



# CITY OF MANCHESTER

## PLANNING AND COMMUNITY DEVELOPMENT

Leon L. LaFreniere, AICP  
Director

Planning & Land Use Management  
Building Regulations  
Community Improvement Program  
Zoning Board of Adjustment

Pamela H. Goucher, AICP  
Deputy Director Planning & Zoning  
Michael J. Landry, PE, Esq.  
Deputy Director Building Regulations

### MANCHESTER ZONING BOARD OF ADJUSTMENT VIRTUAL PUBLIC HEARING / BUSINESS MEETING MINUTES Thursday, September 10, 2020 – 6:00 p.m.

**Board Members Present:** Chairman Robert Breault, Acting Vice Chairman Michael Simoneau, Alderman Jim Roy, Joe Prieto

**Alternates Present:** Alderman Keith Hirschmann,

**Excused:** Vice Chairman Jose Lovell, Anne Ketterer, Guy Guerra

**City Staff Present:** Michael Landry, Deputy Director of Building Regulations  
Jonathan Golden, Senior Planner  
Sheila McCarran, Administrative Assistant II

---

I. The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff.

II. PUBLIC HEARING:

*Chairman Breault announced that Michael Simoneau would be acting Vice Chairman this even and alternate Alderman Keith Hirschmann would be a voting member.*

*Michael Landry said he had an announcement to make. He said the applicant of case #ZBA2020-091, James Gillett, which is property located at 223 Coolidge Avenue, who was looking to add a garage with a breezeway, has asked for this case to be postponed until the October 8, 2020 ZBA hearing. Mr. Landry said the hearing will be in a virtual setting at 6:00 pm and there will be no further notice to abutters.*

***(Tabled from 8-13-20 ZBA Meeting)***

1. **ZBA2020-060**  
**255 Melrose Street, R-1B Zoning District, Ward 7**

Lauren Lessard proposes to establish a commercial kennel at a single family residence without the required 50' limited activity buffer, with lot area of 10,209 SF where 45,000 is required, with lot frontage of 111' where 150' is required, with a side yard setback of 10' where 20' is required, and create one new parking space in the front yard within 4' of the building and the property line and seeks a variance from sections **5.10(B)5** Commercial Kennel, **6.08(B)9** Screening Buffers, **8.09** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage, **6.03(C)** Side Yard Setback, **10.09(B)** Parking Setbacks and **10.02(F)** Business Parking in a Residential District of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 2, 2020.

Michael Landry said the Board last month had a question for the City Solicitor's Office regarding if a variance could be conditioned upon a grant to a particular person and the answer to that is no. He said variances run with the land and so that is just an avenue that the Board cannot take.

Chairman Breault asked if Ms. Lessard was in attendance. Ms. Lessard said she was. The Chairman asked her if she had anything she wanted to add. Ms. Lessard said no. Chairman Breault turned the hearing over to the Board.

Alderman Hirschmann said he wanted to hear from the public before he commented on anything at all.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence to add. Mr. Landry said since the last hearing, there has been no new correspondence. He said at the last hearing, there were five letters in favor of this application. He said he would read them again if the Board wanted him to. Alderman Hirschmann said he read the packet and he is all set.

Chairman Breault turned the hearing back over to the Board. He asked Alderman Hirschmann if there was something he wanted to add. Alderman Hirschmann said he looked at the 10,209 square feet and asked if there was a stipulation that we could grant this application but have a stipulation on the number of dogs. Michael Landry said absolutely. He said the zoning ordinance can't address everything and that is why we are here tonight so we can help give relief for people that run afoul of the ordinance. He said we don't have a use category for small scale dog sitters. The use is really set up for these huge facilities that are more commercial. He said that's the size requirement. He said he thinks the Board should be mindful that we are in a residential area, we have neighbors and do everything they can to make sure that this doesn't become a huge facility with parking twenty cars and this and that. If the Board was to say, limit the number of dogs, no employees so that it can't grow too big, no onsite parking and just drop off only. These are things that the Board might

want to consider. He said he is not suggesting anything, he is just throwing those out as options for the Board.

Alderman Hirschmann said he liked the letters of support in the packet and he wants to support this lady but he also wants to be respectful to the neighbors. He said in his area there are some large kennels so he is a little bit familiar with kennels. He said he was thinking on half an acre, the woman's business could sustain on five dogs. He said the reason he thought of that, is there is a different ordinance for chickens in the city and with chickens it is even more stringent than that. It is like one chicken per acre, he believes. He said he was thinking of like five dogs because it is a residential area and allowing her to do that. He said the other stipulation he thought of was, Ms. Lessard said the premier hours were 8:00 am to 6:00 pm. He said if you allowed drop-offs from 7:30 am to 6:00 pm so people can come and go just during the day hours. Those were the two stipulations he would say to try and enact so they could pass this.

Alderman Roy said he appreciates Alderman Hirschmann's point of view but he has a different one. He said even though there is a letter in the packet saying that it won't affect the surrounding property values, he believes it will affect the current surrounding property values. He said he finds it impossible to find a hardship in here. He said it talks about it being a source of income but there are many other places suitable for this in the city. That isn't a hardship. He said he is not in favor of this.

Chairman Breault said he would add that going through a few of the criteria, a commercial kennel, which in essence this is, if it was approved, whether large or small it is still contrary to public interest. There is no buffer. He said he doesn't think the spirit of the ordinance is observed because this is in a residential neighborhood. It is a commercial kennel in a neighborhood. He said it would allow someone else even for condition of five dogs to come in and operate a commercial kennel and it would affect surrounding property values. He said as far as hardship, he agrees with Alderman Roy, the home could be used as a home regardless of the kennel. He said he doesn't believe that a place of earnings meets the criteria for hardship.

Vice Chairman Simoneau said he was really hoping to hear from Michael Landry that they were able to approve this solely to the individual and not the land. He said he has to agree with Alderman Roy, unfortunately. He said that was his opinion.

Alderman Roy said he agreed with Chairman Breault that the variance will be contrary to the public interest especially because there is no buffer. He said he believes that the properties around there will be affected as far as their values go and he couldn't find any hardship here.

***Jim Roy made a motion to deny the following variance counts for case ZBA2020-060, 5.10(B)5 Commercial Kennel, 6.08(B)9 Screening Buffers, 8.09 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage, 6.03(C) Side Yard Setback, 10.09(B) Parking Setbacks and 10.02(F) Business Parking in a Residential District which was seconded by Michael***

***Simoneau.***

Yeas: Breault, Simoneau, Roy,

Nays: Prieto, Hirschmann

Upon a split vote, the variance was denied.

***(Current Items)***

2. **ZBA2020-073**  
**800 Holt Avenue, IND Zoning District, Ward 6**

Brian Jones (Agent) proposes to create 18 new parking spaces within the required 25 foot wetland setback and seeks a variance from section **6.09(A)** Minimum Setbacks from Wetlands of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 21, 2020.

Michael Landry said he believes the Board saw the letter from the Conservation Commission regarding this case. He said to bear that in mind when the Board made a motion. Chairman Breault said the public wasn't privy to this letter so Mr. Landry may want to read it into the record.

Brian Jones said he was with Allen and Major, the civil engineers and land surveyors for Tempo Tool Company, who makes precision machine parts for a variety of industries and have been in business since 1963. He said the project is a parking expansion. He said they are not changing the building footprint or the use, it is simply adding parking. He said the added parking is needed to accommodate the current employee parking needs there. They are basically maxed out with what they have. They would like to add a few additional employees. It is eighteen parking spaces and they are adding them on the westerly side of the building and it is going to be accomplished by constructing a retaining wall along the bottom of an existing grassed slope and then expanding the pavement area. The retaining wall would have a vehicular guardrail and the wall projects above pavement.

