

**Zoning Board of Adjustment
October 3, 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 6, 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.

WITHDRAWN: ZBA 22-14: Petitioner, The Home for Little Wanderers of 10 Guest St., Boston, MA, represented by BCM Environmental & Land Law, PLLC of 41 School St., Keene, requests a Variance for property located at 39 Summer St., Tax Map #568-037-000-000-000 that is in the Downtown Transition District and owned by William K. Schofield, 27 Dublin Rd., Jaffrey, NH. The Petitioner requests a Variance to permit a large group home for youth where a large group home is not a permitted use per Chapter 100, Table 4-1 and Table 8-1 of the Zoning Regulations.

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

- V. New Business:
- 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 6, 2022**

6:30 PM

Council Chambers

Members Present:

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

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk
Michael Hagan, Plans Examiner

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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. Roll call was conducted.
15

16 **II) Minutes of the Previous Meeting – August 15, 2022**
17

18 Ms. Taylor stated that she found some typos, and submitted corrections to Corinne Marcou,
19 Zoning Clerk. She continued that there are two other items for the Board to consider. In line
20 239, the word “appeasing” should probably be “appealing.” Lines 355 through 358 say, “Given
21 to confusion on which criteria the Board discussed, criterion 3 was not deliberated.” She
22 continued that she took notes, and her notes indicate that the third criterion was discussed as part
23 of the second criterion. It was not specifically mentioned that it was #3 but they were discussed
24 together. If the Board would like, she thinks they should ask that that be changed to say that #3
25 was discussed as part of #2. Chair Gorman agreed and stated that he faintly recalls the Board
26 incorporating the two into one. Mr. Hoppock replied that lines 339 to 345 show that what Ms.
27 Taylor says is correct. He continued that he would be happy to amend it to read, “Deliberation
28 on this factor was discussed as part of criterion #2.” Ms. Taylor agreed.
29

30 Ms. Taylor made a motion to approve the August 15, 2022 meeting minutes as amended. Mr.
31 Hoppock seconded the motion, which passed by unanimous vote.
32
33

34 **III) Unfinished Business**

35 **A. House Bill 1661: Notice of Decision outlining the Findings of Fact**

36
37 John Rogers, Zoning Administrator, stated that the conversation the Board just had about
38 clarifying its deliberations in the meeting minutes is a good segue to the conversation about
39 House Bill 1661, which has made some changes to some of the requirements, mainly about the
40 Notices of Decisions. He continued that the Board would need to be even clearer about the
41 reasoning behind the approval or denial of a Variance or any application in front of the Board.
42 This Board does a very good job during its deliberations of discussing each criterion, which
43 makes staff's job easier and gives transparency to the public. That is the intent of this bill, to
44 make it easier for people to understand the Board's decisions. The changes needed are mostly
45 for staff when they are writing a Notice of Discussion, being able to pull the information out of
46 the Board's discussions. What he asks of the Board is that when they discuss the criteria, if there
47 is not much discussion happening, to think about it more and delve deeper to figure out the
48 reasoning behind the decision.

49
50 Mr. Rogers continued that also, this bill applies a time limitation to decisions. Again, he believes
51 this Board does well with making decisions in a timely manner. The Rules of Procedure do not
52 currently include that time limitation so they will have to include it. In the near future, staff will
53 bring that change to the Rules of Procedure forward for the Board. The other changes needed
54 because of this RSA, as he said, are mostly for staff as they document items; the Board does a
55 very good job already.

56
57 Chair Gorman asked if the Board had questions for Mr. Rogers about this. Hearing none, he
58 moved on in the agenda.

59
60 **IV) Hearings**

61
62 **A. Continued ZBA 22-13: Petitioners, Brian & Amalia Harmon, requests a Variance**
63 **for property located at 27-29 Center St., Tax Map #568-016-000-000- 000 that is in**
64 **the Downtown Transition District. The Petitioners requests a Variance to permit a**
65 **multi-family dwelling with three units on a lot with 3,049 sq. ft. where 18,800 sq. ft.**
66 **is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations.**

67
68 Chair Gorman stated that he received notification that the applicants have contracted COVID-19
69 and cannot be here tonight. He continued that they have requested a second continuation.

70
71 Chair Gorman made a motion to continue ZBA 22-13 to the October 3, 2022 meeting of the
72 Zoning Board of Adjustment, in Council Chambers, at 6:30 PM. Mr. Hoppock seconded the
73 motion, which passed by unanimous vote.

76 **B. ZBA 22-14: Petitioner, The Home for Little Wanderers of 10 Guest St., Boston, MA,**
77 **represented by BCM Environmental & Land Law, PLLC of 41 School St., Keene,**
78 **requests a Variance for property located at 39 Summer St., Tax Map #568- 037-000-**
79 **000-000 that is in the Downtown Transition District and owned by William K.**
80 **Schofield, 27 Dublin Rd., Jaffrey, NH. The Petitioner requests a Variance to permit**
81 **a large group home for youth where a large group home is not a permitted use per**
82 **Chapter 100, Table 4-1 and Table 8-1 of the Zoning Regulations.**
83

84 Chair Gorman asked to hear from staff. Michael Hagan, Plans Examiner, stated that 39 Summer
85 St. was built in 1925 and is a wood construction building. It has received two previous
86 Variances, one is unclear whether it was a Variance, but an application to the Board on July 23,
87 1966 was granted. At the time, the use was a nursing home and the Board allowed an apartment
88 above the garage. The second Variance was granted on October 3, 1994, to convert the home
89 office apartments into offices only. The intent of the Downtown Transition District (DT-D) is
90 *“to accommodate a variety of residential, open space, and other low intensity uses in a mixed-*
91 *use environment of attached and detached structures. Development within the DT-D is intended*
92 *to complement and transition into residential neighborhoods adjacent to downtown Keene.”*
93

94 Ms. Taylor stated that she is trying to understand the new Code. She asked if a Conditional Use
95 Permit (CUP) would still be needed if the Variance were granted. Mr. Rogers replied yes, a CUP
96 from the Planning Board would be required, and an annual license from the Congregate Living &
97 Social Services Licensing Board. He continued that those are two additional steps the Petitioner
98 would have to take if this Variance were granted.
99

100 Chair Gorman asked if the office use that the building transitioned to in 1994 is an allowed use
101 under the new Zoning Code. Mr. Hagan replied yes. Chair Gorman asked if the building as it
102 sits, with its current use, is a conforming use. Mr. Hagan replied yes.
103

104 Mr. Welsh asked if staff could refresh his memory about the features of a CUP. Mr. Rogers
105 replied that the review criteria is as follows:
106

- 107 “ A. *The nature of the proposed application is consistent with the spirit and intent of the*
108 *Zoning Regulations, this LDC, and the City’s Comprehensive Master Plan and all*
109 *applicable standards.*
110 B. *The proposed use will be established, maintained, and operated as not to endanger the*
111 *public health, safety, or welfare.*
112 C. *The proposed use will be established, maintained, and operated so as to be harmonious*
113 *with the surrounding area and will not impede the development, use, or enjoyment of the*
114 *adjacent property. In addition, any parking lots, outdoor activity area, or waiting area*
115 *associated with the use shall be adequately screened from the adjacent properties and the*
116 *public right-of-way.*
117 D. *The proposed use will be of a character that does not produce noise, odors, glare, and/or*
118 *vibration that adversely affects the surrounding area.*

- 119 E. *The proposed use will not place an excessive burden on the public infrastructure,*
120 *facilities, services, or utilities.*
- 121 F. *The proposed use will not result in the destruction, loss, or damage of any feature*
122 *determined to be of significant natural, scenic, or historic importance.*
- 123 G. *The proposed use will not create a traffic safety hazard or a substantial increase in the*
124 *level of traffic congestion in the vicinity of the use.*
- 125 H. *The proposed use will be located in proximity to pedestrian facilities (e.g. multiuse trails*
126 *and sidewalks), public transportation, or offer transportation options to its client*
127 *population.”*

128

129 Ms. Taylor asked what section that is. Mr. Hagan replied Article 15.2.

130

131 Chair Gorman asked if there were any more questions for staff before he called on the Applicant.
132 Ms. Taylor stated that on their desks tonight, Board members found a packet of additional
133 material, which she has not had a chance to look at. Chair Gorman replied that there is a copy of
134 a deed and some other relevant items that the Applicant submitted late, and it is his
135 understanding that the Applicant is willing to go forward without having this information
136 submitted but would prefer the Board take a few minutes to review it, if possible. He personally
137 would be fine with taking a short recess so the Board can review the information. He asked who
138 on the Board is in favor of doing that. He stated that the show of hands is unanimous.

139

140 Chair Gorman called for a recess at 6:47 PM. He called the meeting back to order at 6:58 PM.

141

142 Ms. Taylor made a motion to accept the additional material that Attorney Hanna distributed this
143 evening with regards to the request for a Variance at 39 Summer St. Mr. Welsh seconded the
144 motion, which passed by unanimous vote.

145

146 Tom Hanna stated that he is a lawyer with BCM Environmental & Land Law, which has offices
147 in Concord and Keene, and has been a lawyer for over 40 years. He continued that he apologizes
148 about the materials that were not submitted with the application, but they were submitted on
149 Thursday, not tonight. He submitted two pages this afternoon, a document called “conditions of
150 approval,” and an email letter from a realtor for the seller. He asked if those were part of what
151 the Board reviewed just now. Chair Gorman replied yes.

152

153 Mr. Hanna stated that he will have Matt McCall, Vice President of Community Services at The
154 Home for Little Wanderers, speak soon, but first he will address the Variance criteria. He
155 continued that he wants to say at the outset that although this is a “large group home,” it is a
156 home that will be capped at 12 residential clients between the ages of 14 and 18, which is not as
157 large as it could be under the City’s Ordinance, nor will it be. The application for a Variance
158 includes the application and review of a CUP. That application, similarly substantial as the
159 Variance application, was submitted at the same time to the Planning Board for a hearing later
160 this month. The criteria that Mr. Rogers went over, in many ways, are overlapping with the
161 Variance criteria. In addition, site plan review is required and would presumably be an

162 administrative process. There is a not a substantial amount of exterior work being done. Lastly,
163 as Mr. Rogers mentioned, there is the Congregate Living & Social Services operating license to
164 be renewed annually, and includes regulations that require submissions of an Operations and
165 Management Plan, which address procedures for security, life safety, health, staff training,
166 emergency response, building and site maintenance, and neighborhood relations. That is a new
167 process with the LDC, and a fairly onerous and detailed one.

168
169 Mr. Hanna stated that The Home is here to apply for a Variance, but first, he wants to put on the
170 record some things the Board should know. Large group homes should be permitted in the DT-
171 T, because similar residential uses of greater density are permitted outright. The proposed use is
172 excluded from this zone due to concerns for the people who might occupy the group home.
173 Excluding large group homes from the district, he believes, is technically and lawfully a
174 discriminatory practice. Additionally, the City has not provided for reasonable accommodations
175 for large group homes in residential settings, which he will get into later in his presentation. The
176 comments he just made relate to the Federal Fair Housing Act.

177
178 Mr. Hanna stated that the Board is familiar with RSA 674:54, regarding governmental uses of
179 property in the city, where the governmental entity does not have to go through the same
180 rigorous process. The statute does have requirements for presentation, but for example, the
181 middle school had an obligation to present, give notice, and accept recommendations from the
182 Planning Board, but those were merely recommendations and did not have to be adhered to,
183 because that was a governmental entity. The definition of “governmental use” includes all of the
184 subdivisions of government of County, State, City, and School District. As it relates to the State,
185 it says, “*Or any of their agents, for any public purpose which is statutorily or traditionally*
186 *governmental in nature.*” The group home they propose tonight, they suggest, is a required
187 function of the State of NH. The State has contracted with The Home for Little Wanderers to
188 provide a service that the State would otherwise have to do on its own. He suggests also, under
189 RSA 674:54, that the use proposed on Summer St. should not have to go through the rigor of a
190 Zoning application and so forth, because it is exempt under that statute.

191
192 Mr. Hanna stated that he does not normally do this, but in this instance, he thinks it would help,
193 before they go into detail, for him to read the Conditions of Approval that he prepared and
194 submitted today. That was prepared primarily to address the concerns that came up at a meeting
195 The Home held on the porch of 39 Summer St. on Thursday, September 1, 2022. It was well
196 attended by neighbors of the property and they asked many questions. Mr. McCall was the
197 person who answered most of the questions and will talk about that tonight. Mr. Hanna read:

198
199 *“The Home for Little Wanderers agrees to the following conditions, whether or not the Zoning*
200 *Board imposes them as conditions of approval.*

201
202 *The group home at 39 Summer St. known as “Unity House” shall be limited to a maximum of 12*
203 *residents.*

204

205 *No resident client over 18 years old will be admitted to the Unity House program. However, a*
206 *client who turns 19 during the final year of secondary school would be permitted to remain until*
207 *the end of the year.*

208
209 *Unity House will maintain staffing at a one (staff) to four (youth) ratio during normal daytime*
210 *hours, and staffing at a 1:6 ratio will be maintained overnight. There will never be fewer than*
211 *two staff on site. A designated administrator of Unity House will be on call 24 hours a day,*
212 *including when the Program Director is not on site. In addition, an executive will always be on*
213 *call as well. A nurse is always on call for the benefit of the youth in the home.*

214
215 *If the program at 39 Summer St. is not viable, for any reason, and the property must be sold, The*
216 *Home for Little Wanderers agrees that the Variance for a group home does not run with the land*
217 *in this case and shall terminate upon sale. In the event that The Home for Little Wanderers*
218 *proposes to materially change the program it agrees that such change may not occur without*
219 *returning to the Zoning Board for approval. They know this condition is atypical, because*
220 *Variances lawfully run with the land and would affect a subsequent owner. However, The Home*
221 *for Little Wanderers is agreeing that if it decides to move on and sell the property, it will not be*
222 *a group home.”*

223
224 Mr. Hanna stated that that does not mean a subsequent owner could not apply to the Board, but it
225 is not because it has the right to take advantage of the existing Variance he hopes this Board will
226 grant. The Board may hear otherwise from some people in the audience, but he is convinced that
227 this is a very strong organization. For a year, he has been working to find an appropriate house
228 in the worst possible market, because many of the houses the organization has found desirable
229 have been subject to cash offers from out of state buyers, and The Home needed a contingency to
230 go through this Variance request process and lost several houses as a result. In the process of his
231 getting to know this organization, he feels strongly that it will be a good neighbor, and he
232 believes the neighbors will feel that way, too. If The Home could be guaranteed to own and be
233 managing this property there would be some level of comfort. That is what this condition is
234 intended to address.

