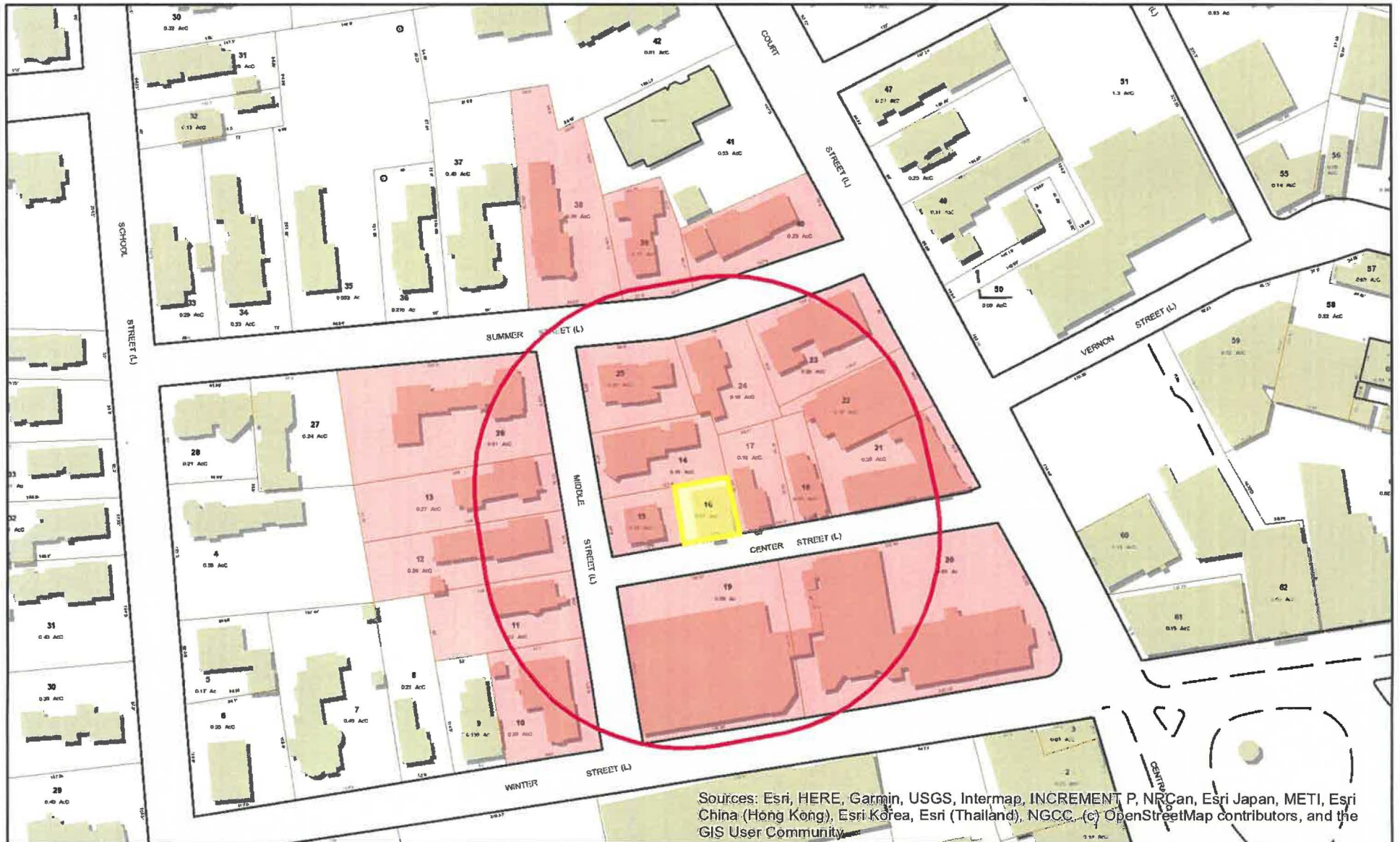
Keene, NH



July 20, 2022

1 inch = 137 Feet

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Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