Mr. Jones said the pavement expansion is permeable asphalt to mitigate the storm water runoff and they are adding approximately 2,500 square feet of pavement. He said they did meet with the Conservation Commission on July 8<sup>th</sup> and they voted in support of the application. He said they also received an amended wetland permit from New Hampshire Department of Environmental Services [NHDES] allowing these 18 spaces to be built and the variance request is for work they are doing within a 25 foot buffer. This project had a site plan approval in 2016 and as a part of that process the Planning Board had waived the 25 foot buffer requirement. However, this particular parking expansion does not rise to the level of site plan review, therefore the process to do work within the 25 foot buffer requires a variance, but it is work that has recently been disturbed or worked in as part of the 2016 site plan. Mr. Jones said he could go through the five criteria if the Board is interested or he

can leave it at that.

Chairman Breault said he wanted to see what the Board would like to do. He turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public and asked Mr. Landry if he would like to read the letter from the Conservation Commission.

Mr. Landry read the letter from the Manchester Conservation Commission regarding this project.

***The purpose of this letter is to provide comment from the Manchester Conservation Commission regarding the variance application noted above that is before the Manchester Zoning Board of Adjustment. The applicant's engineer appeared before the Commission on July 8, 2020, to present the application, which would allow 18 new parking spaces within the required 25 foot wetland setback.***

***Upon deliberation, the Commission voted in support of the application, but requests that the ZBA impose two conditions on any approval. First, the Commission requests that the approval require that no commercial trucks, excluding pickup trucks, be permitted to park in the expanded parking area. Second, the Commission requests that the approval require that placards noting the presence of wetlands be placed along the edge of the wetland on the property at 50-foot intervals.***

***The Commission delegated me, as staff, to inform you of the Commission's decision. Should you have any questions, staff of the Planning and Community Development Department will attend the meeting at which you consider the application.***

***Sincerely,  
Jeffrey Belanger, AICP  
Senior Planner for the Manchester Conservation Commission***

Mr. Landry said that is all we have. Chairman Breault addressed Brian Jones and said he assumes that he is in agreement with the stipulations stated in a Conservation Commission's report. Mr. Jones said they are in agreement.

Chairman Breault turned the hearing back over to the Board.

Alderman Hirschmann said he just wanted to say that his comfort level increased. He said he was nervous about this one but the DES and the Conservation Commission weighed in and he would go with the two stipulations of no trucks and placing the placards.

Vice Chairman Simoneau asked Mr. Jones if there was any consideration for a lesser amount of parking spaces. Mr. Jones said actually, no. He said Tempco would like to add some employees and they currently use every space on site. Sometimes they don't have enough parking so the intention here was to add parking spaces and they have been fairly efficient

with that. He said they are only adding 2,500 square feet of pavement for those 18 spaces and that is just because the drive aisle along the westerly side was already quite wide. It's all work that was previously worked in areas as part of the 2016 site plan review by the Planning Board.

Alderman Roy said he had a couple of comments. He said he remembers when this came in front of the Planning Board and he thinks that they have done a really good job up there, especially with their system of catching the rain water and the runoff and everything else. He said if he remembers correctly, at the time they said that they may be coming back and he could be wrong, but he thinks they said that they may be coming back because they were increasing their manpower and they were going to need more parking. He said having gone to that site and looked at what they have done, they have done a great job and he is in support of this.

Chairman Breault said he was in agreement with the Members that spoke. He thinks this is a well thought out plan which makes use of limited area to create 18 parking spots and they have taken the pains to go through the DES and the Conservation Commission. He thinks this is worthy of the Board's consideration.

Alderman Roy said he believes this meets the five criteria.

***Keith Hirschmann made a motion to grant the following variance count for case ZBA2020-073, 6.09(A) Minimum Setbacks from Wetlands with the conditions of no parking of commercial vehicles, excluding pickup trucks, shall be parked on the expanded parking area and placards noting the presence of wetlands shall be placed along the edge of the wetland on the property at 50 foot intervals which was seconded by Jim Roy.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

3. **ZBA2020-075**  
**395 Lowell Street, R-2 Zoning District, Ward 4**

Joseph Wichert, L.L.S. (Agent) proposes to construct a 6'x8' porch with a side yard setback of 4.6' where the stairs are 1.2' from the side lot line where 10' is required and seeks a variance from section **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 24, 2020.

Joseph Wichert said he was appearing on behalf of Steve and Kathi Mitchell. He said it is a fairly straightforward application. Basically, further up in the packet there was an old building permit where there was an 11'x13' bump porch on that southeast corner, south of the bulkhead, filling in that area. That was removed by a previous owner and the applicant

would like to put a new 6'x8' addition at that door. The addition would be 4.6' off of the lot line where 10' is required and they would like to do wrap around stairs so if you look at the drawing you can kind of see where the stairs that come off to the east and then they wrap around to the south. What happens here is, if you were to come out the stairs, you could kind of go on that concrete walkway and get to the front yard.

Mr. Wichert said the stairs are only going to be 1.2' off of the lot line but the addition would be 4.6' and the main portion of the building, just for reference, is 2.9' off the building as it exists. Obviously, he believes this building was constructed in 1897 so it well predates the ordinance. Mr. Wichert said he could go into more depth or he would be happy to just take any questions the Board may have.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Simoneau said he did visit this particular property on Lowell Street. He said it is a beautiful lot and is well maintained. He said he doesn't have a problem with what the Mitchells are requesting.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence on this case. Mr. Landry said he received a voice message from Nick Want of 618 Belmont Street. He read that into record.

***Steve and Kathi Mitchell are looking to add a porch on the back. Steve Mitchell who is a good neighbor, has graciously shown me what the addition would be. It makes a lot of sense to me. It redirects water and snow away from the abutting property right to a safer location for everybody. I think it should be supported and I support and advocate for this variance to be allowed.***

***Nick Want***

Mr. Landry said he didn't see anything further on this case.

Chairman Breault turned the hearing back over to the Board.

Alderman Roy said he would agree with Vice Chairman Simoneau and Mr. Want. He said it is a great property and it is not going to diminish the values in the area, that's for sure. He said he thinks it meets the criteria.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2020-075, 6.03(C) Side Yard Setback which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

4. **ZBA2020-077**  
**300 Karatzas Avenue, R-1A Zoning District, Ward 6**

Eric Mitchell (Agent) proposes to subdivide and consolidate portions 300 Karatzas Avenue (Tax Map 747, Lot 6) and Tax Map 743, Lot 1B, where 300 Karatzas Avenue received a variance in 1993 to construct a single family home with no frontage on an accepted public way, by reducing the width of 300 Karatzas Avenue from 239.90' to 100' for 50% of the lot depth, and consolidating with Tax Map 743, Lot 1B, and where a portion of Lot 1B will be consolidated with 300 Karatzas Avenue and seeks a variance from section **11.04(F)** Expansion or Changes in a Non-Conforming Use, Lot Created by Variance of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 28, 2020.