235
236 Mr. Hanna continued:

237
238 *“The Home will hold a meeting with neighbors at least quarterly to maintain good neighborhood*
239 *communication. It will convene other meetings upon request.*

240
241 *The Home has approved a budget of \$250,000 for the up-front capital costs that it is going to put*
242 *into this property. It has an annual budget of \$122,000 allocated, which would be a typical*
243 *amount, for annual maintenance and repair.”*

244
245 Mr. Hanna stated that it is an organization with wherewithal, with a substantial contract from the
246 State, and will maintain and improve this property, which badly needs some up-front
247 improvements.

248 He continued:

249

250 *“The Unity House will be smoke free. Smoking will not be permitted on the property.*

251

252 *The residents at Unity House will not be permitted to have motor vehicles.”*

253

254 Mr. Hanna continued that he thought this context would be important. It also relates to the
255 evidence they are submitting, but now, right up front, the Board knows this is not something The
256 Home aspires to, but something they commit to. He asked Mr. McCall to speak about the
257 organization and the proposal for 39 Summer St.

258

259 Matthew McCall, Vice President for Community Programs for The Home for Little Wanderers,
260 of 11 Bobcat Blvd, Windsor, NH, stated that part of what he does is help identify new business
261 and open new programs. He continued that they have been working hard over the past year and
262 a half to expand services in NH. Changes have occurred at the Department of Children, Youth
263 and Families (DCYF) over the past five or six years, including a big push to bring NH youth
264 back home. For many years, especially with the Sununu Center closed, DCYF had been sending
265 youth out of state to receive services, which meant youth were unable to have access to their
266 families and communities and the ability to transition home. Over the last year and a half, the
267 State has given about 140 new beds to various providers, to open new programs in NH. The
268 challenge for The Home is finding locations and communities to put these group homes in, so
269 they are not sending youth out of state to receive services and are able to serve them in their
270 home state in proximity to their families.

271

272 Mr. McCall stated that they know “The Home for Little Wanderers” is a weird name that people
273 question. He continued that it is the oldest child welfare agency in the country, founded in 1799,
274 where Abigail Adams was once a board member. The agency kept the name because they have
275 been known by it, in Boston in particular, all these years. In the aftermath of the Civil War,
276 youth in southern states were often orphaned, and many were brought to northern cities. In
277 Boston, when these youth arrived in the train stations, largely they got off the trains to no one
278 and were left homeless, and newspapers referred to them as “Boston’s little wanderers.” A
279 group of philanthropists opened an orphanage, which ran for 112 years at 160 South Huntington
280 Avenue, until The Home for Little Wanderers recently had to sell the property, mainly because it
281 would have had a high cost to renovate.

282

283 Mr. McCall continued that currently, they serve youth and families in three states, MA (the
284 greater Boston area), NY, and NH. They run many residential treatment programs, which are a
285 “higher end of the pool” from what is being proposed for Keene, serving youth who live and go
286 to school on a single piece of property due to significant behavioral or emotional needs. They
287 also run many group homes, such as they propose for Keene, which are more for youth who are
288 preparing for and ready to live in the community, are able to go to regular public schools, and
289 have jobs in the community. They also have a variety of other programs, for example, they are
290 the largest provider of mental health services for Boston public schools. The annual operating

291 budget is \$75 to 80 million, and they have a \$100 million endowment, which is significant for a
292 private, non-profit organization and has a lot to do with the agency's history and how long they
293 have been around.
294

295 Mr. McCall continued that to address why the agency proposes this program in Keene and what
296 they want to do, as he mentioned, a number of NH youth are sent to MA for services. One of the
297 programs The Home has operated for over 20 years is Waltham House, in Waltham, MA. It was
298 the third LGBTQ group home in the country and the first in MA, to specifically work with youth
299 who are involved with DCYF and identify as lesbian, gay, bisexual, or transgender. It has
300 operated very successfully in MA, but almost every year, one to three youth from NH are sent
301 there. When the State of NH gave out the new contracts, The Home approached the State to ask
302 if the State would rather have The Home operate a program in NH for this population, instead of
303 sending NH youth to MA. The overwhelming response was "yes." The Home successfully
304 applied for the program and received a contract, and are now working hard to bring that program
305 to fruition. Of the four programs The Home is contracted to operate in NH, this one the State is
306 most interested in, because the State has many youth could be better served in a population and
307 program that is specifically targeting the LGBTQ population. The Home is excited about this, as
308 it will be the first group home of its kind in NH. In MA, they discovered that it gave them the
309 opportunity to help change practices, and help move the way that they provide services to these
310 youth and families to a different place. They see opportunities for that in NH, and hope to be
311 able to continue.
312

313 Mr. McCall continued that regarding staffing in a group home, approximately three
314 administrators work on an office schedule, such as 9 AM to 5 PM or 10 AM to 6 PM; they do the
315 work to run the program and make sure everyone is doing the work they need to do. In addition,
316 a few other staff members are there during the day, supporting the program's daytime needs by,
317 for example, ordering food, providing clinical services, and doing basic tasks. For the most part,
318 during the day there are no youth in the building – the youth are in school, unless they are sick,
319 or there is a lockdown as there was with COVID-19. When the youth return home in the
320 afternoon, regular daytime staff begins, and they are separate from the administrators. When
321 youth are present and awake, the ratio is one staff person to four youth, and again, that does not
322 include administrators or clinicians. When youth are asleep, the ratio is one staff person to six
323 youth. Two overnight staff members would be present even if there were only five youth, for
324 example, because there would never be a situation where one staff person was alone in the
325 building with youth.
326

327 Mr. McCall continued that given this staffing pattern, there would not be 25 or 30 vehicles
328 coming and going every day in the morning and afternoon; it is more like a steady flow of people
329 coming in and out of the building throughout the day. About 20 full-time employees will be
330 hired holding, master's degrees, special credentials, and licenses, to provide services to the
331 youth. Residential staff are mostly bachelor's degree level as in NH, a bachelor's degree or
332 seven years of previous experience are required to work with youth in a program like this. These
333 staff members provide the day-to-day care of and support to youth.

334 Mr. McCall continued that he wanted to address some of the concerns people have raised, and
335 give some context. One question is where The Home will get staff members from, because this
336 is a very hard time for hiring people. What they found in Waltham, MA and are finding to be
337 true here is that a program like this generally draws people to the community, as opposed to
338 drawing people from the community. So far, they have hired a Program Director, Clinical
339 Coordinator, and a Milieu Director, all three coming from out of state, specifically to work at this
340 program. It does not mean they will not hire local people, but they cannot hire a clinician
341 anywhere right now, and sometimes have clinician positions open for six or nine months; they
342 advertise nationally and have 20 or 30 people applying from all over the country. That will bring
343 clinical resources to the community, which are desperately needed. It also brings the clinician's
344 partners. For example, one of the accompanying partners is a teacher, another resource this
345 community needs. Regarding resource drain on the community, the youth do not receive
346 outpatient clinical services in the community; all of their clinical care is through The Home.
347 Thus, they are not seeking outpatient care from Monadnock Family Services or other
348 organizations in the community. In addition, The Home historically has had a practice of
349 providing resources within the community, as the agency has areas of expertise. They do an
350 incredible amount of work with trauma, homeless young adults, LGBTQ youth, and more.
351 Oftentimes when The Home comes into a community they find there is a need for services and
352 training, and they look for ways to provide that. For example, in MA when they opened their
353 LGBTQ group home, they trained every DCYF worker in the entire state in how to work with
354 LGBTQ youth and families and helped to move the LGBTQ services forward across the entire
355 state. That is certainly something they would look to do in Keene and would look to support the
356 community.

357
358 Mr. McCall continued that the program in Walpole, MA was another concern that was raised.
359 There are news articles about this program, which is the largest facility they operate, with about
360 72 youth living and attending school there and additional youth who attend day services there.
361 This program is the highest intensity program The Home operates. Some programs on that
362 campus have a one staff to two students ratio, due to the intensity of the youth's behavioral,
363 emotional, and mental health issues. In addition, The Home has had a somewhat contentious
364 relationship with the Walpole, MA community, which has largely felt that youth from the Boston
365 inner city should not be in Walpole, which has created challenges with some real issues at that
366 campus. He has been with the agency since 1998, other than a 2.5-year hiatus, when he returned
367 was to close the Walpole, MA campus then to reopen it. The agency was not happy with the
368 level of care being provided there, nor with the clientele had they slipped into. At the request of
369 the State of MA, they had started serving a large population of youth previously involved with
370 the Department of Youth Services and Juvenile Justice. That population was not a good fit for
371 the campus or The Home's work. As a result, they had a lot of 51-As [reports of suspected or
372 alleged abuse or neglect], and many youth who went on the run. At great cost to The Home, they
373 invested about \$11.5 million to close, reiterate, then reopen the program.

374
375 Mr. McCall continued that to understand the Walpole, MA situation, it is important to
376 understand the differences between Walpole, MA and NH, and the differences between Walpole,

377 MA and the kind of program The Home proposes for Keene, NH. If someone hears about, for
378 example, “100+ phone calls to the police in a quarter,” in Walpole, MA, it is important to
379 understand that whenever a child in the State of MA is gone from the campus for 15 minutes or
380 longer, staff is required to file a Missing Person’s Report. If a child goes for a walk down the
381 street for 15 minutes and then comes back, they have to file a Missing Person’s Report. The
382 police come out then have to fill out a report, which is partially why the police in Walpole, MA
383 did not love The Home. The Home also did not think it was a good process, because it uses an
384 incredible amount of police resources. In comparison, the residential school in Windsor, NH,
385 which serves a comparable number of youth and is a comparable type of program, had only six
386 calls to the police in a six-month period. Five of those calls were to report “missing youth” who
387 were walking around the campus and later found on the campus, and one was to have a child
388 transported to the hospital to be evaluated for psychiatric treatment. The Waltham House, a
389 program comparable to the one The Home plans to operate in Keene, has only made five phone
390 calls to the police in a six-month period. Four of those calls were regarding youth who were out
391 past their curfew. In other words, youth had the ability to be out on their own in the community,
392 with a curfew 10:00 PM. When they were still gone at 10:30 PM, staff had to report that to the
393 police who then had to come and verify that the youth returned to the program. Most of those
394 youth returned within half an hour, either because they got off work late or were out “being
395 teenagers” and should have returned. The fifth phone call was to send a child to the hospital for
396 psychiatric evaluation.

397
398 Mr. McCall continued that he talked about the Walpole, MA program because the topic came up
399 as one of the concerns of from the Summer St. neighborhood community, and he wants to be
400 sure that he is addressing those concerns. In the neighborhood meeting, The Home staff chatted
401 with abutters of 39 Summer St. about what they would like The Home to do between the
402 buildings. Currently, the backyards have well-established arborvitae on one side that creates a
403 bit of separation, and stockade fencing on the other side, rather overgrown, which The Home can
404 trim. They asked the abutters what else they want to see. For example, The Home will not
405 install 10-foot-high barbed wire fencing, but they could install fencing that looks like and is
406 appropriate for the community. Thus far, one neighbor has said “No, thank you” to the fencing
407 and they have not heard back from the other. They are happy to make sure The Home is creating
408 proper screening.

409
410 Mr. McCall continued that smoking is not allowed on any of the properties that The Home
411 operates, so it is not a big deal for The Home to say that smoking is not allowed, because that is
412 already the case. Regarding maintenance, they will hire a half-time maintenance staff person
413 who works 40 hours a week for The Home, 20 hours particularly at this location. In addition,
414 The Home will have a budget for ongoing maintenance and repairs. Included in the \$120,000
415 annual maintenance budget is The Home’s annual capital expenditure items, which are for much
416 larger items. In a typical year, The Home has about \$1 million in its capital budget for repairs
417 such as a large roof replacement. Thankfully, the roof of 39 Summer St. is in good condition and
418 The Home will not need to do a lot of work there.

419

420 Mr. McCall continued that in regards to supporting the youth staying at The Home, all staff
421 members need to meet the minimum standards for the State of NH. They need to have a
422 bachelor's degree in a relevant field, like social work or child development, or seven years of
423 comparable childcare experience. All staff members receive a minimum of three weeks of new-
424 hire training, and The Home teaches them how to intervene with the youth, how to support them
425 when they are having a hard time, how to play with and interact with youth, connect with the
426 schools they are enrolled in, and so on and so forth. They also train staff in, for example, CPR
427 and first aid, blood borne pathogen safety, and emergencies. In addition, they do 24 hours of
428 annual training to make sure staff maintain their level of education and are up to date on the most
429 recent research and practices. The main crisis intervention curriculum The Home uses was
430 developed by Cornell University and is one of the most nationally-recognized and widely-used
431 curricula of child intervention strategies for youth who have experienced trauma. The Home is
432 one of the few professionally certified organizations to provide that training, to all of their staff.
433

434 Mr. McCall continued that it is important to understand the difference between the operation of
435 an adult group home, and a youth group home. An adult group home largely operates by having
436 one or two staff members in the building who are mostly there to make sure that nothing terrible
437 happens and help people when they want help. Child-serving group homes are there to raise
438 youth, and staff act as parents to the youth. More than just providing a safe place for the youth to
439 live, staff do what they need to do to help the youth be successful. If a child is lying in bed in the
440 morning and does not want to get up and go to school, staff members go up, get them out of bed,
441 and help them. It is not an option for the youth to not to go to school. If a youth is not going to
442 school, staff intervenes with them to help them go to school, beginning with figuring out why
443 they are not going. They are teenagers, and of course, they sometimes do things that adults wish
444 they would not, but when they do, staff intervenes and deals with it. They work with the State if
445 necessary, if the child no longer needs the level of care that The Home is providing, but more
446 often than not, staff just provides replacement parenting to them, and in doing that, the behaviors
447 reduce and go away. There are many examples he could give, but will not get into. There are
448 teenagers who have done incredibly well with The Home and have gone on to college. For
449 example, he worked with a person at Waltham House who came when he was 13 with many
450 struggles, and was very successful in the program, graduated high school, and was accepted to
451 Boston College. This person needed a place to stay for the summer, so he continued at the
452 Waltham House after he had turned 19 until he began at Boston College. He is now in his junior
453 year there and doing very well.
454

455 Mr. McCall continued that regarding communication and conversations with the neighbors, The
456 Home has quarterly meetings with neighbors of all of the programs it operates. It helps them
457 stay in communication with the neighbors and understand the challenges, some of which The
458 Home can do something about, some of which they cannot, but they can talk about it and work
459 through it together. It also is an opportunity to look at how the community can come together
460 and support the youth, which makes a big difference in the youth being successful and being able
461 to do well in the programs.
462

463 He continued that one other question that came up from the neighbors was what The Home is
464 going to do with the house at 39 Summer St. and concerns about the house. John Davis, Director
465 of Facilities, is excited about this building, which is a beautiful, Victorian home. The inside
466 unfortunately has some damage, such as the kitchen has been removed. Probably in the 1960s or
467 1970s, the bathrooms were renovated into pink and green and will probably need to be restored
468 and replaced. Items such as the giant server rack that was put into dining room, over the
469 beautiful floors, will need to be addressed. The Home intends to make this building a home
470 again, not a business, where they raise 12 youth, in a family home. They intend to restore it to
471 make it a beautiful Victorian again. They will repaint the outside after removing probably 12 or
472 13 layers of paint, returning the home to its former glory, and will do the same on the inside.
473 The beautiful built-ins that exist inside will be maintained, as well as the inlaid flooring, cove
474 ceilings, and so on and so forth. Buildings such as these are the kinds of spaces that they want to
475 raise youth in, not institutions or buildings that have no history. They do not want to raise youth
476 in communities that are not for serving youth. The other places they have looked at in Keene
477 and in surrounding towns, where large group homes are allowed, are in areas that most families
478 would not want to move youth into if they had the choice. Downtown districts are the only place
479 where they could put a group home of this size to serve youth, but a low- or medium-density
480 community is where youth should be raised, living next to the school's they go to and
481 surrounded by the youth they make friends with in the town. That is where youth should live,
482 not next to a bunch of college students. One of the houses The Home looked at and tried to
483 make an offer on is one that is surrounded by multi-family apartments of college students or low-
484 income housing, and that is not where they should be raising youth. They should be raising
485 youth in community. They hope this neighborhood can stretch a little bit towards that.