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678 MARLBORO RD.
ZBA 22-18



Petitioner requests a Variance to permit an electronically activated changeable copy sign per Chapter 100, Article 10.3 Prohibited Signs of the Zoning Regulations



City of Keene

New Hampshire

NOTICE OF HEARING

ZBA 22-18

A meeting of the Zoning Board of Adjustment will be held on **Monday, November 7, 2022, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA 22-18: Petitioner, Keene Mini Storage, of 690 Marlboro Rd., requests a Variance for property located at 678 Marlboro Rd., Tax Map #214-107-000- 000-000 that is in the Industrial District. The Petitioner requests a Variance to permit an electronically activated changeable copy sign per Chapter 100, Article 10.3 Prohibited Signs of the Zoning Regulations.

You are receiving notice of this hearing as an abutter to or owner of property within 200-ft of the subject parcel.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

Corinne Marcou, Zoning Clerk

Notice issuance date October 27, 2022

Zoning Board of Adjustment Variance Application



| | |
|-----------------------------|------------|
| For Office Use Only: | |
| Case No. | ZBA22-18 |
| Date Filled | 10/20/2022 |
| Rec'd By | MF |
| Page | 1 of 10 |
| Rev'd by | |

If you have questions on how to complete this form, please call: (603) 352-5440 or
email: communitydevelopment@keenenh.gov

SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY: KEENE MINI STORAGE

MAILING ADDRESS: 690 MARLBORO ROAD, KEENE, NH 03431

PHONE: (603) 357-2666

EMAIL: info@keeneministorage.com

SIGNATURE:

PRINTED NAME: JAMES E. ROBERTSON

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: KEENE MINI STORAGE

MAILING ADDRESS: 690 MARLBORO ROAD, KEENE, NH 03431

PHONE: (603) 562-9999

EMAIL: jfrazier@myfairpoint.net

SIGNATURE:

PRINTED NAME: JAY FRAZIER

SECTION 2: PROPERTY INFORMATION

Property Address: 678 MARLBORO ROAD

Tax Map Parcel Number: 241 / 107

Zoning District: Industrial 

Lot Dimensions: Front: 873 Rear: 1416 Side: 197 Side: 167

Lot Area: Acres: 9.5 Square Feet: 413,820

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 18% Proposed: SAME

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 74% Proposed: SAME

Present Use: VEHICLE FUELING STATION & MINI SELF STORAGE FACILITY

Proposed Use: SAME

SECTION 3: WRITTEN NARRATIVE

Article 25.5.4.A.: Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

KEENE MINI STORAGE, LOCATED AT 678 MARLBORO ROAD IS SEEKING A REQUEST TO REPLACE THE GAS & DIESEL MANUAL FLIP PRICE SIGNS. THE 4 NEW SIGNS (27"X24") WITH 10" DIGITS WOULD BE ELECTRICALLY ACTIVATED CHANGEABLE COPY SIGNS DISPLAYING GRADE AND PRICE PER GALLON.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 10.3 of the Zoning Regulations to permit:

ELECTRICALLY ACTIVATED CHANGEABLE COPY SIGNS

Briefly describe your responses to each criteria, using additional sheets if necessary:

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

THE LED PRICE SIGN IS MORE ATTRACTIVE AND EASIER TO READ ON A BUSY HIGHWAY.

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

SIMILAR PRICE SIGNS HAVE BEEN APPROVED AT MOST FUELING LOCATIONS IN KEENE.

3. Granting the variance would do substantial justice because:

LED PRICE SIGNS ARE EASY TO READ AFTER DARK COMPARED TO FLIP SIGNS WHICH ARE NOT BACK LIGHTED AND DIFFICULT TO SEE AT NIGHT.

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

**THE LED PRICE SIGNS LIKE THE EXISTING FLIP SIGNS WOULD BE ATTACHED TO THE MAIN EXISTING WOODEN SIGN WITH 2 POSTS.
THIS SIGN HAS BEEN ON THE PROPERTY FOR YEARS AND IS WELL MAINTAINED AND LANDSCAPED AROUND.**

5. Unnecessary Hardship

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

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

THE METAL FLIP SIGNS ARE DIFFERENT TO CHANGE IN THE WINTER WHEN ICE AND SNOW ACCUMULATE BETWEEN THE METAL PANELS.

and

ii. The proposed use is a reasonable one because:

ABILITY TO CHANGE PRICES FROM THE OFFICE WITHOUT PERSONEL HAVING TO SOMETIMES GO THRU SNOWBANKS, BRUSH OFF SNOW AND MAYBE CHIP ICE TO FLIP THE METAL NUMERALS.