Eric Mitchell said he could go through the conditions for granting the variance if the Board wanted him to. He said what he would like to say, unless the Board wants to hear that, is that the existing house that was built back in 1993 is there but also what they are dealing with is the lot line adjustment. They are not proposing to create an additional building lot. He said although the driveway location is moving, and the frontage is getting a little bit smaller, it is on a non-public street so they do need a variance because they are changing the existing non-conforming use. They are not creating a new lot, they are just moving some lot lines around and the balance of the property, the 13 acres which is Lot 1B, they are not proposing to build on that at this point. They would either have to come back for a variance or extend the road or get the road approved if that was ever going to happen. Basically, all they are doing is moving the driveway to the existing house that has been there since 1993, and as part of the lot line adjustment, they are adding some additional land to that lot so the existing house lot will have over 3½ acres more than what it does now. The balance of the land which is not proposed to be built on at this point, would still be over 13 acres in size.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Simoneau said given the fact that this is part of Lake Massabesic's Protection Overlay District, do they need approval from the Manchester Water Works. Michael Landry said no because we are just noting that it is in the district, but there is a whole section in the Ordinance that has prohibited uses in that district and this conforms with the ordinance with respect to that district so there are no counts with respect to the district and there is no need to have Water Works weigh in. It is only when someone is seeking relief from one of the prohibitions in that district that we would ask Water Works to weigh in.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence concerning this case. Mr. Landry said he received no comments on this case. Chairman Breault turned the hearing back over to the Board.

Chairman Breault addressed Mr. Mitchell and said the applicant at the time of the previous

variance had the same first name but a different last name. He asked Mr. Mitchell if this was the same person. Mr. Mitchell said the current owner is Jean Gagnon and the prior owner sold the property to Jean Gagnon last year. Chairman Breault asked if the name was Argeriou. Mr. Mitchell said it was and Argeriou sold the property.

Alderman Roy said he had a couple of questions. He said the way he is reading this is that this is a non-conforming lot and he is trying to make this more non-conforming. Mr. Mitchell said no, the part that is where the variance is being requested is not because the frontage is not enough, 100 feet is the required frontage, it is because the frontage is not on an excepted town street. This portion of Karatzas Avenue is not accepted by the City so that they are not making the lot more non-conforming, because 100 feet of frontage is what is required under the zoning. The only thing is that the driveway comes out through a non-city street just like it did before.

Alderman Roy asked Mr. Mitchell if he could explain to him what the hardship is. Mr. Mitchell said the difference here is that the piece of property itself is existing, that the house is there and the driveway location is on a long stretch of road that is paved but it is technically not the city street. The hardship inherent in the property here is that the driveway that goes up to the house now, is winding and is a long distance that goes up to the side of the house and because the house has been renovated and been improved, it is better to have a paved driveway that is coming up to the side which is directly going up to the house. The fact that the driveway is already on the existing road that is there but not a city street is part of the hardship that they have. It is already there. Alderman Roy said he is looking at this map and the new one is going to be twisty and turny too. He said he doesn't see where that is a hardship.

Alderman Roy asked Mr. Mitchell what they were going to do with this land. He said if they were to redevelop this land, they could set this up so there is a city street that has frontage on it. Mr. Mitchell said that was correct and they have had proposals before the staff and they looked at development of the balance of the property and they are still looking forward to coming before the city and the Planning Board to do that. He said because the house is there and is existing and has been rehabbed, they are looking to move the driveway over and have it go straight up to the house and do the driveway first. He said one reason why this is all reasonable is that they are not creating any additional lots and the lot that is there, the second lot which is vacant, they are not proposing that to be a buildable lot. Alderman Roy said at this time. He said Mr. Mitchell's explanation is fine, but he still doesn't agree with him that that is a hardship.

Chairman Breault said it is quite a trapezoidal shape, the second lot is a flag lot and they are creating two flag lots here that are trapezoidal and he agrees with Alderman Roy about the hardship here. He said he doesn't think he would be supportive of this proposal.

Eric Mitchell said as far as the hardship is concerned, Karatzas Avenue is paved down to that area, it is just technically not a city street. By having an existing driveway going to the house that was allowed by variance back in 1993, that is an existing driveway and it is not on a city

street. By moving it, it is a technicality that is still going to be on a non-city street but it doesn't change the circumstances that they just have one house up there that they want a driveway to go straight up to.

Chairman Breault said he sees a proposed lot line on the right side and in the center and a lot line adjustment down at the bottom. He said these are currently two lots and asked Mr. Mitchell if that was what he was saying. Mr. Mitchell said yes. Chairman Breault said by making the lot line adjustment to the left, closer to the property line to the north, you are creating better access off that street for the proposed 13.21 acre lot and the 1.23 acre lot. He asked Mr. Mitchell if that was what he was reading. He said the applicant is creating a 1.23 acre lot that would have access onto Karatzas Avenue and separate 13.21 acre lot without any access to the road. He asked Mr. Mitchell if that was accurate. Mr. Mitchell said no, that is not accurate. He said the 1.23 acres is called Parcel A and that is a portion of the existing Lot 6 that is where the house is and that is being added to the 13 acres out back just as there is 1.5 acres being added to the lot with the house on it. Referring to the plan, he said where the map shows this area through here where it says 1.23 acres, that is not a separate lot. That is land that is going from Lot 6 and being added to the 13 acres out back.

Michael Landry said he had a question for Mr. Mitchell. He said they are consolidating Parcel B with the house lot, if we will. He said there's really nothing in the future to say you can't subdivide that off later when you are ready for development. He asked if that was a fair question. Mr. Mitchell asked Mr. Landry if he meant to take Parcel B off again. Mr. Landry said yes. Mr. Mitchell said no, there isn't as long as the ownership is there. He said part of the reason why that Lot Parcel B is being added to the existing house lot, is that there are good views up there where the house is and by giving that additional land, it helps protect the views from the existing house. He said the Parcel B area is on the side of the hill near the top and the house is on the top of the hill and there are good views from the house. By having that Parcel B added to it, it helps the owner of the house control the land so they can still continue their views and no one else is going to own that land. It is higher than the road and they don't see that there would be another driveway ever going up there. It is just a way of having a 3½ acre lot on top of the hill just for one house. Mr. Landry said he was glad that Mr. Mitchell mentioned the views because he thinks it is important for the Board to realize that variances are granted based on all the representations made by the applicant before the Board and one of the representations made in 1993 was that the siting of the house and the size of the lot was all based on providing a nice view. He said he guesses it would be nice to know that Parcel B isn't going to disappear when this property is developed. We are creating a flag lot, but if there was a representation or condition made that Parcel B was never to be further subdivided, the Board should consider that. He said he was just throwing that out there and just asking the question. Eric Mitchell said they would not have a problem with that being a condition of approval because the whole point of going through this lot line adjustment is to enhance the existing house that is there.

Alderman Roy said he didn't believe that there was any hardship here.

***Jim Roy made a motion to deny the following variance count for case ZBA2020-077,***

**11.04(F) Expansion or Changes in a Non-Conforming Lot Created by Variance which was seconded by Bob Breault.**

Yeas: Breault, Roy

Nays: Simoneau, Prieto, Hirschmann

Upon a split vote, the motion failed.

**Michael Simoneau made a motion to grant the following variance count for case ZBA2020-077, 11.04(F) Expansion or Changes in a Non-Conforming Use, Lot Created by Variance with the condition that Parcel B, as shown on plan dated July 27, 2020, to remain undeveloped and remain a portion of 300 Karatzas Avenue which was seconded by Keith Hirschmann.**

Yeas: Simoneau, Prieto, Hirschmann

Nays: Breault, Roy

Upon a split vote, the variance was granted.

5. **ZBA2020-079**  
**239 Cilley Road, R-2 Zoning District, Ward 9**

Elizabeth Dumais proposes to maintain a 6' high fence on top of a retaining wall where 4' is allowed and maintain a front yard parking space within 4' of a building and seeks a variance from sections **8.27(C)** Fences Walls and **10.09(B)** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 30, 2020.