486
487 Chair Gorman thanked Mr. McCall for all of the information and asked if the Board has any
488 questions before they review the criteria. He continued that he personally has a few for Mr.
489 Hanna. When Mr. Hanna was first discussing the petition, he suggested that there are other,
490 greater uses that are allowed in the DT-T, and he was hoping Mr. Hanna could elaborate as he is
491 unfamiliar with them. Chair Gorman stated that there are 14 residents residing in this home and
492 asked what uses were Mr. Hanna alluded to, which would be greater impacts.

493
494 Mr. Hanna replied that he would get into that in his presentation, but there will be 12 people
495 living in the home with the two staff members will not be living there. Mr. McCall stated that
496 they are daytime and overnight staff.

497
498 Chair Gorman stated that Mr. Hanna explained that the Zoning Ordinance itself is in violation of
499 the Fair Housing Act. He asked him to explain specifically how it is in violation. Group homes
500 are allowed throughout the city, just not in this zone. He asked if that is accurate. Mr. Hanna
501 replied not entirely accurate. He continued that there are 24 zoning districts, and group homes
502 are allowed in five, four of which are downtown, one of which is a high-density zone essentially
503 in west Keene, mostly taken up by large apartment complexes. The five zoning districts that
504 allow large group homes are High Density, High Density 1, Downtown Core, Downtown
505 Growth, and Downtown Limited. Four are concentrated in the city's downtown. Chair Gorman

506 replied that this zone is part of the city's downtown as well. Mr. Hanna replied that it is
507 Downtown Transitional, beginning to get away from downtown. He continued that it is very
508 walkable to downtown, but not in downtown and not in a commercial setting. It is more
509 appropriate for youth group homes like this one to be located in lower- to medium-density
510 neighborhoods. Chair Gorman asked if it is correct that what Mr. Hanna is stating is that a group
511 home is not allowed anywhere throughout the city. Mr. Hanna replied correct.

512
513 Ms. Taylor asked how the youth who live in The Home's group homes come to them,
514 specifically, what is their background. She continued that Mr. McCall said they do not have
515 youth from the juvenile justice system. Mr. McCall replied that youth are referred to them from
516 DCYF. He continued that DCYF uses a process called Comprehensive Assessment Treatment
517 (CAT), which is a leveling system they review each client with to determine what level of care
518 they need. For example, level 1 is independent living, which is for ages 18 and over; and level 2
519 is group home living, which is this program. An independent assessor conducts the assessment,
520 separate from DYCF, and then referred to The Home through DCYF. Mr. Hanna asked how Mr.
521 McCall would characterize level 2 care. Mr. McCall replied that the idea is that these are young
522 people, who are ready to move into the community, and if they were 18, they probably would be
523 ready to move toward independent living, but because they are minors, they need to live in a
524 group home setting. There is not a home for them to return to, they receive services from The
525 Home to the live independently.

526
527 Ms. Taylor asked about building renovations, specifically, how many bedrooms and bathrooms
528 are there, and asked for details on the proposed living arrangements. Mr. McCall replied that
529 each child would have a roommate, which is to practice what it is like in the community. He
530 continued that there would be six bedrooms, with three bathrooms on the second floor, for client
531 usage, with showers and bathtubs, and an additional couple of bathrooms on the first floor.
532 There is also an apartment over the garage/carriage house with a separate bathroom and kitchen
533 space. He does not know what they will do with that yet. The home is big, 7,000 square feet,
534 which in some respects is more space than The Home needs. He is not an attorney, but when
535 you look at what you can do with a 7,000 square foot home, if you divided that into multi-family
536 living, you could easily get over 12 if you were trying.

537
538 Chair Gorman replied that may be true, but he is fairly certain you could not divide that up into a
539 multi-family home without a Variance. Mr. Hanna replied that three units would require a
540 Variance, but unlike the Center St. situation, the current lot is about 17,500 square feet, and as he
541 said earlier, you need 18,800 square feet. He continued that in light of that, he would say that it
542 would be shocking to him if they could not get three separate dwelling units into this 17,500-
543 square foot property, on one of the largest lots on the street. It could easily surpass the number
544 of people in the group home.

545
546 Chair Gorman agreed, but to his point, that is not allowed without a Variance. He continued that
547 he would not contemplate whether the Board would approve it or not, because they are not here
548 tonight for a Variance for a three-unit building. The allowed use would be a two-family. He

549 asked if that is correct. Mr. Hannah replied yes, 3,000 square foot for each apartment making it a
550 two-family home.

551
552 Ms. Taylor asked if the rest of the house would be congregate living or clinical space. Mr.
553 McCall replied that it would be office space for the staff who work there, and probably multiple
554 living rooms, since there is so much room in this building, so youth have space to separate and
555 have quieter spaces. They would get the server rack out of the dining room and put a dining
556 room table there, put a kitchen back in, and so on and so forth, to make it a house.

557
558 Ms. Taylor asked who would do the cooking. Mr. McCall replied that mostly, youth cook with
559 staff, so they are learning how to cook and prepare meals.

560
561 Mr. Hoppock asked if, in anticipation of their renovation work, they have examined whether
562 there is asbestos on the property. Mr. McCall replied that they were concerned with some pipe
563 insulation in the basement, but it is unclear whether it is asbestos. He continued that is part of
564 what they would look at in abatement.

565
566 Mr. Welsh stated that he very much likes the conditions of approval and the discussions The
567 Home has had with the community. He continued that he has a question about the condition of
568 having the Variance run with the land, specifically if it can be made actionable, would the
569 Variance be surrendered and if that something commonly done.

570
571 Chair Gorman asked staff to reply. He continued that his inclination is that this is something the
572 Board cannot even do. Mr. Rogers replied that he recommends the Board move forward with the
573 conversation regarding the Variance criteria, and if the Board gets to the point of wanting to
574 consider the conditions the Petitioner proposed, they could talk about it then. He continued that
575 Mr. Welsh is correct in raising the question. Many of the proposed conditions are ones staff
576 would not recommend.

577
578 Chair Gorman replied that regardless of whether the conditions are implemented into the Board's
579 actions, they certainly appear to be commendable and with good intention. Mr. Hanna replied
580 that they would be enacted one way or another, even if the Board decides they are not
581 appropriate to impose. He continued that the purpose is two-fold – The Home wants to get a
582 Variance, and they want The Home to be part of the neighborhood community and for the
583 neighbors to feel comfortable. The Applicant thought these conditions would be a way to do
584 that.

585
586 Mr. Hanna continued that while they are on the topic of renovations, he can share what those are,
587 before they get into the Variance criteria. As a result of the facilities review, all seven bathrooms
588 need updating, and maybe one or two would be eliminated; the number of bathrooms is due to
589 the building's prior use as a nursing home. Some damaged roofing needs repair and as Mr.
590 McCall said, there is some floor damage and restoration needed, as well as damaged porch posts
591 and porch flooring. For landscaping, they will do a row of arborvitae, and The Home is prepared

592 to entertain the wishes of the abutting neighbors. The one to the west indicated that he does not
593 want to have anything, but The Home has not connected with the neighbor to the east as The
594 Home are willing to put in screening on that side of the house. There will be exterior and interior
595 painting. The color will be reviewed, per the CUP requirements. They will replace the water
596 heaters, oil tank, and boiler with a lot of IT work to be done. The work is extensive, but as he
597 understands from Mr. McCall, The Home has allocated \$250,000 for the capital improvements.
598

599 Chair Gorman stated that Mr. McCall had mentioned funding The Home was getting from the
600 State of MA, rather contrary to The Home's business model, years ago in Walpole, MA, which
601 they have since restructured or corrected. He asked if that has improved the situation in
602 Walpole, MA. Mr. McCall replied yes, and it continues to be a process as they moved through
603 their new licenses in MA about a year ago and went through a process of re-contracting all of its
604 programs. The Home is now in the process of reopening some of those programs in Walpole,
605 MA, so some will shift and change. There continue to be challenges with The Home's
606 relationship with the Walpole community, though in The Home's opinion, that has less to do
607 with the population and its rightness of fit now than what it was before.
608

609 Chair Gorman stated that the second part of his question is, to be clear, The Home is not an agent
610 of the State; they are a subcontractor. If the State changes its game, The Home would be forced
611 to adapt. He asked if they foresee that happening, and if so, what the result would be,
612 questioning if Keene could end up with a situation similar to what happened in Walpole. Mr.
613 McCall replied that they are talking about two very different levels of care between youth served
614 by Walpole, MA programs and youth served by the proposed Keene program, and two incredibly
615 different scales. The Walpole facility is a on 150 acres of property with a large, 3-story school,
616 and eight or nine residential buildings, compared to Keene having one house for group home
617 care without those other elements. He has no concern that that kind of scale or issue will present
618 itself with a program like the one proposed for Keene. Again, to the specific population The
619 Home is targeting here, the Waltham House in MA is one of those things that the State does not
620 mess with, because it is a unique program and provides a unique service. When The Home has
621 talked with their colleagues in NH about that same kind of business in the state, they have the
622 same interest. They want a group home for LGBTQ youth who are not being well served in
623 other group homes or are being forced to be sent out of the state in order to get the care they
624 need, to be provided here in the state of NH. He thinks the likelihood of the State trying to
625 change that is very low, and if they did, The Home's opposition to that, with the State, would be
626 very high. The Home does have some say as they can make decisions to return licenses, and
627 decisions to return contracts; that is what they did in Walpole, MA, at a very high cost to The
628 Home.
629

630 Chair Gorman asked if the program in Waltham, MA and the NH site Mr. McCall mentioned are
631 comparable in size to what they propose for Keene. Mr. McCall replied that Waltham is, but the
632 site in NH is comparable in size to the one in Walpole, MA.
633

634 Mr. Hoppock asked what the level of behavioral risk would be of the clients coming to the
635 program. Mr. McCall replied that they are young people who have experienced significant
636 trauma. He continued that oftentimes, they have received a great deal of care before they come
637 to The Home, and are now ready to step down into a more community-oriented program or
638 receive services within the community. For youth served by DCYF in NH, there are five levels
639 of care – level 1 is independent living, and level 5 is locked psychiatric care, such as the Sununu
640 Center and the new program they were opening at Hampton Hospital. Youth at level 5 have the
641 highest level of risk in the community of behavioral problems. Level 4 is a very small step down
642 from that, where the doors are on 15-second delay timers but nearly everything else is the same
643 as the locked psychiatric unit. Level 4 is a high level of care. Youth at level 3 are in residential
644 education facilities, and have no locked doors and more freedom in the community. Level 2 is a
645 step down to group home level, which is the level of care The Home proposes for the 39 Summer
646 St. site. The only level lower than that is independent living, renting youth an apartment. The
647 Home runs the only scattered site apartment program for the State of NH. Historically, the State
648 of NH had no scattered site apartments, and provided all care within group homes and residential
649 programs. The Home rents apartments around the state, having two in Keene that they rent for
650 young adults. Thus, for Keene they are talking about the lowest levels of risk. They are
651 teenagers, with teenagers sometimes do silly things, and things adults wish they would not,
652 which they have to address and deal with. However, these are largely teenagers who attend
653 public schools in the community, have jobs in the community, and have been given multiple
654 hours of unsupervised access to the community because they are able to maintain themselves
655 appropriately within the community. Youth have to earn those privileges, and they work to get
656 to that place.

657
658 Mr. Hanna addressed the Variance criteria. He stated that with help from Tara Kessler, he
659 submitted a comprehensive application, asking the Board to consider it in their deliberations. He
660 will draw from that as well as other information.

661
662 1. *Granting the Variance would not be contrary to the public interest because:*

663
664 Mr. Hanna stated that this is consistent in many ways with the second criterion regarding the
665 spirit of the Ordinance. He continued that this is a program that will provide safety and support
666 for youth. The youth will be coming mostly from NH, but some might come from out of state.
667 Mr. McCall replied that that is possible but unlikely. Mr. Hanna continued that it is a State-
668 licensed facility, and the contract is with the Department of Health and Human Services
669 (DHHS). The Home will have to be licensed. The Home also has a long history of success, and
670 ample resources. Those resources will manifest themselves both in the attention that staff will
671 give to the youth and the property itself. The property will be very well maintained and the
672 children will be very well attended to. He provided an example since it did come up at the
673 neighborhood meeting. A facility not too far from this proposal, a large rooming house, has a
674 number of residents who mostly sit on the sidewalk. He knows them well because they are near
675 his office. The residents are friendly to him, though they smoke constantly, making it impossible
676 for his building to have windows open. However, at 39 Summer St., there will not be smoking,

677 and at the rooming house near him, there are no staff that address the kinds of things that might
678 annoy or interfere with the neighborhood. At 39 Summer St., there will be staff 24 hours a day,
679 seven days a week, as this is an important issue in the context that the Variance would not be
680 contrary to the public interest.