B. Explain how, if the criterial 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.

FUELING LOCATIONS NEED TO HAVE THE ABILITY TO CHANGE PRICES FREQUENTLY AND SAFETY DUE TO THE VOLATILITY OF FUEL PRICES.

Zoning Board of Adjustment Certified Notice List



| | |
|-----------------------------|-------|
| For Office Use Only: | |
| Case No. | _____ |
| Date Filled | _____ |
| Rec'd By | _____ |
| Page _____ of _____ | |
| Rev'd by | _____ |

If you have questions on how to complete an application, please call: (603) 352-5440 or email: communitydevelopment@keenenh.gov

25.2.4 PUBLIC NOTICE

The submittal requirements for Public Notices are outlined further in **Article 25.2** of the Land Development Code

Article 25.2.4.A.1: When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice in accordance with state law or the City code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in the Land Development Code.

Article 25.2.4.A.2: The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.

Article 25.2.4.A.3: The mailed notice shall include, at a minimum, the date, time, place and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. **Such information shall be current to within 10 days of application submittal.**

Article 25.2.4.A.4: The mailed notice shall be sent to the address used for mailing local property tax bills, which may be obtained from the City of Keene Assessing Department.

Article 25.2.4.A.5: The required timeframe for issuing mailed notice is specified in Table 25-2. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

NOTICE LIST & MAILING LABELS

A notice list and two sets of mailing labels identifying any parties that require notice as part of the application process, will be submitted. **Such information shall be current to within 10 days of application submittal.** Per NH RSA 676:7(I)(a), and **Article 25** of the Land Development Code, the following parties must be noticed by verified mail no less than five days prior to the scheduled meeting:

- Property owner
- Applicant and, if appropriate, authorized agent
- All owners of property located within 200 feet of the subject parcel as well all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel
- Holders of conservation, preservation, or agricultural preservation restrictions

The Notice List shall include the following:

- Property owner's name
- Property owner's mailing address
- Street address, if different from mailing address
- Property tax map parcel (TMP) number

The mailing labels shall include the following:

- Property owner's name
- Property owner's mailing address
- Property tax map parcel (TMP) number

The City of Keene's GIS Database (axisgis.com/keenenh/) can be used to generate a Notice List and mailing labels. Instructions for creating these can be found following this link Notice List Instructions or on the Zoning Board of Adjustment page on the City website, under ZBA Applications.