Elizabeth Dumais said they hired a professional contractor to install a fence on their property for the safety of their child and soon to be child as of next Wednesday and their dog given that they live in a high traffic area. She said they trusted their contractor and took him at face value when he said that he attained all required permits and permissions from the city. She said they apologize on his behalf, obviously, and just want to make it right at this point in regards to the fence. In regards to the second portion, the driveway, this is not something that was cited in their violation letter. It was brought up when they went to the Planning Board Office. She said it has been configured that way since before the year 2000 when aerial photos of the property started to be put into use. They are not looking to alter the driveway in any way, shape or form. They are just trying to maintain the driveway as it is currently configured from two owners ago for safety and aesthetics at this point.

Chairman Breault turned the hearing over to the Board.

Michael Simoneau said he did visit the site and he will concur with Mrs. Dumais that this is a

very high traffic area. He said Cilley Road is a very busy area. He said therein lies the hardship. He thinks that the fence itself and the property, is tastefully done and he doesn't think it reduces any of the values of the surrounding properties. He said it is well maintained and he is in favor of this application.

Chairman Breault turned the hearing over to the public and asked staff if there was any correspondence regarding this case.

Michael Landry said there was a voice mail from Alderman Barbara Shaw. He read the transcription into record:

***I am calling to speak in favor of this. Number one, the fence at its height does not interfere with any vision of vehicles, even the highest truck or car. It does not impede the vision entering Cilley Road because of where it is located and it is set back from the road. I don't feel that this is a typical case because there are other houses in that area that I have seen and in other areas of my ward that are on top of walls so they appear higher, but as long as they are not impeding the vision of any vehicles that are making turns either onto the side street or onto Cilley Road, I am strongly in support of this. I hope you understand that this variance certainly should be approved. I will be willing to speak with anyone that wishes to speak with me. It is very difficult when you have the conditions that we are working with now to adequately support your local residents being an alderman under these circumstances. I have been working with this for quite a few months now and I have looked at this over and over again and I see no reason why this should not pass.***

Mr. Landry said that is all the correspondence on this case.

Chairman Breault turned the hearing back over to the Board.

Alderman Hirschmann said he concurred with Vice Chairman Simoneau that it is tastefully done. He said in the rendering drawings that he sees, it looks nice and protects the children and blocks the noise. He said it would be a hardship probably if you told this lady that she couldn't have the variance at this point.

Chairman Breault said he agrees. He said it is tastefully done. He said just recently the Board approved one at the corner of Lincoln and Holly Streets. It was a similar situation, not on a wall, but a 6' fence on the street yard side on Holly Street. He said in between Lincoln and Holly there is another 6' fence on the property line and whether or not that was permitted, he is not sure, but in this case, he thinks this is tastefully done. He said he gets a little disheartened when he hears that people are led to believe that their contractors are pulling permits. It is really the responsibility of the homeowner. He said in this case it would be a tremendous hardship for them to have to take this down, but there are going to be cases that might become before the Board that will impede line of vision and be denied. Just because we pass this one doesn't mean we are going to pass all of them. That is his personal feeling.

***Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-079, 8.27(C) Fences Walls and 10.09(B) Parking Setbacks which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

6. **ZBA2020-076**  
**131 Bernard Street, R-1B Zoning District, Ward 10**

Allen Gamans (Agent) proposes to construct a 10'11"x11' sunroom with a 3' side yard setback where 10' is required and maintain a 10'x10' shed in the required 20' street yard setback and seeks a variance from sections **6.03(C)** Side Yard Setback and **8.29(A)1** Accessory Structures and Uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 12, 2020.

Allen Gamans said this is a fairly simple thing, they are just looking to extend into the setback for an additional 11' which is the side wall in the sunroom. He said also, if you look at the plot plan, from the driveway, going to the right, there is a catwalk there that is 4' wide. That extends to the backside of the house. There is an area with quite a bit of space that has been used for a long period of time between the setback and also the property line.

Chairman Breault turned the hearing over to the Board.

Chairman Breault addressed Mr. Gamans and said they weren't looking to encroach any further than the carport or the porch that it is currently encroaching. Mr. Gamans said that is correct. He said it is about 80' in length right now and they are going to just add about 11' to that and that is pretty much it.

Alderman Hirschmann said he was just looking at the plot plan and he sees the 3' where 10' is required and he asked Mr. Gamans if there was a neighbor to that side that is close. Mr. Gamans said there is and in fact, he spoke with her this afternoon and she is very much in favor of what they are trying to do. Alderman Hirschmann asked Mr. Gamans if he knew her name and if he could state it for the record. Mr. Gamans said he didn't ask her name. Chairman Breault said if you look at the GIS map at number 121 Bernard Street, there is a significant side yard alongside that property line.

Chairman Breault said he might add that the 10'x10' shed has a fence around it and you really don't see much of the shed from the street yard. He said he did visit this site.

***Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-076, 6.03(C) Side Yard Setback and 8.29(A)1 Accessory Structures which was***

***seconded by Joe Prieto***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

7. **ZBA2020-0081**  
**421 North Gate Road, R-1A Zoning District, Ward 1**

Heather Freeman proposes to install a 16'x34' pool within the street yard setback on a corner lot and seeks a variance from section **8.29(A)1** Accessory Structures and Uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 12, 2020.

Heather Freeman had difficulty joining the meeting. Chairman Breault said this happens to be a corner lot on North Gate Road and Vassar Street. He said it is at the end of North Gate Road. He said they want to locate a pool in what is in essence a street yard.

Vice Chairman Simoneau said his question is really going to be in respect to the fencing required for a pool so close and he realizes the hardship being a corner lot as the Chairman just mentioned.

Heather Freeman joined the meeting. Chairman Breault asked Mrs. Freeman if she heard the comments from Vice Chairman Simoneau asking about fencing. Mrs. Freeman said they pulled the permit for the fence so the yard will be fenced. She said what you don't see is the far side of the property, behind the house there is already a rock wall and a fence that's put up by their neighbor, so they will fence in the remaining three sides of the property.

Chairman Breault said he sees this as a reasonable request. Alderman Hirschmann said the rock wall looks beautiful but that being the neighbor's rock wall, does Mrs. Freeman have to put a fence so nobody could fall from that adjacent property. He said he knows you are supposed to fence in pool areas and it looks great and he would approve this, he just had that question about the wall. He said Mrs. Freeman is construing that as a fence which in reality it is, it is just the elevation of the other property is higher. The whole point of fences is so that nobody can go into your pool like a little child. Mrs. Freeman said the fence will actually connect to the neighbor's fence as well on both sides. She said there will be no access to the backyard. Chairman Breault asked Mrs. Freeman who the abutter was to the back side and what their address was. Mrs. Freeman said that was North Bend in their backyard. Chairman Breault asked if that would be the Kaces at 440 North Bend Drive. Mrs. Freeman said yes, exactly.

The Chairman turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there was a transcribed voice mail

message and he read it into record.

***Our property abuts the back property line of Tim and Heather Freeman. They are seeking a variance in order to install a pool. We are in agreement with this request and have absolutely no objection to this variance. We hope that you will grant them this variance.***

***Sharon Kace  
440 North Bend Drive***

Alderman Roy said he believes that all five criteria are met.

***Keith Hirschmann made a motion to grant the following variance count for case ZBA2020-081, 8.29(A)1 Accessory Structures and Uses which was seconded by Jim Roy.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

8. **ZBA2020-082  
556 Huse Road, R-1B Zoning District, Ward 8**

Kathleen Tarlowski proposes to create one new parking space partially in the front yard within 4' of the building and side lot line and seeks a variance from section **10.09(B)** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 12, 2020.

Edward Tarlowski said they are just trying to extend the driveway a little further. He said Huse Road is a high traffic street as he is sure the Board Members know. He said they just had trouble the way that the house was built that when they built it and the cut the curb, there is really no angle to the curb so you kind of have to turn into the other lane to get into the driveway. They are just trying to extend it a little so they can just pull right into the driveway. He said they have had a few close calls and they thought that maybe extending the driveway a little further would alleviate some of those incidents that they have had so far.