681
682 Mr. Hanna continued that the outdoor space is two-fold. There is a huge wrap-around porch,
683 which faces south/the front and wraps to the west, providing space for the youth to be outside.
684 The rear has something that is not quite a courtyard, but due to the configuration of the building
685 and the existing hedges, there is a small lawn area shielded from the neighbors, melding into the
686 back parking lot. There will be moderate traffic impact because of the staffing situation, it will
687 be unlike an office situation, with two minivans owned by The Home to transport the youth.
688 They predict that the daily, weekday trip generation is about 20-26 vehicle trips. Weekend trip
689 generation would be down to 16-20 vehicle trips. The traffic will probably be less than what is
690 there now. Thirteen spaces are in the rear in a parking lot, but that is accessed from 53 Summer
691 St., a couple properties to the west. There will not be traffic going from the frontage of this
692 property to the rear of the property and possibly bothering the neighbors on either side, because
693 the entrance to this parking is at the office building at 53 Summer St. The driveway at 39
694 Summer St. has room for three parking spaces, one of which is handicapped. There is enough
695 parking for 16 vehicles, which complies with the number of beds, one per bed, but again, the
696 youth will not have vehicles. That is a relatively mild impact, he believes, from all perspectives.

697
698 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*
699

700 Mr. Hanna stated that earlier, Mr. Hagan read the purpose of the DT-T, which says, “to
701 accommodate a variety of residential open space and other low intensity uses in a mixed-use
702 environment of attached and detached structures. Development within the DT-T is intended to
703 complement and transition into existing residential neighborhoods.” He continued that this is an
704 interesting property, because it is very large, in terms of square feet, probably too large for most
705 single-family houses. As it turns out, which he will get into when explaining the fifth criterion,
706 office use may be something of the past, too. He happens to know this from his own office
707 building at 41 School St., which lost a couple tenants during the COVID-19 pandemic. People
708 are not rushing back to rent office space. According to the realtor for the Summer St. property,
709 in the four months the property has been marketed, there has been no interest by a prospective
710 buyer to use it for offices. Even though all of it is dedicated to offices now, the realtor says only
711 about a third of it is actively used for office space right now. He does not know what that means
712 in terms of the tenant; the tenant has the right to use the entire thing.

713
714 Mr. Hanna continued that office use is on the decline, and the building is too large of an expense
715 for a single family use. Even though there is one existing apartment now, converting it into
716 apartments would not be what someone would do even if they wanted to do something without a
717 Variance. It would be breaking up the 6,000 square feet into two or three units, at great cost, he
718 knows from the realtor, who says that prospective buyers have looked at the cost of turning it

719 into apartments and it is cost-prohibitive. Given its history as a nursing home and the fact that it
720 has 10-12 office spaces, it would fit well as the proposed use.

721
722 Mr. Hanna continued that there is a variety of uses now on Summer St. There are three two-unit
723 apartment buildings, one two-unit apartment building, two office buildings, one or two single-
724 family residences, and one mixed-use building with apartments and offices. The office use
725 includes a doctor's office, tourism agency, and accountant's office. This type of use proposed by
726 The Home, in terms of its intensity, will be more like a very large family with lots of teenagers,
727 none of whom can drive. He suggests that it will be in the spirit of the Ordinance, in terms of
728 level of activity and intensity of use, as it is a transitional zone.

729
730 Mr. Hanna continued that the proposal would generate 22 well-paying jobs in the Keene
731 economy, equivalent to 18.25 full time positions. As Mr. McCall indicated, those will involve
732 people with perhaps spouses providing other benefits to the community, buying groceries, going
733 to restaurants, and so on and so forth, which is a benefit to the community.

734
735 3. *Granting the Variance would do substantial justice because:*

736
737 Mr. Hanna stated that if the Variance were not granted, the Applicant would disproportionately be
738 burdened as they have exhausted all efforts in finding a location for this use. It is The Home's
739 belief that this location is ideal for their proposed use, as it is the intent to create a large family
740 atmosphere with the level of staffing already discussed, and will be a welcome to the
741 neighborhood and community.

742
743 4. *If the Variance were granted, the values of the surrounding properties would not be*
744 *diminished because:*

745
746 Mr. Hanna stated that with the level of staffing they will provide as well as improvements to the
747 building, both interior and exterior, in the context of the effect on value, the property will be
748 greatly improved and aesthetics will be greatly enhanced. If there are people out there who say
749 they do not want to be near a LGBTQ group home, then they are going to be those people, but
750 the experiences that he and The Home thinks people will have, in light of the parenting that will
751 occur, will be positive. The history the Board heard from Mr. McCall supports that. He will not
752 again go into the amounts of money The Home will put into this, but that relates to the value,
753 also. He has already indicated the kinds of contributions that will be made.

754
755 5. *Unnecessary Hardship*

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

758
759 Mr. Hanna stated that the special conditions include a very large interior, close to 7,000 square
760 feet. He continued that as he mentioned before, the fact that the access to the primary parking is
761 not from this property but is over a property that is a straight office building, means that there is

762 not the activity on the front part, making this a unique situation. The tax map of this property
763 shows an ample parking area behind this building, and there is no direct entrance from the
764 property to that back parking, which is actually a plus. The CEO of the tourism agency is here
765 and can address whether the fact that the deeded access over that property is a problem; he
766 suspects it will be less of a problem with the group home than it would be with a full-scale office
767 use, because there will not be as many vehicles. The deeded access is a special condition, and
768 this is the second largest lot on the north side of School St. The interior contains 10 or 12 office
769 rooms with a sizable kitchen in this section of the building, though is non-functional. Another
770 special feature of the building is the seven bathrooms as is the wrap-around porch is extensive.
771 Many of these properties have some level of porch, but this is a broad, large porch.

772
773 *i. No fair and substantial relationship exists between the general public purposes of the*
774 *ordinance provision and the specific application of that provision to the property because:*
775

776 Mr. Hanna stated that to reiterate, the purpose of the DT-T is “*to accommodate a variety of*
777 *residential open space and other low intensity uses in a mixed-use environment of attached and*
778 *detached structures.*” He continued that it does say, “mixed use,” but multi-family is allowed in
779 the DT-T, as are offices, funeral homes, and bed and breakfasts. By Special Exception, also
780 allowed are a community center, cultural facility, daycare, or senior center. A group home use
781 would be appropriate in that context.

782
783 Mr. Hanna continued that Keene’s Comprehensive Master Plan (CMP) is another aspect of what
784 the overall purpose is and whether this would be a fitting use. The CMP states, “*While some*
785 *would base the definition of diversity solely on race or ethnicity, the concept is much more tied to*
786 *acceptance and respect. It means understanding individual differences and exploring these*
787 *differences in a safe, positive, and nurturing environment. It is about moving beyond simple*
788 *tolerance to embracing and celebrating diversity’s many dimensions throughout our*
789 *community.*” It has been his observation that the city holds itself out as a welcoming and
790 affirming community, and that is certainly what the CMP calls for, so the combination of the
791 land use purpose and the diversity purpose in the CMP, are aspects that this use will be a good
792 fit.

793
794 Mr. Hanna stated that the exchange he had with the realtor relates to the hardship standard. He
795 continued that he had asked the realtor to characterize the interest of prospective buyers in this
796 property, and in particular, their interest in continuing to use it as an office. Her email says,
797 “*There has not been one single inquiry by prospective buyers interested in the property for office*
798 *space. The days of need for a professional office space appear to be done. Several developers*
799 *have considered the property for multi-family conversation, with the intention to maximize*
800 *possible number of units. All inquiries have been for conversion to residential or multi*
801 *conversion. None of these interested parties have moved forward because the costs of*
802 *conversion are grossly prohibitive.*”
803

804 Mr. Hanna continued that the concept of a hardship relating to the existing building itself is an
805 aspect of hardship that this Board has affirmed before. People in this audience are familiar with
806 it, *Farrar v. City of Keene*, a case that made it to the Supreme Court. Clearly, the Board thought
807 that it was a fair indicator of unnecessary hardship, where the square footage is so large that it is
808 not conducive to a single-family home and it has to be used for some other use. He suggests that
809 in this situation, they are dealing with a condition where the size is not conducive to single-
810 family, and the cost is not conducive to multi-family, and the market does not indicate that office
811 space will be a likely outcome for this property. Thus, something like the use that The Home
812 proposes is necessary to handle that. With respect to the comments he made about the realtor,
813 she sent him an email, which he submitted today and is in the Board's agenda packets. It is
814 short, and he has given them more information already than what that email says.

815

816 *and*

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

818

819 Mr. Hanna stated that he would not go into this in detail now; he thinks he has alluded to this
820 already. He continued that he is happy to answer questions.

821

822 Mr. Hoppock stated that he does not see how the special conditions of the property tie to the
823 general public purposes that Mr. Hanna elaborated on, in terms of the CMP, diversity, and the
824 intent of the zone in question. He continued that he understands what Mr. Hanna is saying, but
825 not does not see how they tie together. Regarding "*to accommodate a variety of residential open*
826 *space and other low intensity uses in a mixed-use environment of attached and detached*
827 *structures,*" he thinks they agree that this would be accommodating 12 client residents in a
828 residential building that would not be multi-family, in the sense of it being divided up into
829 individual units. Mr. Hanna replied that is correct. Mr. Hoppock stated that he is having
830 difficulty grasping the connection between the special conditions of a very large interior,
831 separate access through an easement, the number of bathrooms, the building square footage, and
832 how it makes it unfair to apply the Zoning Ordinance to this land, given the public purposes Mr.
833 Hanna just mentioned.

834

835 Mr. Hanna replied that one of the public purposes is to provide a transitional zoning district with
836 mixed uses, and this would be a mixed use, or would be a use that is not the typical residence,
837 but is also not commercial in any way. He continued that it seems to him that it will be a house
838 that will be rehabilitated to maintain the appearance of a residence, operating as a large family
839 residence. That is the kind of low intensity, mixed-use environment the purpose of the DT-T
840 references.

841

842 Mr. Hoppock replied that he mentioned administrative staff and clinicians, who will be visiting
843 the house but not living there, and a nurse on call. He asked if that is correct. Mr. McCall
844 replied that none of the adults would live there. Mr. Hoppock replied that if he looks at that as in
845 one sense administrative/office, and that mixes with the 12 client residents who will reside there,
846 he comes up with a mixed use. He asked if that is a fair reading of what Mr. Hanna is saying.

847 Mr. Hanna replied that he did not think that was the mixture of the use. Mr. Hoppock replied
848 that that is what he sees. He asked Mr. Hanna how he is wrong, or if it matters to Mr. Hanna.
849 Mr. Hanna replied that he thinks the mixed use being talked about is not the mixture within the
850 building, but the type of use that mixes with the neighborhood. He continued that it is just a
851 perspective on what is being mixed, from Mr. Hoppock's question to what his (Mr. Hanna's)
852 view is. He is not sure it matters. Mr. Hoppock replied that he is not sure, either.
853

854 Chair Gorman replied that when he thinks of mixed use from a Zoning standpoint, he thinks of a
855 storefront on the first floor with an apartment on the second floor. Mr. Hoppock replied that that
856 is where he was coming from. Chair Gorman continued, or a doctor's office where the doctor
857 lives in the unit above or below. In his mind, the definition of "mixed use" would be two
858 separate uses that are allowed in the zone coming together under one roof. Here, in his view,
859 there is one use: a group home. On the other hand, Mr. Hanna is saying it is a "family," a "single
860 family residence," but by definition in Zoning, four unrelated people are the maximum you can
861 have in a single dwelling unit. Thus, this cannot be construed as a single-family dwelling unit.
862 He understands Mr. Hanna is trying to articulate that these youth come together and have
863 parental structure and it is a family in that sense, but it is not a single-family home being mixed
864 as a group home, it is a group home. It is one use, not a mixed use, in his opinion.
865

866 Mr. Hanna replied that it is not a mixed use, and he does not think it was ever indicated to be so.
867 He continued that he does not think the intent of the DT-T is referring to mixed uses in the way
868 that Chair Gorman is characterizing them. It does not say that mixed uses are like the building
869 next to his office that had offices, worship activities, and residences, which are all internal
870 mixtures. The Land Development Code says, "*low intensity uses in a mixed use environment.*"
871 He considers the word "environment" to mean the mixture of uses within the environment, i.e.
872 the neighborhood.
873

874 Mr. Hoppock stated that he would add the following phrase, which he is surprised Mr. Hanna did
875 not quote "*of attached and detached structures.*" He continued that would seem to encompass
876 the broader picture of the neighborhood. Mr. Hanna replied that he doesn't disagree. He
877 continued that in other words, he does not think this has to be a mixed use in the standard way
878 that Mr. Hoppock is interpreting it, to be consistent with the intent of the zone.
879

880 Chair Gorman replied that he understands what he is saying; his view is that the intent of the
881 zoning is to call simply for a mixed number of uses within the neighborhood. Mr. Hanna replied
882 yes. He continued that he does not think that Chair Gorman is disagreeing with him. When he
883 said it was a "family," he did not indicate that it was a family as defined by the Zoning
884 Ordinance. He said that it would have the impact of a large family of teenagers without cars.
885 Chair Gorman replied that specifically, Mr. Hanna said it was a single-family home without cars.
886 Mr. Hanna replied that if he said it was a single-family home without cars; that was not his
887 intention to say that. He meant to say it would have the effect and impact and use, as if it were a
888 single family; a large single family, no doubt, without vehicles.
889

890 Mr. Hoppock stated that Mr. Hanna did not spend much time talking about the values of
891 surrounding properties and the impact of this Variance request on that. He asked if the
892 September 1 meeting with the neighbors generated any comments about that particular criterion,
893 and if so, if he would like to share that. Mr. McCall replied that he does not remember any
894 comments specific to that. He continued that he thinks they had spoken extensively about the
895 repair and maintenance The Home planned to do to make it a nicer building within the
896 community. He does not remember any specific questions about devaluing property within the
897 area. Although, it was a long meeting with many questions.
898

899 Chair Gorman asked his stance on the vast improvements would undoubtedly lead to a value
900 increase to that residence and probably to the surrounding ones. Mr. Hanna replied that is his
901 view. He continued that he does not think the neighborhood needs to worry about the negative
902 context of group homes in this case. This is due to the heavy level of staffing as well as the
903 educational quality of the staff, who will be present 24/7 in a residence that will be restored and
904 maintained in a much better way than it currently is.
905

906 Chair Gorman stated that he does not hear that the Board has any more questions. He thanked
907 Mr. Hanna and Mr. McCall. Mr. Hanna stated that he reserves the right to speak again. Chair
908 Gorman replied yes; the Board will hear now from the public and offer Mr. Hanna the
909 opportunity for rebuttal. He asked for public input, beginning with anyone speaking in
910 opposition to the application.
911