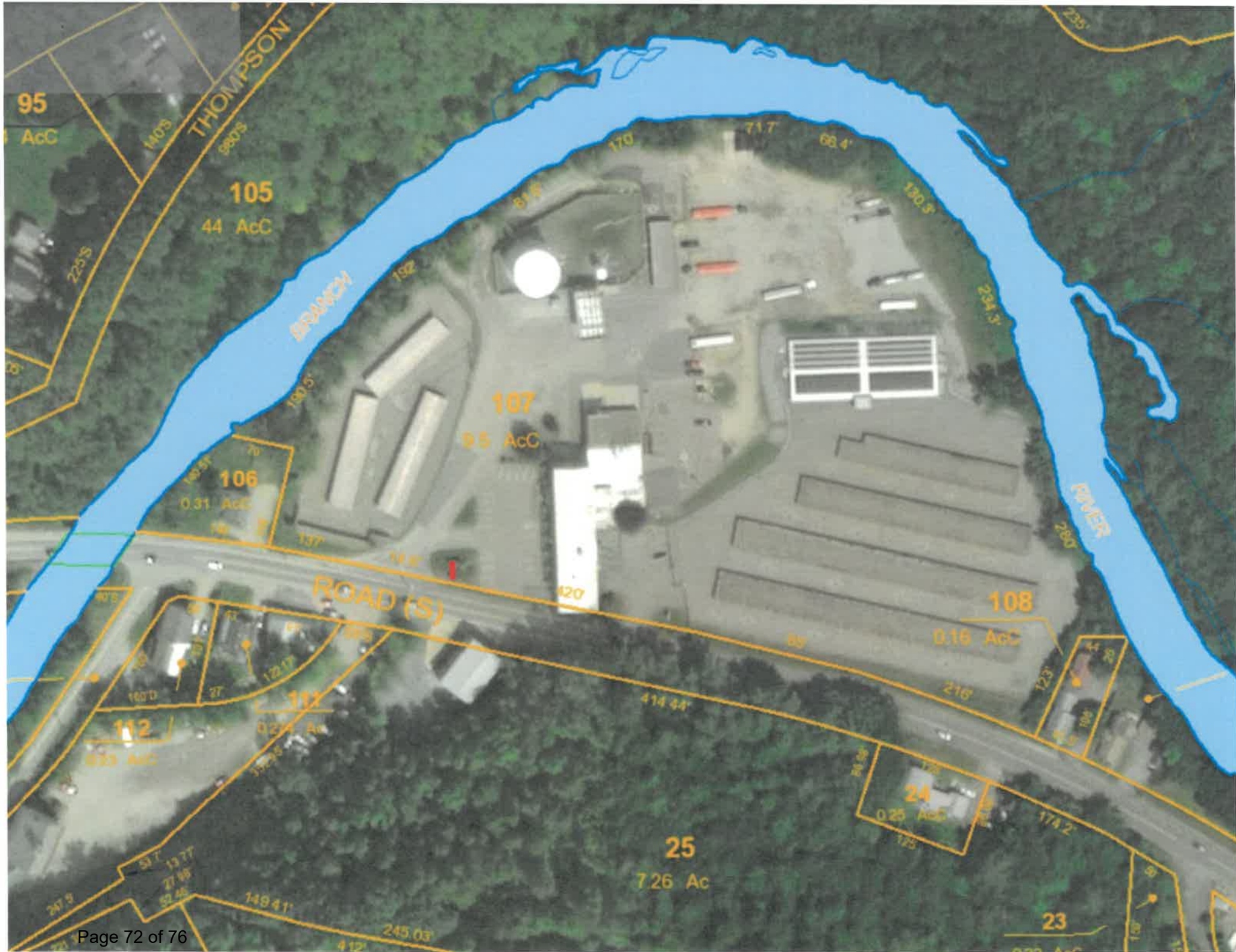
CERTIFY ACCURACY

By signing below, you are certifying that the submitted notice list is accurate and true to the best of your ability and that per **Article 25.2.4.A.3**, the notice list is current to within 10 days of the application submittal.

Print Name JAY FRAZIER

Date 10/17/22

Signature J



Parcel Number: 241-105-000-000-000
ANTIOCH UNIVERSITY
40 AVON ST.
KEENE, NH 03431

Parcel Number: 241-111-000-000-000
SHIRE FREE CHURCH HOLDING
63 EMERALD ST. PMB 610
KEENE, NH 03431

Parcel Number: 248-024-000-000-000
BELCIK, AUSTIN
283 MARCY HILL RD.
SWANZEY, NH 03446

Parcel Number: 241-111-000-000-000
SHIRE FREE CHURCH HOLDING
73 LEVERETT ST.
KEENE, NH 03431

Parcel Number: 248-023-000-000-000
CHAFFEE WILLIAM
16 HIGH ST.
TROY, NH 03465-2651

Parcel Number: 241-109-000-000-000
DAWSON MICHAEL
DAWSON NAOMI
702 MARLBORO RD.
KEENE, NH 03431

Parcel Number: 241-106-000-000-000
FERN & RAKE HOLDINGS LLC
50 WOODBURY ST.
KEENE, NH 03431