Chairman Breault addressed Mr. Tarlowski and his case representation is that he actually wants to add a whole other parking spot alongside his garage along the property line so he feels that is a little bit more than what he just represented in his statement. Chairman Breault said when he drove by, he noticed he was already using parking on the lawn on that side, anyway.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He asked

Mr. Landry if there was any correspondence from the Public on this case. Mr. Landry said there was an email and a transcribed voice message. He read them into record.

**Hello,**

***I am responding to the notice in regards to case #ZBA2020-082, request to create one new parking space. My brother and I are the homeowners to the property at 554 Huse Road and are requesting that this proposal not be granted. We are aware of where the proposed driveway will be placed and we have to strongly advise against it. The reasoning for our disapproval is that our home is in close proximity to the requested area. We have a living room and bedroom that will be subjected to exhaust gas, direct car light and noise. That current bedroom is occupied by a child and her safety is a priority. In addition, the property at 556 Huse Road has a water runoff on that side of the house. If a driveway is placed, I am in fear that I will be subjected to water damage in my basement area as my property has a decline in the land causing the water to collect and pool which is due to the builder removing a porch that used to be placed there. I am attaching photos for your review. Lastly, I do have to disagree with the statement made in regards to resale value of my property not being affected is unfounded. Privacy and space are commodities that most homeowners look for and will pay more to have as space is becoming more limited. This will impact the resale value of our home.***

***This property was sold as a 2 car parking and the new owners were aware of that at the time of purchase. Most of the homes in the area are 2 car parking. It may be beneficial for them to explore requesting a new parking space on the other side of the property where they are not in close proximity to the other house and are not near their propane tank. I do appreciate your attention in this matter.***

**Thank You,  
Jennifer Martinez**

Michael Landry said the next one was a voice message and he would read it the best he could.

***I got a letter in the mail at 540 Huse Road in Manchester, NH and the property location you are looking for is 556 Huse Road and the case number is ZBA2020-082. In regards to the addition to this driveway, there was a driveway put on in the house less than a year ago and the inspector made the builder take the driveway out and the owner had to take the driveway out before these people took occupancy. It doesn't meet the setback and is not acceptable because that is a residential area. It is a very busy street on Huse Road to try to get out and they knew that when they bought the house. Also, the runoff from the water where it approaches the neighbor's yard that goes down in a gully now, because the builder had to make a tunnel there so it is going to affect the neighbor's house. I'm not in favor of this at all. It was already put in once and the inspector made them take it out. Now they are trying to do it again. That is why we have regulations. A little bit encroaching is ok but how far is that off on the setbacks.***

Mr. Landry said unfortunately, the person didn't leave her name and the Board can take it for what it is. He said that is all he has.

Chairman Breault asked Mr. Tarlowski if he wanted to comment on this. Mr. Tarlowski said he couldn't speak for what the builder did prior to him purchasing the house. He said there is no runoff that is there now. He said if you look at the second picture or inside the first picture with his wife's car in the driveway, they aren't going all the way down back so it wouldn't be affecting their living area with fumes or anything like that. They are just trying to get a little more space because it is a very narrow driveway and a very dangerous road to try to back out of and to pull in. He said he is not looking to go all the way down the yard. He is just looking to go over a little bit to where that fence is and where his drain pipe is. He is not looking to go into the yard near their house at all. He said he just needs some relief because it is very hard to get off of the street into his driveway without having an incident. He said that is his hardship.

Chairman Breault turned the hearing back over to the Board.

Alderman Hirschmann said the drawings in the packet are perfect in this case. He said looking at the last drawing, it shows both homes, both tastefully done with yards and driveways that look good. He said you can see the abutter who wrote the letter, Ms. Martinez, and where Mr. Tarlowski drew the parking space beyond his garage so that he would be parking in proximity of her house. He said he thinks she would have a hardship. He said you are going to have car doors slamming and stuff like that. We don't really want that and that is why you have setbacks. As far as the hardship goes, Alderman Hirschmann said he doesn't know why he can't park on his existing apron and park inside his garage.

Mr. Tarlowski said he had three vehicles and he has a car in the garage that you can see in the photo. He said in the drawing, when he went to go apply for this variance, that is where he was told to put it. He didn't want to go that far down. Like he said, he is looking to go just right next to where that white vehicle is. Chairman Breault said that Mr. Tarlowski wants to add a full parking space, 8½' wide. Mr. Tarlowski said yes. He said the other thing too is it is mentioned in the letter to build on the other side which is impossible because if you look at the photo, his other neighbor on the other side, their driveway abuts his property there and he wouldn't have room to put a driveway. That would be in his front yard.

Chairman Breault said he recalls when these properties came before the Board for a variance when the developer developed this. He said the garage was to remain by variance and he asked Mr. Tarlowski if he had that existing garage in the back of his property. Mr. Tarlowski said yes. Chairman Breault said his recollection is that he was asked how you are going to access that garage and they didn't have any comment this time so here we are. Mr. Tarlowski said for clarification with that garage that is in the back, that garage door is for like lawnmowers, it is not for a car. It is more of a shed. The previous owner used it as a workshop for lawnmowers and snow blowers. Chairman Breault said the previous owner was the developer, Sirron Development. Mr. Tarlowski said prior to that. He said the previous owner was the Grandfather of the Martinez's next door. He said this was their

Grandfather's property, all one big piece and that was his workshop out back which the builder kept.

Alderman Roy said he agreed with Alderman Hirschmann the way it is set up from what he can see, there is going to be a problem with lights and everything else. He said the other comment he wanted to make was when they did come before this Board and got granted for three lots, you knew it was going to be tight in there. All of the other lots they had are identical to this. Having gone through that neighborhood, he doesn't think he remembers seeing a lot of other places that have all this front yard parking. He said he thinks this really doesn't fit into the neighborhood. Mr. Tarlowski said the neighbor next door to him has four spots and Ms. Martinez has a round driveway, a half driveway that holds at least six or seven cars. He said it is all around him and he is just looking for one space.

Chairman Breault said everybody seems to have a problem with what Mr. Tarlowski has drawn for a plan and the car encroaching beyond his driveway close to the fence and close to the abutting piece of property. Mr. Tarlowski said it was hard to draw and he really didn't know what to put. He said when he went to the office, they told him this is what he should do. He said he knows what the Board is looking at and he doesn't want to be beside the garage. He doesn't want it to be there at all. He just wants to be right where that white car is next to it. Chairman Breault said his representation on this case is what the Board sees before them and that is what they vote on. Mr. Tarlowski said he understood.

Chairman Breault asked the Board if they wanted to vote on this without prejudice and give them an opportunity or table this. Michael Landry said he hears where the Chairman is going on this and the Board may want to give Mr. Tarlowski an opportunity to kind of re-think this. He said he understands what Mr. Tarlowski is saying and he probably did get some direction like that, that this is probably the most conforming place to put this space. He said now that we have heard from the neighbors, it changes that. Mr. Landry said if the applicant is willing to take another stab at it, he can call him and they can meet again next month and the abutters would get notice by an announcement if we do table it. He said he would make an announcement later and that would be the public notice. He said the Board may want to table this case, and if that is where the Board wants to go, we can see if the applicant can come up with a solution that takes into account his neighbor's concerns. He said he thinks that would be good for everybody.

***Keith Hirschmann made a motion to table case ZBA2020-082, to the October 8, 2020 ZBA Meeting which was seconded by Jim Roy.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was tabled to the October 8, 2020 ZBA Meeting.