912 Anthony Trombly of 67 Summer St. stated that this area of Summer St. and School St.
913 constitutes what might be the most historic neighborhood in the city. He continued that this
914 house was once the home of J.A. French, famous 19th century photographer. The house across
915 the street was built by James Scholly Taft, the founder of Hampshire Pottery. The former Office
916 District was an attempt by the City's former Planners to preserve this important historic and
917 residential district and its architectural integrity by allowing the apartments to be incorporated in
918 some of the large properties, and by codifying the use of small home offices, which had crept
919 into the neighborhood during the 1950s and 1960s. There were doctors, lawyers, and other
920 professionals with home offices. That was what the district was for 35 or 40 years. This
921 community has been through an extensive, multi-year, public process of updating the Zoning
922 Ordinance. During this process, many new uses were proposed as newly permitted uses in what
923 was once the Office District, now called DT-T. Residents and property owners on Summer St.
924 and School St. participated in many of these meetings, as he and his wife did. Large group
925 homes were a major concern to many in attendance. The concept itself concerned the residents
926 and homeowners, regardless of the population served by the group homes. Nevertheless, once
927 the dust settled, nearly a dozen new uses were permitted in the DT-T. Large group homes were
928 not included. Small group homes are allowed only by CUP. The fact that all of these new,
929 permitted uses were introduced into the district defines what the term "mixed use" means in the
930 Zoning Ordinance itself.
931

932 Mr. Trombly continued that despite the Petitioner’s assertion that allowing a large group home in
933 the district would not measurably impact the neighborhood, granting this Variance could. He
934 believes will open the door to other high-impact changes that could be visited on the property
935 owners in the area, and that are not intended for this district as detailed in the new Zoning
936 Ordinance. To the City, this is a zoning district, but to those who live in this area it is a
937 neighborhood. There are four single-family houses on the street, and a mixture of other
938 residential options. One of the most notable developments in the neighborhood over the last
939 three to four years has been an increasing number of younger families. The older residents
940 applaud this. He and his wife enjoy the elementary school bus stopping right on the corner
941 where they live. Thus, it is not a question of not wanting children in the neighborhood, or what
942 kind of children; it is an issue of granting a Variance in this newly defined district for a large
943 group home.

944
945 He continued that he prepared his remarks with the application in hand, not the conditions of
946 approval that were presented today. The Board raised the question of whether it could accept the
947 suggestion of allowing a Variance to not travel with the property should it be subsequently sold.
948 A large group home could accommodate up to 16 residents. Now The Home is saying 12, but a
949 new administration or pressure from the State could encourage them to increase it. Normally, a
950 Variance granted with a property would travel with the property if the property were sold, so if
951 the State backs out or The Home backs out, he is not sure what happens. Perhaps more of a
952 concern is what happens while the group home is in operation. It would be a large group home
953 allowed in the DT-T via a Variance. That opens the door to more requests and more changes
954 that he would envision in the final version of the Zoning Ordinance. These are early days in the
955 implementation of the Zoning Ordinance, and the people in the neighborhood are just beginning
956 to live with the consequences of it. The first major thing to come up in the neighborhood since
957 the new Zoning Ordinance has come into being is this request for a Variance. They have not
958 even seen what the impact of all these newly permitted uses is apt to be in the neighborhood.

959
960 Mr. Trombly continued that he takes exception with some of the Petitioner’s assertions. The
961 petition calls this a “low intensity use” of this building and compares the Unity House to other
962 uses in the area, two apartments, three apartments, and so on and so forth. However, comparing
963 a situation where people work in offices or live in confined apartments within larger buildings is
964 not the same. People are not in an office 24/7. The inside of 39 Summer St. may meet the
965 physical needs of The Home, but there is almost no outdoor space, just the porch and a little area
966 in the back. There is very little space for 12 teenagers to move outside the building, which is
967 concerning. The petition further attempts to equate the large group home’s impact to the impact
968 of all those current uses that he said. This statement ignores the actual impact of those uses on
969 the buildings in which they are situated in the neighborhood. The tourism agency and the
970 doctors’ offices produce very limited traffic, even less since COVID-19 and the work at home
971 movement has taken hold. With a facility housing 12 teenagers in need of residential care and
972 varying types of therapeutic interventions, along with the various 24-hour staff and hourly
973 service providers needed, he cannot believe it will be the kind of minimal impact this petition

974 envisions, or the minimal traffic, commotion, and disruption in the neighborhood claimed in the
975 petition.

976
977 Mr. Trombly continued that the petition asserts that granting the Variance will not negatively
978 impact the public or the neighborhood and that failing to grant the Variance would
979 “disproportionately burden the petitioners.” However, after more than five years of
980 consideration, multiple public hearings, and involvement by the City’s boards and the Planners,
981 the City enacted a Zoning Ordinance that provides, by right, the establishment of large group
982 homes in five districts. Some may be largely commercial, but as far as he is aware, every one of
983 them contains various types of housing, including large buildings. Due to the compact nature of
984 the city, establishing group homes in any of those five areas - with the possible exception you
985 might argue, of the one area in west Keene – would not leave the residence far removed from
986 any of the amenities that the petition mentions, like the library and rail trail.

987
988 Mr. Trombly questioned the impact of property values in the neighborhood. Despite planned
989 renovations and improvements to the building exterior, the Petitioner cannot reasonably assert
990 that having a large group home on a street as small as Summer St. will have no impact on
991 surrounding property values. It is the concept, the public conception of a large group home
992 itself, being in the mix along with apartments, single-family residences, and small offices, that
993 will impact property values. This is an unfortunate reality, given the need for this type of living
994 arrangement, but the statement that keeping the place painted and the shrubs trimmed will
995 protect the value of surrounding properties cannot be proven, except over time, after such a
996 Variance is granted and they see what happens. He hopes the Board does not take that chance.

997
998 Mr. Trombly continued that regarding “unnecessary hardship,” the application makes no
999 assertion that this building cannot be used as the Ordinance states, since it is already being used
1000 in strict conformance with the Ordinance. The petition does not successfully argue that Unity
1001 House “will have similar impacts to a two-family or three-family dwelling,” because it ignores
1002 the real dynamic of having a single housing unit as a residential facility with 12 teenagers and
1003 staff. With or without supervision, there is a different lifestyle and dynamic in any large group
1004 home that must be acknowledged. In a 3-apartment building, the apartments are
1005 compartmentalized. The way the residents interact with each other is controlled by that
1006 structure. The petition notes that the intent of the DT-T is to “*accommodate a variety of low*
1007 *intensity uses in a mixed-use environment.*” He finds the assertion that the Unity House
1008 constitutes a “low intensity use” unsupportable, by the likely reality of life in the Unity House.
1009 He does not believe that, as the Petitioner asserts, the use of 39 Summer St. to house the Unity
1010 House equates to any of the low intensity uses currently in place on the street. He challenges the
1011 Petitioner’s assertion that Unity House will have “commensurate or lesser impact” than the other
1012 uses currently found in the neighboring buildings. People who live on Summer St., like he and
1013 his wife, know from experiencing life on the street and in the neighborhood, how truly low
1014 intensity all the current uses in those buildings actually are. A large group home, in his opinion,
1015 “simply does not fit.”

1016

1017 Stephen Bragdon of 51 Railroad St. stated that his office abuts the north portion of this lot. He
1018 continued that first he would like to say that he is very impressed by the organization. He thinks
1019 they do good work and their purposes are well meaning. What they want to do in this zone is
1020 probably the best that could be done with this type of development, but he does not think it is
1021 appropriate. One of the problems with allowing submission of paperwork to the Board at the last
1022 minute is that the public does not get to see it. He does not know what is in it; it might be
1023 nothing relevant, but he thinks it is a bad precedent to allow that to occur.

1024
1025 Mr. Bragdon continued that there have been allegations that the City is somehow discriminating
1026 against large group homes. He can see Mr. Hanna's argument. On the other hand, he does not
1027 think it would be upheld in any court, since the City has provided many areas where large group
1028 homes could be located. In addition, there were some allegations by citing a statute that if this
1029 were a government use the City would have to allow it and it is almost a government use. No, it
1030 is not the government; it is a private, non-profit company. Those two arguments "are a waste of
1031 time."

1032
1033 Mr. Bragdon continued that he thinks the previous speaker hit on the main point, which is that
1034 the Petitioner continues to argue about this being a low intensity use. It is not. It is not similar to
1035 any other use in the area, no matter how hard the Petitioner would argue it. There are offices and
1036 residences, but not a large group home, and to allow a large group home would open it up to
1037 other large uses that could petition after and rely on that precedent. Further, the argument that
1038 this lot is somehow dissimilar from other lots in the area, and it is the second largest lot on that
1039 side of the street, he does not think is relevant. The other houses and lots in this area are similar
1040 to this one. They are not exactly the same, but some houses are quite large and his office is
1041 6,000 square feet. On the other hand, the fact that it is large does not mean it cannot be used by
1042 one of the many uses allowed in this area. He would say it does not meet the hardship criteria.
1043 There is nothing unique to that lot that is not similar to other lots in the area.

1044
1045 Mike Forrest, Board President of the Keene Senior Center, stated that the Senior Center is within
1046 the distance to be notified of this petition. He continued that the spirit of the Ordinance is for
1047 mixed, low intensity uses. Twelve residents is not low intensity. Page 3 says, "would operate
1048 similar to a single household unit." He has never seen a single household unit with 12 teenagers.
1049 This is just too intense for the area. Regarding the hardship issue, and "owing to special
1050 conditions of the property," what they are looking for is a use Variance. The property is not
1051 much different from any other property on Summer St. He does not think this will work there.
1052 As for the materials submitted last Thursday and tonight, which no one else has seen, he thinks
1053 that is wrong.

1054
1055 Chair Gorman stated that since it has been brought up twice, he will take a minute to address the
1056 information submitted today was the Conditions of Approval, and Mr. Hanna read that into the
1057 minutes. He continued that so the public is aware, they have been completely familiarized with
1058 that. The other piece of paper Mr. Hanna submitted today was the email from the listing agent,
1059 which Mr. Hanna went into great depths about, so the public is also aware of that.

1060 Chair Gorman asked if there was more public comments in opposition.

1061
1062 Jeananna Farrar of 59 School St. stated that she has lived in this neighborhood for most of her
1063 life, including at 39 Summer St., where her family home was for 10 years. She continued that it
1064 is a historic home in the middle of a lovely historic neighborhood. Young families are moving in
1065 and some directly about the property requesting the Variance. The Ordinance exists to protect the
1066 neighborhood from the impact of business activities that would be incompatible with the nature
1067 of the neighborhood. The proposed Variance does not comply with the spirit of the Ordinance.
1068 It will be a home for a dozen teenagers, age's 14-18, low risk, LGBTQ, and staff, right next to
1069 family homes with children. This house once had incredible architectural interior, which The
1070 Home plans to renovate to accommodate the use. The lot is narrow, closely abutting properties
1071 on either side. The back of the house was once a yard and is now mostly a parking lot.

1072
1073 Ms. Farrar continued that if the Variance is granted, the entire neighborhood would probably be
1074 negatively affected. Denying the Variance petition will not create any unnecessary hardship
1075 because the primary requirement for The Home is square footage. She wants to know if the
1076 square footage includes the other property which houses offices and had an apartment added
1077 when the nursing home was there. She continued that The Home needs another large building
1078 and it would be wonderful if they had an area with space for youth this age to do purposeful
1079 activities that teach responsibility and learn skills like gardening or pet care. It is strange that
1080 there is an impediment to The Home putting these group homes in outlying areas instead of "in
1081 the city where the risk on them is so much higher." She does not understand. The Home is
1082 based in Boston and will be under contract with the State of NH. This is "really big business,"
1083 not a buffer that fits nicely into "one the most important, loveliest neighborhoods in Keene." She
1084 requests the Board deny this.

1085
1086 Tom Savastano of 75 Winter St. stated that he lives two blocks from the property in question. He
1087 continued that his concerns arise as a result of his extensive involvement with the City's changes
1088 to the Land Development Code (LDC) over the past three years and how changes to the Zoning
1089 through Variances will affect his property in the future. Over the past three years, the City
1090 worked hard to carefully update its LDC and downtown zoning. What was arrived at came from
1091 much give and take and compromise, and as he heard the Mayor say shortly afterwards, it was
1092 one of the most important processes the City has undertaken in 20+ years. He joined the process
1093 because the DT-T zone where he lives, formerly known as the Office District, has been a low
1094 intensity buffer zone between downtown and residential zones, mostly with single- and multi-
1095 family homes and offices. "Low intensity" is a key descriptor of the zone. Some of the
1096 discussion over the past three years regarding this zone was about how that term would be
1097 honored in the new zoning.

1098
1099 Mr. Savastano continued that early on, the possibility of various social service uses was raised.
1100 Group homes were proposed, with various maximum residents. As an example of the discussion
1101 at that time, a Joint Planning Board/Planning, Licenses, and Development (Joint PB/PLD)
1102 Committee meeting on August 10, 2020 included the following quote: "*Councilor Clark noted*

1103 *congregate living is a high density use. He added by placing high density uses in lower density*
1104 *districts, it reduces property values.”* Ongoing discussion took place over the next months.
1105 During the September 14, 2020 meeting, former Senior Planner Tara Kessler “*reviewed with the*
1106 *Committee public comment received from July 13 through September 10,”* including the
1107 following entry:

1108
1109 “Concern for the number of residents that are permitted to reside in a group home or lodging
1110 house and the impact that increased density would have on these zoning districts - *in the draft*
1111 *there is a cap of 16 for group homes and no cap on lodging houses. One letter suggests that*
1112 *Group Home and Lodging House uses should be capped at no more than five unrelated persons*
1113 *in these districts. Interest in the removal of these uses from these districts [was raised].*
1114 *Concern for an array of negative impacts that these might have on a neighborhood, including*
1115 *increased density, overcrowding, traffic, overflow parking, public safety, reduced property*
1116 *standards, and the decrease of property values.”*

1117
1118 Mr. Savastano continued that after citing these concerns, Ms. Kessler stated that “*based on the*
1119 *feedback, for group homes, staff suggests breaking it into two categories – small and large.*
1120 *Small Group Home (eight or fewer non-related people) be allowed in Medium District,*
1121 *Downtown Transition, and Office District.”* City staff themselves suggested this delineation of
1122 small group homes and large group homes and assigned small ones to the DT-T. He found that
1123 an equitable compromise. In the meeting on November 9, 2020, Ms. Kessler noted, “*Zoning is a*
1124 *tool used by communities to protect property rights and prevent against nuisances by making*
1125 *sure uses that are located near each other are compatible and the size and placement of*
1126 *buildings are appropriate for the areas they are located in. [...] If the use is not listed as being*
1127 *permitted in that district, it would not be allowed to occur as the principal use of a lot.”* This is
1128 a request for a Variance for a use that is not permitted, according to the long process of the past
1129 three years. His point to the Board is that there were more than three years of discussion, debate,
1130 and compromise about downtown zoning and a compromise by the City itself, allowing small
1131 group homes of up to eight people with a CUP. He does not know why this request for a
1132 Variance is coming forward. As Mr. Trombly said, this has been under consideration for a long
1133 time, with a lot of compromise.