Parcel Number: 241-104-000-000-000
GARDNER GREGORY H.
GARDNER JEANNETTE P.
67 THOMPSON RD.
KEENE, NH 03431

Parcel Number: 248-026-000-000-000
GRAVES JOHN D.
PO BOX 1701
KEENE, NH 03431

Parcel Number: 241-108-000-000-000
MATHEWS ELIZABETH ANN
700 MARLBORO RD.
KEENE, NH 03431

Parcel Number: 241-112-000-000-000
MONADNOCK AFFORDABLE HOUS
831 COURT ST.
KEENE, NH 03431

Parcel Number: 248-025-000-000-000
NICKATE PROPERTY LLC
555 MAIN ST.
KEENE, NH 03431

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- b. A public hearing shall be held within ~~forty-five (45)~~ *ninety (90)* days of the receipt of an application, *provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.* ~~unless extended by the Board for good cause shown.~~ Public notice of public hearings on each application shall be published in the local newspaper and shall be posted at two locations, of which one posting may be on the City internet website, not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, all applicable provisions of the zoning ordinance, the type of appeal being made, and the date, time, and place of the hearing.
- i. Personal notice shall be made by Certified Mail to the applicant and to all abutters and holders of conservation, preservation or agricultural preservation restrictions not less than five (5) days before the date of the hearing.
- c. **Plot Plans:** A scale drawing showing the location and dimensions of all structures and open spaces on the subject lot and on the adjacent lots. Plans need not be professionally drawn, but must be a sufficient and accurate representation of the property. Plans deemed to be insufficient by the Clerk shall be returned, and no public hearing shall be scheduled until the receipt of an acceptable plan. The plot plan is to be a minimum of 8 ½ x 11 inches.
- d. **Abutter Notification Materials:** For the purpose of abutter notification, the following items shall be submitted with the application:
- i. An abutters list that includes all owners of properties that directly abut and/or that are across the street or stream from the parcel(s) that will be subject to review, and all owners of properties located within two hundred (200) feet of the parcel(s) that will be subject to review. The certified list shall include all property owner names, property street addresses, property tax map parcel numbers, and mailing addresses if different from the property address. In the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association as defined in RSA 356-B:3, XXIII.
- ii. Two (2) sets of legible mailing labels (Avery size 5160 or equivalent) for each abutter and including the owner of the property that will be subject to review and his/her designated agent(s).

- o. The Board may continue a public hearing to a place, date and time certain announced by the Chair without further public notice.
- B. **Voting:** Except as determined by the Board, the Board shall decide all cases immediately after the public hearing. Prior to voting the action, the Board shall render, as appropriate, findings of fact by majority vote. The Board will approve, approve with conditions, deny the appeal, or defer its decision.
- C. **Decisions:** Notice of the Decision will be made available for public inspection within five (5) business days as required by RSA 676:3, *I* and will be sent to the applicant by regular mail. *The decision shall include specific written findings of fact that support the decision.* If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, the Community Development Department, Assessor, and other City officials as determined by the Board. Decisions shall be based upon (1) all relevant facts and evidence introduced at the public hearing, (2) the application, (3) the Zoning Ordinance, and (4) applicable law.
- D. **Rehearing by the Board:** The Board may reconsider a decision to grant or deny an application, or any other decision or order of the Board, provided a Motion for Rehearing is submitted to the Board no later than thirty (30) calendar days commencing with the date following the date of the action of the Board for which the rehearing is requested. Motions for rehearing can only be received in the office of the Board during normal business hours of Monday thru Friday, 8:00 a.m. to 4:30 p.m., City Hall, 4th floor, Community Development Department.
- E. **Motions for Rehearing:** The Board shall deliberate the Motion for Rehearing within thirty (30) days of the date of the filing of the Motion. The deliberation by the Board shall not require a public hearing, and shall be conducted solely by the Board and based upon the contents of the Motion. If the Board grants a motion for rehearing, the new public hearing shall be held within thirty (30) of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.
- F. **Appeal:** Any further appeal of a final decision or order of the Board shall be in accordance with RSA 677:4, *et seq.*
- G. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection from the Clerk at City Hall, 4th floor, Community Development Department, in accordance with RSA 673:17.
 - a. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.