Chairman Breault said motion passes to table this case to the October meeting and he would

encourage Mr. Tarlowski to meet with the staff and potentially even speak to his neighbor and see if they can come to an agreement where she would not be in opposition. He said to keep in mind that the property which is made up of three lots now, the one to the side of Mr. Tarlowski, the one to the rear of his property which is behind the one to the side of his property, were all part of one lot at one time. He said they came before the Zoning Board for subdivision approval on some of the conditions of these lots, variances for the subdivision and the existing home to the left has been there and predates the ordinance. It is a longstanding home regardless if it was family or not, that driveway is a pre-existing condition and is allowed to be there for many years. He encouraged Mr. Tarlowski to meet with staff and see what he can do about getting this resolved and making this favorable for him.

Michael Landry announced that there will be no more notices sent out to abutters. Case #ZBA2020-082 for property located at 556 Huse Road, by Kathleen and Ed Tarlowski, will be heard on October 8, 2020 at 6:00 pm and it will be in a virtual setting. Comments are to be sent to ZBA@manchesternh.gov.

9. **ZBA2020-083**  
**677-679 Belmont Street, R-2 Zoning District, Ward 2**

Scott Landry proposes to create four new front yard parking spaces with one space within four feet of the street lot line and seeks a variance from section **10.09(B)** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 18, 2020.

Scott Landry said he didn't have anything to add and Chairman Breault turned the hearing over to the Board.

Chairman Breault said he is somewhat familiar with this property just based on where it is at the corner of Reservoir Avenue and Belmont Street and Reservoir Avenue leads you off the hillside on the backside of Derryfield Park. He said it is a rather busy road during the school period. This property right on the corner, used to be covered with all shrubs which affected the line of sight. He said he visited the site recently and discovered that the shrubs are all gone. He said he recalls a deck being almost at ground level alongside the gazebo and that is gone. He said Mr. Landry has taken efforts to clean up the site. The city is putting in a new sidewalk on the Belmont Street side and he thinks this is an improvement to that corner. He said the parking is kind of a problem. He said it was kind of a peculiar site if anybody went by and took a look at this. The driveway is shared with the abutter and it appears from this drawing that the garage structure is also shared with the abutter. It is kind of peculiar and we don't see this very often. The driveway is shared, the garage is shared and it almost looks like it would be difficult to get in and out of that property. It appears that Mr. Landry is trying to make it a little better for the tenants in that building to be able to park off of the street and keep the cars off of Reservoir Avenue. He said he looks at this as being a benefit to the neighborhood in cleaning up.

Alderman Roy said he agrees with Chairman Breault. He said that is a really tight neighborhood and there are a lot of difficulties parking there. He said it is a very, very busy street when school is in session, if it ever goes back in session. He said he thinks it is a good idea and it actually makes the area safer if we can get more cars off of the street. He said his only concern is that they are going to have difficulty turning around and come head out, but good luck to them.

Vice Chairman Simoneau said he concurs with Chairman Breault, also. He said it is a two-family so four parking spots are appropriate. He said he is also in support of this application.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there were three letters and he read those into record. He said the first letter was from Walt Kalisz.

***Being the closest abutter to the property, 677-679 Belmont Street, we have had a hardship because of people parking in the right of way driveway.***

***Scott Landry now wants to alleviate the problem by putting in additional parking spaces on his property so that the tenants will be able to park and not block the right of way.***

***I am in full support for the additional paving to stop the hardship driveway.***

***He has also cut down all the bushes which were blocking the view of drivers when they came to the corner. He is also going to remove all the decking that was there and make the yard more appealing.***

***I feel that what Scott is doing with the paving is making the corner look more appealing and will improve the property.***

***Sincerely,  
Walt J. Kalisz  
83 Reservoir Avenue***

Mr. Landry said the second letter is from Diane Lanctot.

***I own and reside at the property of 713-715 Belmont Street which is directly across the street from 677-679 Belmont Street. The crossing intersection of Reservoir Avenue and Belmont Street is a traffic hazard. Many people run the stop sign and we have had multiple car accidents as well. It is also a school walking area which has also been an issue for safety of all walkers.***

***Scott Landry, new owner of 677-679 Belmont Street, has removed all the shrubs on the Reservoir side of his building to provide for additional parking which I am in all favor for. The cars parked on both sides of the street, becomes a one way lane which is a hazard in my opinion.***

***I would agree and totally support for him to add a paved area for more parking to decrease incidence of accidents and allow for a better view on oncoming vehicles and children walking to school. It would also decrease the cars parked on both sides of Reservoir Avenue.***

***Thank you,  
Sincerely,  
Diane Lanctot  
713 Belmont Street***

Mr. Landry said the next letter is handwritten and he would do the best he could.

***I, Raymond Maurier and Penny Maurier of 690 Belmont Street, Manchester, NH are ok with the extension of the driveway at Belmont Street – Reservoir Avenue in Manchester. Please feel free to contact us if need be.***

***Thank you,  
Raymond Maurier  
Penny Lee Maurier***

Mr. Landry said that was all he had for correspondence on this case.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault asked Scott Landry if the first letter from Mr. Kalisz was his abutter alongside him that shares a driveway. Mr. Landry said yes, it was. Chairman Breault said he was the most impacted abutter and obviously, they have had difficulties in the past with sharing that driveway and this would appear to alleviate part of that problem.

Michael Simoneau said he does believe that this application meets the five criteria.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2020-083, 10.09(B) Parking Setbacks which was seconded by Jim Roy.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

10. **ZBA2020-080**  
**408 Cedar Street, R-3 Zoning District, Ward 5**

Joseph Wichert, (Agent) proposes rebuild a fire damaged three family dwelling on the same footprint, with no expansion, where the one year period to rebuild allowed by ordinance has

lapsed on May 15, 2017, with a side yard setback of 3.6' where 10' is required, with a floor area ratio of 0.91 where 0.75 is allowed and without the required 10' landscape buffer around the parking area and seeks a variance from section **11.05(C)** Restoration of Damaged Non-Conforming Buildings of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 19, 2020.

Joseph Wichert said he was appearing on behalf of Linh Ho. He said if you look at the zoning notice there are a multitude of counts that are being called out here. He said there are a couple of things that they would like to bring to the Board's attention. He said Mr. Ho purchased this property in May of 2020 and the property was damaged by a fire in 2016. He said as most of you are aware, if the property had been rebuilt within 12 months, all the zoning items would be waived and it would be just be rebuilding grandfathered and everything would move forward. Unfortunately, the previous owner had some difficulties and could never quite get back on track. There were plans submitted to redo some things and then unfortunately, some of the improvements that had been started didn't comply with the plans that were submitted. After 12 months, because they didn't extend the permits and there was nothing finished, so the vesting lapsed. What Mr. Ho is just basically proposing is to go in and rehabilitate the structure, make improvements to the property and get it back such that it is not an eyesore and a detriment to the community.

Mr. Wichert said on the variance counts, during the interim, since he's purchased this property, Mr. Ho has hired him and they've done the survey and submitted for the variance and he has had a structural engineer go in and go through the property. He said they have submitted plans to staff identifying what was done correctly and what was done improperly and how it needs to be fixed to become code compliant. They are here this evening basically to allow this building to be rehabilitated. There will be no expansion in footprint from what currently exists. All of the parking spaces are going to exist on existing asphalt and each of them are 3" short, unfortunately, of the 4' setback. He said they have five spaces in there and they would need six under the current rules, but because they are rebuilding in place, he believes under section 11.05(C), Restoration of Damaged Non-Conforming Buildings, he thinks it eliminates the need for them to go to the Planning Board for a conditional use permit for the reduction in parking spaces. He said he thinks that covers it. He said Mr. Ho is actually trying to make a good faith effort and do the proper permitting so he can move forward and get this building fixed up and get it back where it's not what it is today.