1134
1135 Mr. Savastano continued that Mr. Hanna mentioned potential problems with the FHA and the
1136 group home delineation. He has notes from the December 14, 2020 Joint PB/PLD meeting:

1137
1138 “*Ms. Kessler noted at the last meeting there were a number of comments from the public,*
1139 *regarding congregate living and social service uses, and there was a question raised as to*
1140 *whether the proposed Ordinances would be in compliance with the federal Fair Housing Act.*
1141 *While staff considered the requirements of this Act in their development of the proposed*
1142 *Ordinances, they have reached out to the consultant firm Camiros, who has experience working*
1143 *with cities on congregate living and social service ordinances, for their professional opinion on*
1144 *how the proposed Ordinances align with their understanding of the Fair Housing Act and their*
1145 *knowledge of how other communities have implemented regulations around congregate living.*

1146 *Staff is also consulting with the city attorney and will follow up with the Joint Committee on this*
1147 *item in January.”*

1148
1149 Mr. Savastano continued that notes from that January meeting say, “*Ms. Kessler referred back to*
1150 *the memo from Camiros. What Camiros noted in this memo is how the City is differentiating*
1151 *Group Home from Single Family Home is consistent with what other communities are doing and*
1152 *being in compliance with the Fair Housing Act.”* The minutes later state, “*Ms. Kessler noted*
1153 *that the reason for creating these categories of group homes was to provide opportunity for*
1154 *group homes of various sizes to be permitted in Keene, while addressing concerns that larger*
1155 *group homes would not be consistent with certain zoning districts that are promoting lower*
1156 *density development.”* Mr. Savastano continued that his point is that consultation happened,
1157 with a professional consulting firm and the city attorney, and the determination was made to go
1158 ahead with the zoning as it is today, with the delineation between small and large group homes.
1159

1160 He continued that the Variance request assumes the best case scenarios overall for the operation
1161 of this group home. For example, traffic estimates assume no vehicle usage connected to the
1162 resident teenagers, except for that provided by staff. Will staff not permit friends to drive up to
1163 the building to visit or pick up residents? He feels that there is potential for much more traffic.
1164 The traffic estimates also did not account for the need for emergency services.
1165

1166 Mr. Savastano continued that previous issues with The Home’s other facilities were brought up.
1167 These are disturbing and easily found in an online search. Live Boston 617, which supports the
1168 first responder community in the Boston area, regarding a situation in Boston on October 16,
1169 2020 had an entry titled “*Serious Questions Raised About The Home for Little Wanderers After*
1170 *Child in Their Care Found Stabbed.”* The article says, “*The children’s runaway shelter is a*
1171 *constant hotspot for problems with staff seemingly incompetent at managing these troublesome*
1172 *children. These kids constantly being reported as runaways, usually hours and hours after the*
1173 *last time they were seen. For example, this child was last seen at 11:30 PM or so but not*
1174 *reported lost until after she had been stabbed.”* With regards to Walpole in 2020, WBZ News
1175 Radio reported “*Walpole’s Chief of Police has called on the State Department of Early*
1176 *Education and Care to take corrective action against The Home for Little Wanderers in*
1177 *Walpole.”* The news entry says, “*Police have been called to The Home more than 200 times this*
1178 *year for runaways, assaults, and emotional disturbances, with some kids even jumping out of*
1179 *second floor windows.”* Boston 25 News added in December 2020, “*Attorney Gregg Corbo,*
1180 *representing the Town of Walpole, said, ‘a young girl of 16 was missing for 24 days. She was*
1181 *found in a short-term rental in Boston where she was sexually abused by numerous men. Chief*
1182 *Carmichael from the Walpole PD said ‘The situations that we have been experiencing, we just*
1183 *can’t ensure their safety. They’re just not safe under the conditions they’re in.’”* Before that
1184 news report, Walpole held its Board of Health meeting. Health officials ordered a cease and
1185 desist order. The Town’s attorney said the facilities in Walpole would shut down and the
1186 residents would be relocated immediately.
1187

1188 Mr. Savastano continued that these experiences in other communities undermine the credibility
1189 of the Variance request's conclusion that "The Home has substantial experience with group
1190 homes generally. It is based on this experience that The Home can confidently say that the
1191 impact of this proposed group home on Keene's emergency response services, e.g. Fire, EMS,
1192 and Police, will be minimal." To avoid negligence, the City of Keene needs to do its due
1193 diligence to examine these issues carefully. His recommendation is to deny the Variance.

1194
1195 Jody Leach of 37 Middle St. and 24 Summer St. stated that he does not feel eloquent and
1196 appreciates everyone who has spoken before him and has said things he would not have even
1197 thought of. He continued that he appreciates their research, and appreciates the petition as well
1198 and what The Home is trying to accomplish. He raised three daughters here. He is a carpenter,
1199 and has to be in compliance when he goes to the Board. If what The Home is asking to do is a
1200 Variance, it is not in compliance with current use, and he asks that the Board not allow it. He
1201 needs people who know the research, laws, and ordinances, which he does not know a lot about.
1202 If what everyone who has spoken before him in opposition says in true, he hopes the Board
1203 listens to them, for people like him who cannot get through the minutiae of it.

1204
1205 Richard Emmett of 99 School St. stated that his backyard abuts the larger parking lot that
1206 extends behind 39 Summer St.. He continued that he has been in Keene three years. He came
1207 tonight with an open mind and respects The Home for Little Wanderers. He applauds their
1208 objective but does not think this is the location. The idea that the group home would be a low
1209 intensity use is not credible to him. Twelve teenagers is a lot. He thinks it would change the
1210 character of the neighborhood and he "is a little fearful of that." He knows the City has put a
1211 tremendous amount of work into the new LDC during the past three years; he and his neighbor
1212 Tony have talked about that. The City did a good job with it. These new regulations have just
1213 been put into place, after much thought and effort. Why throw it out now? Not allowing large
1214 group homes in this neighborhood is the right answer. He respectfully asks the Board to uphold
1215 that.

1216
1217 Susan Doyle of 69 Island St. stated that she is here because Megan and John Arruda are
1218 neighbors of 39 Summer St. and they are very excited about moving here with their two toddlers.
1219 She continued that Mr. Arruda goes out at sea for 75 days at a time but somehow reached out to
1220 her to ask her to attend these meetings because he cannot be there. He and his wife are
1221 "concerned about having the teenagers next door to their little boys," which she can understand.
1222 If The Home is interested in putting up a fence or big trees, she is not sure how that is enforced,
1223 if this comes to fruition. She also wants to say that many people grew up with five or six
1224 siblings in small houses with one bathroom, and they are okay, and have jobs and are
1225 professional people. She continued, "I'm not sure that The Little Wanderers people have to
1226 really feel that having a beautiful Victorian that has been renovated is going change the lives of
1227 these young people," because the staff that work there and the care they extend to the teenagers
1228 is what will make their lives better, not "living a fancy house, because they will get turned out to
1229 the world and probably live in a little apartment, so that is a reality check." She asks the Board
1230 to consider not giving this Variance.

1231 Damian Wasserbauer of 45 Summer St. stated that he abuts the property. He continued that he
1232 has personal family experience with and a soft spot for orphanages and juvenile homes. It is
1233 good to have them in the downtown area, not only for the community, but also for other things.
1234 In this case, it is about a Variance. He has no opposition to people being next to him and running
1235 this type of facility. He is new to the community, having been there a year and a half. His
1236 neighbors participated in this process and there has been a compromise. Juvenile homes or
1237 orphanages could live on this street and cater to anyone under 18. He thinks the limit of eight
1238 residents is a reasonable compromise. He thinks he heard The Home's position on why they
1239 need the Variance, and it was because it did not make economic sense. That is a corporate-type
1240 thing; it has to make economic sense for the institution. Perhaps this is not the right spot, but he
1241 thinks they could have a foster home or something similar on the street to blend in, but he agrees
1242 with his neighbors that the size is something that had to be compromised on.

1243
1244 Frank DePippo of 43 Center St. stated that he has a number of concerns. He continued that if
1245 this were approved, there appears to be a lack of staffing, particularly in the evening. There is no
1246 mention of provision of any security or police services. He continued that he "does not know if a
1247 threat assessment was conducted, for the safety of the neighbors and the residents, at a time
1248 where people are attacking synagogues, mosques, and other specialty areas. This could possibly
1249 be an area of threat. Some deranged person could have an interest in doing harm, because of the
1250 nature of the residents, so a threat assessment should be conducted by the local police, Sheriff, or
1251 Joint Terrorism Task Force, of whether there are groups in the area." If this were approved,
1252 regarding the improvements, he recommends that all of the fire suppression and alarm systems
1253 be changed out to the state of the art ones. With a number of children, although there is a
1254 requirement that they do not smoke, that often is not followed. If upgrades will be made to the
1255 paint and other areas, he recommends that that fire suppression, alarms, and security systems be
1256 implemented. He does not know if City staff knows that.

1257
1258 Chair Gorman replied that would be part of the permitting process, if this Variance were granted
1259 and it went further through the Planning process. He continued that the permitting process for
1260 the building construction would likely dictate that Fire Codes are brought up to code. That is
1261 typical of a change of use. With any change of use, you have to adhere to the applicable codes.

1262
1263 Mr. DePippo continued that he is not necessarily objecting to the group home, but he does not
1264 think enough information has been provided, in particular, about them reducing overnight
1265 staffing instead of increasing it. There is no indication of security or police services. If this were
1266 granted, he asks that sponsor of the group home, and be required to provide any police or
1267 security services that are needed in the event there are any problems at the site from any outside
1268 people.

1269
1270 Chair Gorman called for a recess at 9:33 PM and called the meeting back to order at 9:40 PM.

1271
1272 Chair Gorman asked for public comment from people in favor of the application.

1273

1274 Robert Drumm stated that he is the owner and operator of Alexander & Roberts at 53 Summer
1275 St., a 75-year-old international travel company. He continued that he and a shareholder
1276 purchased the 53 Summer St. building in 1995 and have been there 27 years. Previously, the
1277 building had been a nursing home, an apartment building, and a doctor's office. In 1799, it was
1278 built by Dr. Blood, which he discovered when he took down a wall to create a conference room
1279 and found a quill letter Dr. Blood wrote to a patient, asking for payment. These houses have
1280 gone through many lives and have served different purposes over time, as neighborhoods evolve,
1281 as populations change, as technology changes. He thinks that is the case with 39 Summer St.
1282 His business shares a driveway with 39 Summer St. and it has a right-of-way with Alexander &
1283 Roberts. When Alexander & Roberts moved in, he noticed many questions from his neighbors,
1284 because they are a tour operator. They are not a travel agent and do not have visitors come.
1285 They have developed tours for AAA, PanAm, Delta Airlines, and so on and so forth. They were
1286 looking for a house rather than an office. Their business partners around the world would come
1287 to Keene, this pristine community, and were delighted with it, because they had never seen this
1288 part of America before, although they might have been to Boston, New York, Los Angeles, and
1289 Chicago. This particular building, in terrible repair, was appealing to Alexander & Roberts,
1290 because of the heritage it suggested.

1291
1292 Mr. Drumm continued that he believes The Home has a similar vision for their property at 39
1293 Summer St. He thinks they are interested in providing a warm, welcoming environment for
1294 youth who are sorely in need of the support. He congratulates the State of NH for reaching out
1295 to The Home. In 1960, he was 11 years old, and his church group went to visit The Home for
1296 Little Wanderers so he and his peers could begin to understand how fortunate they were in their
1297 family environments, compared to the children served by The Home. The Home has developed
1298 into one of the premier social service agencies in the country. He thinks the community and the
1299 City of Keene would be blessed to have such a professional, sophisticated, well-experienced
1300 organization behind the home they propose establishing here. He supports the Variance request.
1301 He understands how difficult it is to come to these rules that cities and communities have to live
1302 by, but the Zoning Board exists because Variances are a part of life, and people can come to the
1303 Board with a different set of needs and circumstances, and that is to be applauded.

1304
1305 Mr. Hoppock stated that the Board has heard many opinions about the impact of the proposed
1306 use. He asked Mr. Drumm what he thinks the impact will be of 12 client resident teenagers
1307 living at this property. Mr. Drumm replied that he thinks about a movie popular in the 1950s,
1308 "Cheaper by the Dozen". He continued that it took place in Montclair, NJ, in a Victorian house
1309 very much like this one, and was about the family of 12 children who grew up there. It was
1310 rather tumultuous, but usually within the four walls of the building. He thinks there may be
1311 some adjustment issues, but he thinks it is worth it. His personal residence is on School St., and
1312 he thinks the neighborhood could stand it. The younger people coming in have a different sense
1313 of family than do prior generations. He does not know of a family that could afford to re-do this
1314 property or would be comfortable living in such a large space. He has renovated many houses
1315 for his own personal use, so he understands how difficult that process is. This could be the best

1316 purpose for the property, and certainly, with The Home guiding the way, he thinks they should
1317 feel much more comfortable about what the future holds and the success that this could have.

1318
1319 Chair Gorman asked for more comments from the public in favor of the application. Hearing
1320 none, he asked Mr. Hanna for rebuttal.

1321
1322 Mr. McCall stated that first, regarding the question of why 12 residents and not 8, it was not The
1323 Home that requested 12. It was not The Home's financial consideration. It was the State that
1324 requested 12, because it is significantly financially more advantageous for NH to operate group
1325 homes at 12, when there are staff to youth ratios of 1:4 and 1:6. The number that comes together
1326 on those is 12, so the State has formulas they use to calculate the cost per resident, and they want
1327 that number to come in at a rate the State can afford to continue to pay. An eight-bed group
1328 home is about a quarter to a third more expensive for the State to fund; thus, the State wants
1329 numbers that are able to be well funded, and able to be operated well. This is not about The
1330 Home's need for a certain size. They operate some group homes in MA with seven residents,
1331 and some are significantly larger. Having 12 residents at Unity House is more about the State of
1332 NH than it is about The Home.