Chairman Breault turned the hearing over to the Board.

Alderman Roy asked Mr. Wichert hypothetically, if this had to come completely down, with that size lot, what could he put in there? Mr. Wichert said a three-family. Alderman Roy said he could put a three-family in there? Mr. Wichert said he believes so. It is zoned R-3 and a three-family is allowed by right with a 5,000 square foot lot. Alderman Roy said he was worried that if the Board didn't approve this that it wouldn't be a three-family and it is pretty much all three-family dwellings right there. Alderman Roy asked Mr. Wichert how extensively burnt it is inside. Mr. Wichert said he has not gone inside. There was some significant fire damage and they hired Steve Goguen who is a structural engineer. He said he

believes that the bones of the main building are in alright shape and he thinks some of the problems were the deck that is on the east side of the building, that wasn't built per the architect's original plan. He said what was built wasn't necessarily up to code, so there were some notes made about how to sister some of the lumbers to make it stronger and he believes in the basement, there is a plan for some lally columns and extra supports and he thinks that was the majority of it. He said he thinks the rest of it is a rehab that is probably going to have to go down to studs, but he thinks otherwise, the structure is ok.

Alderman Hirschmann said he was ok with this rehab and bringing in the structural engineer sealed it for him. He said that cured his questions.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence on this case. Mr. Landry said there was a voice mail and he read the transcribed voice mail into record.

**Mike Wesson**  
**273 Spruce Street**  
**Manchester, NH**

***I'm calling because I would like to make a comment. I'm seeing that they are talking about rebuilding the property. Hopefully, you folks do have the time to take a look at the building. I am hoping that when this is rebuilt that you tear down the current structure and put up a new one because the current structure has so much fire damage and it is probably going to get hidden in the rebuilding process which I think is detrimental to anyone that might be moving in there. I would think however this goes, that the reconsideration would be to replace the fire damaged building and not to cover up some of the ashes and wood burn that is in there. I don't have a problem with a new building going up, but I have concerns for using the current building.***

Mr. Landry said that was all the correspondence he had on this case. He said he believes Mr. Wichert addressed it and he just wants to go on record saying that any permit is going to be conditioned following the code and the code does address these fire damaged buildings so hopefully, Mr. Wichert's engineer does his job and identifies areas that need to be removed or covered or just do the right thing. He said if this isn't done properly and you have burnt studs and any wood that is covered up, that burnt smell is never going to go away. He said it needs to be done right and he thinks the Building Department and the Building Inspector will make sure it is done properly.

Mr. Wichert said they did submit, both to Karl Franck and Glenn Gagne, the plans from the structural engineer. He said he doesn't have them with him right now and he knows that they addressed load bearing and the timbers and all of those other items. The one thing he can't address is he is not 100% certain if they addressed replacing burned wood or whatever. He said he would have to go through that report and see what it is. He said he knows the previous owner, back in 2016 he believes, actually had an architect go through with plans as well to update this. He said structural and construction are not his expertise.

He is assuming, like Mr. Landry said, that all the plans were done in accordance with the regulations and the inspections are going to go through and identify any other issues. Mr. Landry said he wanted to put any concerns to rest that the Building Inspector and the Building Department will make sure that this is done right. He said people bring back fire damaged buildings regularly. This is nothing new. He said he just wanted to address those concerns.

Chairman Breault said there are ways to remedy the odors and the charred wood and stuff like that. He said he is confident that the Building Department staff will make sure that this is a structurally sound building.

Alderman Hirschmann said he thinks it would be worse for neighborhood not to build on this existing footprint because the building would just sit there for a few more years.

***Keith Hirschmann made a motion to grant the following variance count for case ZBA2020-080, 11.05(C) Restoration of Damaged Non-Conforming Buildings which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

11. **ZBA2020-084**  
**69 Tondreau Court, R-1B Zoning District, Ward 10**

Rick Martin (Agent) proposes to maintain a driveway with a width of 28' where 24' is allowed and create a new parking space partially in the front yard to accommodate the conversion of a portion of the existing carport for the expansion of the kitchen and seeks a variance from sections **10.08(C)** Driveways Width and **10.09(B)** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 19, 2020.

Lana Dal Molin said she was the property owner. She said she was looking to increase the paved driveway for the reason that they wouldn't have the money to remove it. They were not aware that they weren't allowed to keep it and therefore they wouldn't be able to add a dining room to their house. They are trying to create better living space. She said she has two step-children and since they bought the house, she had a son as well. They are trying to create a dining room to have a better space in the house.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he would add that the applicant states that their neighbor has something similar and he drove through the neighborhood and he witnessed similar homes

with carports that have been converted into garages and/or living quarters similar to what Mrs. Dal Molin is trying to do. He said it is pretty common and he doesn't think it will hurt values in the neighborhood and he doesn't think it is going to take away from anything.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there was no correspondence on this case. Chairman Breault turned the hearing back over to the Board.

Alderman Hirschmann said he didn't have any problems with this request.

***Joe Prieto made a motion to grant the following variance counts for case ZBA2020-084, 10.08(C) Driveways Width and 10.09(B) Parking Setbacks which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

12. **ZBA2020-085**  
**200 Wells Street, R-1A Zoning District, Ward 6**

John Monfet proposes to construct a 20'x26' one-story garage 4' from the side lot line where 20' is required and maintain the expansion of front yard parking resulting in one additional parking space for a total of three with a 25.5' driveway width where 24' is allowed and seeks a variance from sections **8.29(A)2** Accessory Structures and Uses, **10.09(B)** Parking Setbacks and **10.08(C)** Driveways Width of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 21, 2020.

John Monfet said this was the first time he ever had to pull a permit for anything and he is just looking to clear up some of the outside storage such as his riding mower which he has covered by tarps and he thinks it would be a big help with storage for him and his neighbors are all on board with it. He said his abutting neighbor on the other side of the fence where the garage will go is actually going to help him do a foundation and stuff so it should be good. He said he thinks it will look really nice for the neighborhood.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he would add that Wells Street is a pretty narrow street and parking off of the street is definitely needed. He said when he visited the neighborhood, there was one car parked on the street and it was difficult getting by. He said he thinks it warrants getting those cars off the road.

Alderman Roy said he had just one question. He said on one of the drawings the Board had,

it looks like Mr. Monfet has sheds further back in the property. He asked if that was correct. Mr. Monfet said there was an existing shed before he bought the house that was already taken down. He said he didn't realize that it was still on the property lot that he probably pays taxes on. Alderman Roy said that's fine and if it is not there, he can appreciate that because his new lot plan doesn't show it and he wanted to know if he was going to remove those. He said if they have been removed, that's great.

Alderman Roy said he had a question for staff. He said on the same diagram that he is looking at which is kind of a blown up of the GIS map and up towards the top of the page it says 200 which is the address. He said it looks like they are building this parking area in the right of way and asked staff if that was correct or is that just the apron going down to the street that shows there. He said he didn't have any problem with this, but the Chairman is right. It is a really old tight neighborhood and if you can get parking off of the street, that's great, but he just wanted to make sure that Mr. Monfet didn't do something was going to haunt him in the future if it is actually built in the road right of way. Mr. Landry said Mr. Monfet is certainly entitled to connect his driveway to the right of way with an apron. He said he was looking at GIS right now and he is looking at the 2018 aerial. He addressed Mr. Monfet and said he was going to assume that his plan, which is stamped by a surveyor, is accurate and it is simply not showing the limits of the travel way because the way he sees GIS, it looks as if from the property line to the travel way is almost 8'. He said he guesses that is something for Mr. Monfet to be aware of and he is already getting a count for that. He asked Mr. Monfet if he was going to be paving up to the driveway, right. Mr. Monfet said the same neighbor he was talking about previously does paving and he is going to handle that. He said he thinks springtime is going to be the better time to do it so he was advised to call it a storage garage. He said he is going to put the mower in there and he has an older car and a motorcycle that he is going to store there and stuff like that. He said he is not in and out of it daily, but it is going to be paved up to there as soon as he gets more money.