1333
1334 Mr. McCall stated that regarding the incidents that were mentioned, he wants to give more
1335 context. He continued that the child a speaker referred to who was trafficked was a child who
1336 ran away while on a home visit, not while she was with The Home. While on the home visit, she
1337 left the home, and unfortunately was trafficked. The Home had no way of managing or
1338 controlling that. Chief Carmichael's assertion that The Home somehow had something to do
1339 with it was factually inaccurate, and again, goes to the relationship The Home had with the
1340 previous Chief of Police. The new Chief of Police, who has been there for about a year, has a
1341 very different way of talking about The Home and the services it provides.

1342
1343 Mr. McCall continued that regarding the Cease and Desist order, it was issued by the Town of
1344 Walpole when the facility opened, at the request of the Governor of MA, a COVID-19 Relief
1345 Unit in March of 2020. The state had just gone into lockdown, The Home was unable to obtain
1346 PPE, and the State of MA was in a panic about what to do with COVID-19 positive children in
1347 group homes. The State of MA asked providers who could come together to open a COVID-19
1348 Relief Unit. The Home said yes, they would do it. They did it in seven days. Normally, a group
1349 home takes anywhere from six months to a year to get off the ground and open, but they opened
1350 the COVID-19 Relief Unit in seven days and successfully ran it. They ran it so well that the
1351 Cease and Desist order was removed by the Town of Walpole because the State said, "You can't
1352 put a Cease and Desist order in for this; this is a public health need." In addition, The Home ran
1353 it so well that they were the last COVID-19 Relief Unit operated for the State of MA, because
1354 DCYF believed they were providing the best of all of the State's units.

1355
1356 Mr. McCall continued that regarding the incident where the child was stabbed, the adolescent left
1357 one of The Home's group homes in Boston that is funded by the Department of Mental Health
1358 (DMH). DHM does not allow The Home to prevent children from leaving a program if they

1359 want to, and has very particular regulations around client rights. This is strictly a “no hold”
1360 program. While this adolescent was on the run and not at The Home’s program, and were
1361 actually several towns away, they were stabbed while with a group of friends. One of those
1362 friends knew The Home well enough that they called the program and requested that The Home
1363 call EMS to get that adolescent help. That shows the connection, relationship, and care that The
1364 Home provides to its youth. Even the youth’s friends know that when they are in trouble, they
1365 call The Home, and The Home will get them the help and care that they need.
1366

1367 Mr. Hanna stated that he has a few comments in response to the previous speakers. He
1368 continued that this Board knows that granting a Variance does not “open up the floodgates,” and
1369 that a Variance is a safety valve established by the NH RSA 674-33 to provide relief where the
1370 standards for a Variance are satisfied. The fact that the Variance is sought from an Ordinance
1371 that was recently enacted versus one that has been in effect for ten years does not change the fact
1372 that it may or may not be deserving. He provided what he considers evidence about the
1373 sustainability of the current use, that it is not sustainable. He provided information from the
1374 realtor and information about the current activity being not at full, 100% use. He testified earlier
1375 about the unlikelihood of multi-family housing or single-family housing being viable and cost-
1376 effective. Thus, there are hardship aspects, given the type of and size of this building.
1377

1378 Mr. Hanna continued that regarding the question of low intensity, this might be a situation where
1379 it is in the eyes of the beholder. It is subjective, and all he can say is that funeral homes, bed and
1380 breakfasts, offices, and multi-family housing are all permitted uses in this neighborhood. An 11-
1381 unit apartment building is on the corner of Summer St. and Court St., and an abutter that is a
1382 highly active CPA firm with much more frontage on Summer St. than Court St., and a three-unit
1383 apartment building immediately to the east of the subject property. Those are all uses he would
1384 say are equally or more intense than the proposed use. In addition to the types of uses, he just
1385 suggested, uses such as senior centers, community centers, cultural facilities, and daycares are all
1386 permitted by Special Exception. That is not by Variance that is by permitted use, meeting the
1387 criteria enumerated in the Ordinance.
1388

1389 Mr. McCall stated that regarding intensity, a new neighbor moved in next to the Waltham House,
1390 the program that is most comparable to what Unity House will be. He continued that The Home
1391 tried to reach out to that neighbor after a couple months, and he himself walked over to introduce
1392 himself. He knocked on the door, introduced himself, and explained what the program was. The
1393 neighbor said, “You know, I thought it was funny that everybody looked really different and
1394 there were a bunch of kids there, but I just figured you guys were a big, strange family!” He
1395 replied that in many respects, that is kind of, what they are. Her reply was, “That’s great; it’s
1396 nice meeting you.” That is the level of impact a group home like this has. The Home has done
1397 this work for a long time; this is not something they just started doing last week. They operated
1398 these kinds of programs for 200 years, they do have a sense of the impact it has on the
1399 community, and they are not saying it will have none. What they are saying is that the impact
1400 does not disproportionately affect the community, and they think they can be good members of
1401 the neighborhood.

1402 Chair Gorman asked if there were any further questions. Hearing none, he closed the public
1403 hearing and asked the Board to deliberate on the five criteria.

1404
1405 Mr. Rogers stated that given the time, and the Board's rule of not beginning a new hearing after
1406 10:00 PM, the remaining hearings on the agenda would be continued to the next Board meeting
1407 on October 3, at 6:30 PM. They will also be re-noticed.

1408
1409 Mr. Hoppock stated that he thinks it would be useful to hear what City Attorney Tom Mullins
1410 has to say about the Fair Housing Act. He continued that he thinks the Applicants have provided
1411 a powerful case for the approval of the Variance and he wants that information in front of him.
1412 He would like to continue the deliberations until the next time, after the Board has the City
1413 Attorney's opinion.

1414
1415 Mr. Welsh stated that he would like some details about the practicability of the conditions of
1416 agreement that had been drafted between The Home and the neighbors. Some of those
1417 provisions are important to discuss. Mr. Hoppock replied they should talk about the legality of
1418 them. Chair Gorman added that some he would be quite comfortable incorporating; others, not
1419 so much, without some guidance; and others, not at all.

1420
1421 Chair Gorman asked for Ms. Taylor's thoughts. Ms. Taylor replied that she agrees with what has
1422 been said. She continued that she personally does not believe there is a FHA issue or a
1423 discrimination issue, but again, she does not know if that is the City's legal position and she
1424 would like to hear it. She would also like to hear from the City Attorney regarding his
1425 perspective on limiting the length of time or the specifics of a Variance, as opposed to having it
1426 run with the land, because her understanding is that it must run with the land and cannot run with
1427 the property owner. Chair Gorman replied that he agrees wholeheartedly, specifically on number
1428 four of the conditions. He continued that he knows they can make conditions to a Variance, but
1429 he is not aware of them being able to condition it to a property owner.

1430
1431 Chair Gorman asked if Mr. Clough is in agreement. Mr. Clough replied absolutely.

1432
1433 Mr. Hoppock made a motion to continue the deliberative portion of this public meeting to the
1434 next Zoning Board of Adjustment meeting on October 3, 2022, at 6:30 PM, in order to request a
1435 legal opinion from City Attorney Tom Mullins on the subject of the conditions proposed by the
1436 applicant, and the issue of the federal Fair Housing Act. Chair Gorman seconded the motion.

1437
1438 Mr. Hoppock stated that he would ask the City Attorney to look at all of the conditions proposed,
1439 not just the fourth, and point out anything he finds particularly troublesome or not troublesome at
1440 all.

1441
1442 Chair Gorman opened the public hearing to take a question.

1443

1444 Anthony Trombly stated that he wants it understood that the submitted “Conditions of Approval”
1445 sheet was not drafted in consultation with the neighbors, but rather in response to questions that
1446 were raised during the public meeting held last week. Chair Gorman replied that he agrees that
1447 that seems to be the case; it was handed to the Board tonight and read aloud by Mr. Hanna.

1448
1449 Mr. Trombly stated that these conditions were not put before anybody for their opinion. Chair
1450 Gorman replied that his understanding is that the Applicant, based on feedback from the
1451 neighborhood and in an attempt to accommodate concerns, drafted this list of conditions that The
1452 Home was willing to set forth upon themselves. That said the Board now has to determine which
1453 ones they may or may not be able to legally input as well as ones they may prefer not to input.

1454
1455 Mr. Hoppock asked if City staff could post the Conditions of Approval on the website with
1456 whatever packet goes with this case, so everyone can look at them, before the next meeting.
1457 Staff replied yes, the information that was submitted to the Board members tonight can be added
1458 to the packet, and it is available to anyone in the public who wants to come into the office to look
1459 at during regular business hours.

1460
1461 Chair Gorman stated that the public hearing is again closed. He asked for a vote on the motion,
1462 which passed by unanimous vote.

1463
1464 **V) New Business**

1465 **VI) Communications and Miscellaneous**

1466 **VII) Non-public Session (if required)**

1467 **VIII) Adjournment**

1468
1469 There being no further business, Chair Gorman adjourned the meeting at 10:06 PM.

1470
1471 Respectfully submitted by,
1472 Britta Reida, Minute Taker

1473
1474 Reviewed and edited by,
1475 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

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/workforce 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.

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 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.

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



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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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7/20/2022

Page 2 of 2



Keene, NH



July 20, 2022

1 inch = 137 Feet

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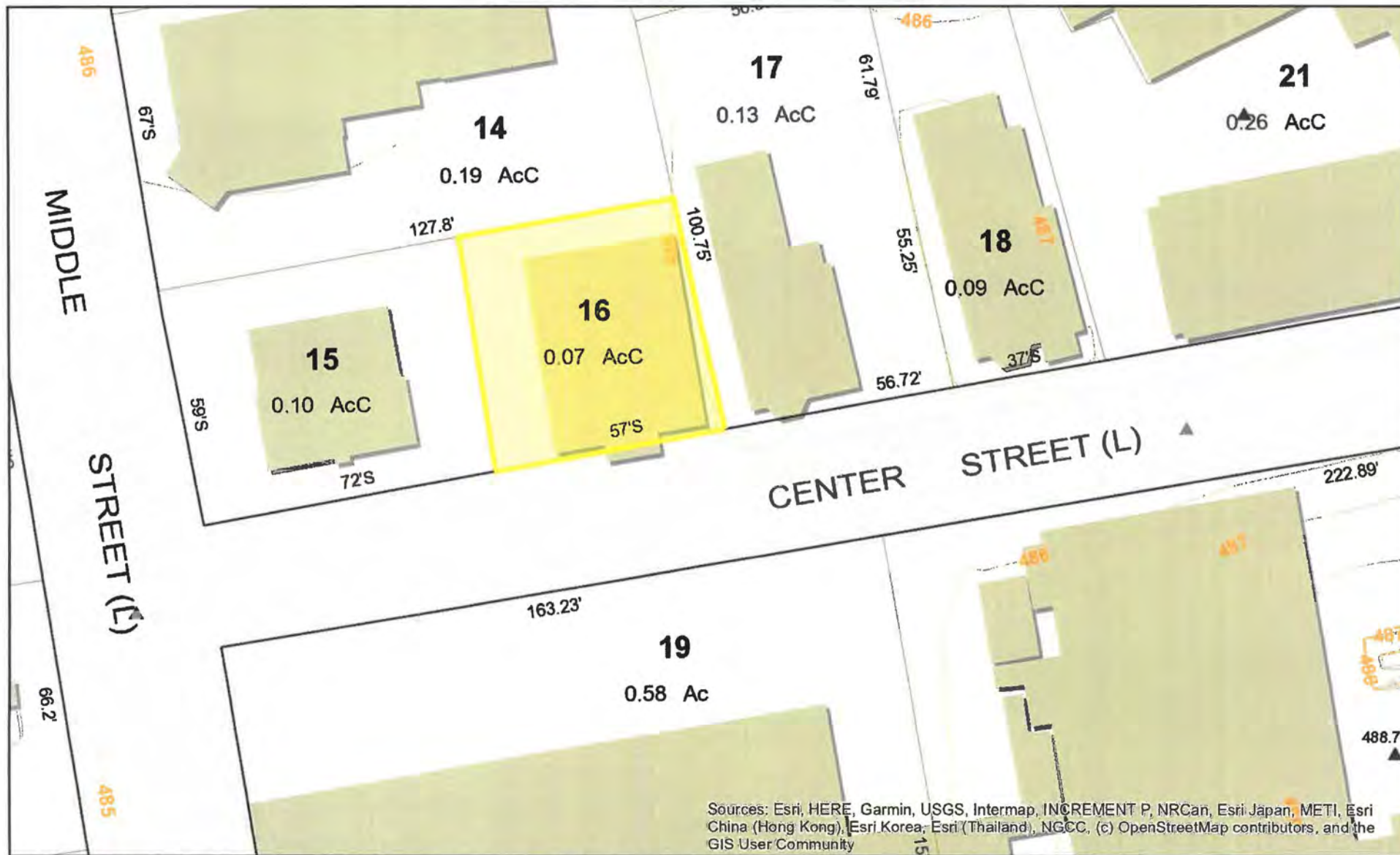
Keene, NH



July 21, 2022

1 inch = 34 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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61 SUMMER ST.
ZBA 22-17



Petitioner requests a to permit a 4th residential unit on a 14, 374.8 sq. ft. lot where 24,200 sq. ft. is required per Chapter 100, Article 4.6.1 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 22-17

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

ZBA 22-17: Petitioner, Petitioner, Sydney Janey, of 61 Summer St., requests a Variance for property located at 61 Summer St., Tax Map #568-034-000-000-000 that is in the Downtown Transition District, owned by Townsend Capital Trust. The Petitioner requests a Variance to permit a 4th residential unit on a 14,374.8 sq. ft. lot where 24,200 sq. ft. is required per Chapter 100, Article 4.6.1 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 September 23, 2022

Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	ZBA 22-17
Date Filled	9/16/22
Rec'd By	GM
Page	1 of 8
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: Townsend Capital Trust

MAILING ADDRESS: 61 Summer St Keene NH 03431

PHONE: (857) 205-3432

EMAIL: sydney@sydneyjaneydesign.com

SIGNATURE: *Sydney C Janey*

PRINTED NAME: SYDNEY C JANNEY

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: Sydney Janey

MAILING ADDRESS: 61 Summer St Keene NH 03431

PHONE: (857) 205-3432

EMAIL: sydney@sydneyjaneydesign.com

SIGNATURE: *Sydney C Janey*

PRINTED NAME: SYDNEY JANNEY

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: Celeste B Janey

MAILING ADDRESS: 138 Cross St. Keene NH 03431

PHONE: 603 462 4298

EMAIL: celesteb-janey@gmail.com

SIGNATURE: *Celeste B Janey*

PRINTED NAME: Celeste B. Janey

SECTION 2: PROPERTY INFORMATION

Property Address: **61 Summer ST Keene NH 03431**

Tax Map Parcel Number: **568 / / 034/000 000/000**

Zoning District: **Downtown - Transition**

Lot Dimensions: Front: **72** Rear: **72** Side: **201.83** Side: **201.83**

Lot Area: Acres: **.33** Square Feet: **14374.8**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **56%** Proposed: **56%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **40%** Proposed: **40%**

Present Use: **4 units. 3 residential 1 commercial**

Proposed Use: **4 residential units**

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.

Property at 61 Summer St. in Keene. Located in the Downtown Transitional district. Owned by Townsend Capital Trust. Currently is 4 units, 3 residential units, 1 commercial/office unit. With paved driveway and parking lot that accommodates off street parking for 8 cars.

We propose the variance in the land development code 4.6.1, due to size of lot .33 acres and needing 8,000 sq ft. for unit 1 and 5,400 sq ft for every unit after. We are lacking the acreage for the current zoning regulations, thus we need a variance to make the office unit a residential one.

Currently the office space is 2,074 sq. ft. and the residential unit space is 2,825 sq. ft. for a total of 4,899 sq. ft. of living space. We are proposing to convert the office space into residential unit space

This historic home, built in 1900 was converted into its present configuration in 1999. When the units were converted time and care was taken to preserve the historic beauty of the home while making the necessary modifications for handicap accessibility for an office. An outdoor ramp, indoor ADA compliant bathrooms, doorways, etc.

We would like to make further improvements on what is already there by converting the existing first floor office space back into a residential unit for a disabled person. Improving upon the outside accessibility and indoor accommodations, it will take only a few more modifications to make it into a beautiful home for a person to enjoy independent differently-baled living.

SECTION 4: APPLICATION CRITERIA

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

Currently the zoning calls for residential units to have 8,000 sq. ft for unit 1 and 5,400 sq ft for every unit after.

Relief from 24,200 sq. ft. allotment needed to allow for the 4th residential unit to be rezoned.

Our lot size is 14,374.8 sq. ft.

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:

1. It would allow for a disabled person to live in the community.
2. converting the unit from commercial to residential ultimately would cut back on street traffic, due to their not being coming and going from the commercial office during the day.
3. There is ample off street parking on property for all of the residential units so it will not disrupt day to day life on the street.
4. We are not proposing any structural or footprint changes to the building itself.
5. The property is already being use primarily as a residential space. And has been historically a residential space

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

the ordinance is intended to accommodate a variety of residential and other low intensity used in the existing residential neighborhood, currently on the street their are single family, multi-family and commercial spaces. This use would fit in with the spirit and use of the surrounding spaces and ordinance of the zoning in the area.

3. Granting the variance would do substantial justice because:

Substantial justice would be given through this variance because their is a lack of adequate accommodations for disabled persons in the area.

Allowing this unit to become zoned will give someone with disabilities a place to be within the community.

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

The surrounding properties would not be diminished because:

1. This would be a return to the previous use of a the unit to a residential space.
2. The neighborhood would benefit from having a value added member to the community.
3. It would help cut back on traffic in the area by converting the office to residential.

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:**

This property was purchased with the intended purpose of using the space as a residential unit. Having the handicap accessibility was one of the factors that helped us in deciding to purchase the beautiful historic property with the intent to restoring interior to the former glory it once had as a residential property.

The bonus of it outside accessibility the interior bathrooms already ADA compliant and other factors aided us in our decisions to make this a home for Townsend Capital Trust.

We were unaware that it wasn't zoned for residential use upon purchase. Since being in the community and looking at surrounding properties, we've also discovered there is a lack of disabled accommodations in the immediate area -- which would make staying in the community much harder, if not impossible, if this variance isn't accepted.

SECTION 4: APPLICATION CRITERIA

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

Currently the zoning calls for residential units to have 8,000 sq. ft for unit 1 and 5,400 sq ft for every unit after.

Relief from 24,200 sq. ft. allotment needed to allow for the 4th residential unit to be rezoned.

Our lot size is 14,374.8 sq. ft.

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

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Keene, NH



September 21, 2022

1 inch = 68 Feet

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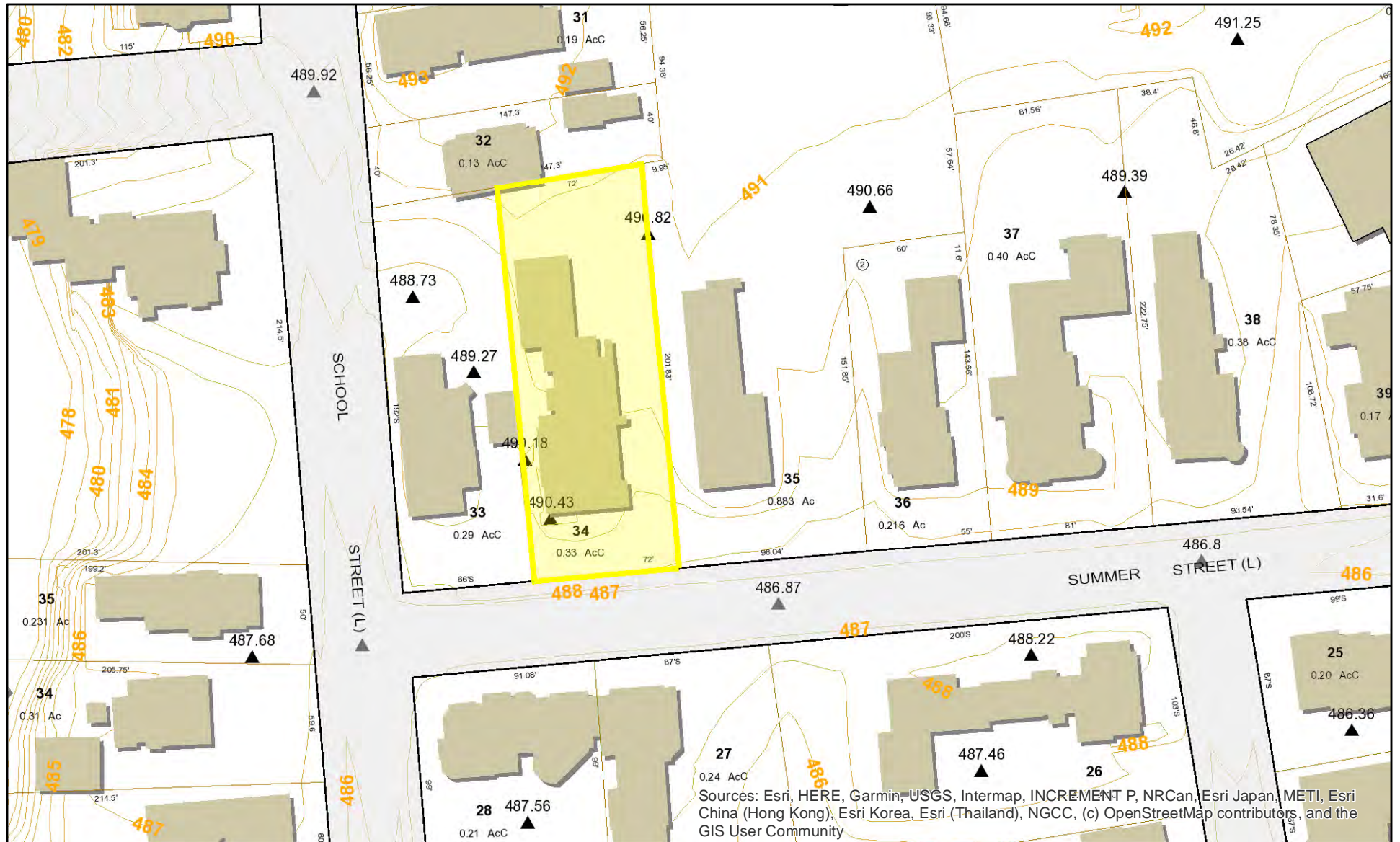
Keene, NH



September 21, 2022

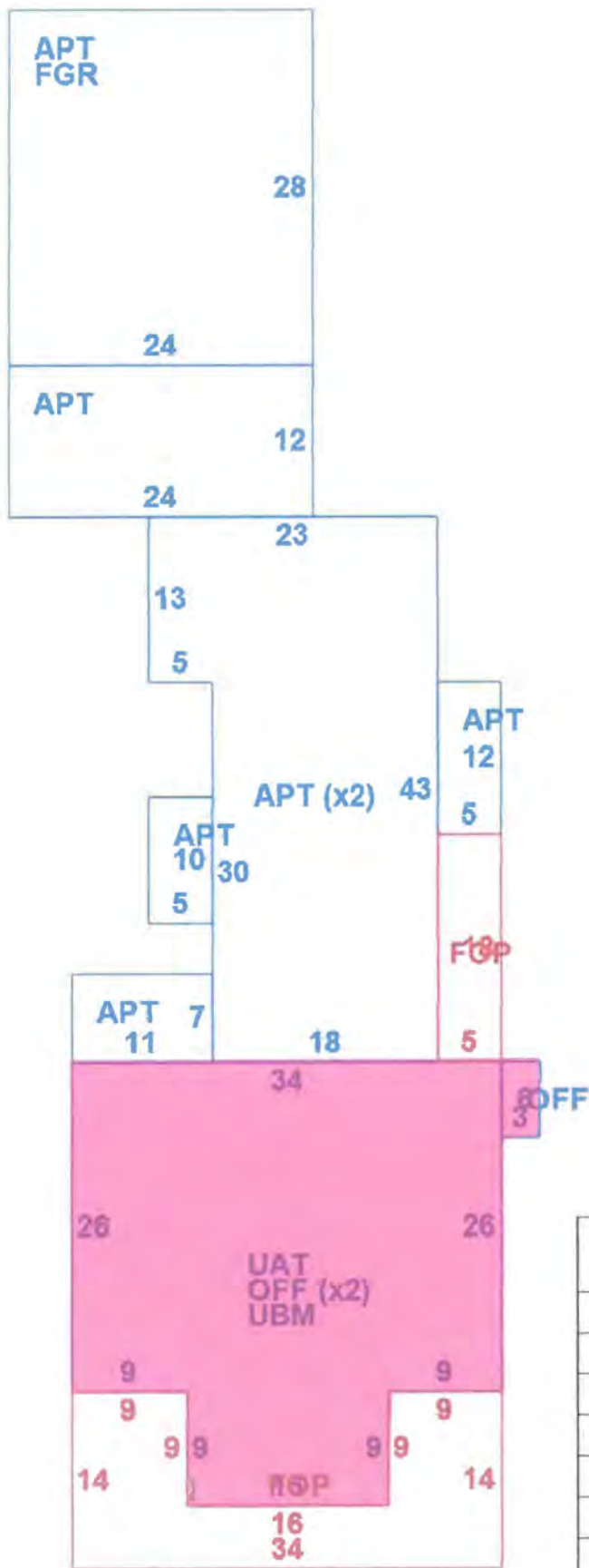
1 inch = 68 Feet

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 Proposed New Residential Unit
 ReZoned from Commercial Office Space

Code	Description	Gross Area	Living Area
APT	Apartment	2,825	2,825
OFF	Office	2,074	2,074
FGR	Frame Garage	672	0
FOP	Framed Open Porch	422	0
UAT	Unfinished Attic	1,028	0
UBM	Unfinished Basement	1,028	0
		8,049	4,899

Parcel Number: 568-013-000-000-000
28 MIDDLE STREET REALTY L
99 VALLEY PARK DR.
SPOFFORD, NH 03462

Parcel Number: 567-035-000-000-000
MCMAHON JOHN J.
MCMAHON MARGARET M.
76 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-036-000-000-000
WASSERBAUER, DAMIAN GILMA
45 SUMMER ST.
KEENE, NH 03431

Parcel Number: 568-042-000-000-000
82 COURT PROPERTIES LLC
82 COURT ST.
KEENE, NH 03431

Parcel Number: 567-032-000-000-000
PAPPALARDO JOHN & ANCHARS
60 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-035-000-000-000
WATSON FREDERICK K. TRUST
281 SHAWMUT AVE.
BOSTON, MA 02118

Parcel Number: 568-029-000-000-000
ALGENI RONALD S.
EGLI MELANIE A.
119 SCHOOL ST.
KEENE, NH 03431-3312

Parcel Number: 568-030-000-000-000
SCHOELZEL, TYSON CHURCHIL
SCHOELZEL JULIE ANN
109 SCHOOL ST.
KEENE, NH 03431-3312

Parcel Number: 568-026-000-000-000
BERGERON, JOHN
GROSS LINDA
38 MIDDLE ST.
KEENE, NH 03431

Parcel Number: 568-037-000-000-000
SCHOFIELD WILLIAM K.
27 DUBLIN RD.
JAFFREY, NH 03452-5008

Parcel Number: 568-028-000-000-000
BULGER DAVID C.
BULGER SARAH M.
69 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 567-027-000-000-000
SLADE, AVRIL
HARVEY ALDWIN
108 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-032-000-000-000
EMMET MARY JOSEPHINE CARM
MARY J. CARMACK EMMET &
RICHARD H. EMMET TTEES
99 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 554-001-000-000-000
STIEGLITZ SUSAN CLAIRE
STIEGLITZ JEREMY S.
8303 SW 43RD TERR.
GAINESVILLE, FL 32608

Parcel Number: 568-004-000-000-000
FARRAR FAMILY REV TRUST
ROBERT H. & JEANANNA M.
FARRAR TTEES
59 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-043-000-000-000
TERHAR MICHAEL JOHN JOSEP
TERHAR CERA BETHANY
15113 BERNADETTE CT.
CHANTILLY, VA 20151

Parcel Number: 567-036-000-000-000
FINSER TORIN
FINSER KARINE MUNK
94 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-027-000-000-000
TOEPFER, ANTHONY
60 SUMMER ST.
KEENE, NH 03431-3353

Parcel Number: 567-034-000-000-000
JANSEN ABRAHAM J.
JANSEN BONNIE DUPONT
72 SCHOOL ST.
KEENE, NH 03431

Parcel Number: 568-033-000-000-000
TREMBLAY ANTHONY & BARBAR
67 SUMMER ST.
KEENE, NH 03431

Parcel Number: 568-031-000-000-000
LISK, SUSAN J.
128 RIVER DR.
HADLEY, MA 01035

Parcel Number: 567-033-000-000-000
VAN WELY, KATHERINE
66 SCHOOL ST.
KEENE, NH 03431-3308