Michael Landry addressed Alderman Roy and said when this is built out, it will work. Alderman Roy said no problem, he just didn't want him to get in a bind in the future. Mr. Landry said we like to foresee problems and help people avoid them. He said that is a good thing and he thanked Alderman Roy for pointing that out.

Alderman Hirschmann said he had a question about the placement of the garage. He asked if it was necessary to have it 4' from the lot line. He asked why it couldn't be moved if the applicant is just storing things in there and not vehicles and just lawnmowers. Why can't it be moved and why does it have to be up instead of 10' or 15' from the lot line. Mr. Monfet said he was further looking to kind of keep lined right up to the back of the house. He said there is probably a forty year old fence right now in the front which has been there when he moved in, obviously, but he is looking to eliminate that and just have the garage with just a gateway to go into the backyard and maybe further down the line, where the deck is, kind of maybe do a mudroom to it or something years from now. He would like to kind of connect it to the garage as a walkway in case he wants to pull in and avoid the snow and just walk into the house. He said he guesses if the deck wasn't there, he wouldn't have had this problem and it would have been within the limits, but because the deck was added back in 1994, it

has to be beyond the deck to make the clearances. He said he is just basically just asking for it to be like 8' closer.

Chairman Breault addressed Mr. Monfet and said the topography of the land climbs in the back, does it not? Mr. Monfet said the back is pretty level, it more goes to if you are looking at the front of the house, it climbs to the left side of the backyard more toward the house side. It is level there and for the most part, it is going to need just a little bit of adjustment to get a little cement pad there for the garage. He said he thinks it would look better from the street 100% and hopefully it will add value to the house and all that stuff.

Michael Landry said Alderman Hirschmann raised a point and Mr. Monfet answered it but he just really wants to emphasize that that garage by right could allowed 4' from the side lot line if it was shifted beyond that rear deck. Because it is not, that is why he needs a variance. He said he thinks that offers some perspective. He said he did talk to Mr. Monfet and he said he just didn't want to have to plow that much if he moved it another 10' behind the deck. That is just another 10' of plowing and paving and all that stuff. He just wanted to put that 4' into perspective that it would be allowed if it was further back.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there was no correspondence on this case. The Chairman turned the hearing back over to the Board.

Alderman Roy said he believes this meets the five criteria.

***Jim Roy made a motion to grant the following variance counts for case ZBA2020-085, 8.29(A)2 Accessory Structures and Uses, 10.09(B) Parking Setbacks and 10.08(C) Driveways Width which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

13. **ZBA2020-087**  
**559 Dix Street, R-2 Zoning District, Ward 7**

Tammy Shah proposes reconstruct, with expansion, stairs at the front and side entrances to improve building code compliance and safety by creating new stair landings with a 6' side yard setback where 10' is required and a 6'6" front yard setback where 15' is required and seeks a variance from sections **6.03(A)** Front Yard Setback and **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 21, 2020.

Tammy Shah said on their deed, it says that their house was built in the 1950's, however

they have a fieldstone foundation which really puts their house as being built somewhere around the 1930's. She said she thinks that it well predates the ordinances that we are speaking about. She said also, their home where it sits currently 6' from that side property line and it is not their intention to surpass the edge of their house with the new landing at the side stairs. She said they don't want to go any further into that 6' setback so what they really are trying to do is to make the steps safe, bring them up to compliance and have a good landing at the top because it is difficult to navigate.

Mrs. Shah said as far as the front steps are concerned, they really are not even usable. She said she wasn't very savvy when she bought the house so it didn't occur to her to even look at them, but the step heights are a 9", a 9" an 8" an 8" and then an 11" step into the actual home. They never use those steps and it would be nice to be able to and also, there is no landing. She said for them, it really kind of creates a safety hardship if they are denied their variance.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he did visit this site and the applicant is representing what he witnessed as well. He said the fact that they aren't encroaching any further into that side yard than the 6' that they already had, he thinks is good. He said they are trying to make these entrances more useful and compliant. He said it is an older, tight neighborhood and they don't have plenty of room to expand things so he would be in favor of this.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there was an email from Alderman Ross Terrio, of Ward 7. He read the email into record.

***I support the requested variance by Mitul and Tammy Shah for their home at 559 Dix Street. I have known the Shah family for some time and they are good people. Further, their request is reasonable because it will improve their property while having minimal impact on their neighborhood.***

***Ross Terrio  
Alderman, Ward 7***

Mr. Landry said that is all he has on this case.

Chairman Breault turned the hearing back over to the Board.

***Keith Hirschmann made a motion to grant the following variance counts for case ZBA2020-087, 6.03(A) Front Yard Setback and 6.03(C) Side Yard Setback which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

14. **ZBA2020-086**  
**132 Bellevue Street, R-1B Zoning District, Ward 9**

Ben Finney (Agent) proposes maintain a 12'x18' portion of a carport enclosed for a porch with a 14' street yard setback resulting in a parking space within 4' of the building and partially in the front yard, and create one new parking space in the street yard and 3.5' from the lot line where 4' is required and seeks a variance from sections **6.03(A)** Street Yard Setback and **10.09(B)** Parking Setbacks (4 counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 24, 2020.

Ben Finney said he is living at the house with the owner, Mrs. Zhang. He said she bought the house in 2014 and unbeknownst to her, the enclosed porch was out of code. As far as the Overland Street side parking, he believes it is within the characteristics of the neighborhood. He said a couple of examples are, two blocks up, right on the corner of Dudley Street and Overland Street, there is a driveway on each side, one entering from Dudley Street and one from Overland Street and there is another property just at the end of Public Street where it ends at Overland Street, there is a house that has a very small driveway that is right up against the building that is next to it. He said he could imagine that there is either some kind of variance or it is out of code. He said they pride themselves and maintain the exterior of the property. They do mulch every year along the street. The outside of the Overland side of the house was freshly sided and painted this year which is right above the sun porch. The sun porch was painted last year and he refilled the driveway last year as well so they do have pride of ownership and they tried to keep the aesthetic of the outside looking nice.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he assumes that the fence that encloses the backyard must be modified for that driveway. Mr. Finney said that was correct. He said they will plan to maintain the fence which is a white vinyl fence that you can kind of see through and it is 6' tall. He said they will plan to wrap that around the new parking space. Chairman Breault asked Mr. Finney if he knew if that fence was permitted and said it doesn't appear to be 6', it looks more like a 4' fence.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence on this case. Mr. Landry said he had two letters in opposition on this case. He read them into record.

***My Comments in regards to this case are the following:***

***Firstly, it seems the dimensions on the plan submitted are incorrect. The 14' shown, in reality, is more like 5' (or less). That being said, I am not sure how a permit can be granted***

*where accurate dimensions have not been provided.*

*Next, I would like to address #1 on the Zoning Board's list of criteria. "The variance would not be contrary to the public interest". A new driveway added just as you turn from Bellevue Street onto Overland Street does pose a safety concern. There would be little visibility to that driveway on a somewhat busy corner. In order to put a driveway in that area, current fencing, to some degree, will need to be removed as that would further impede visibility. As the adjacent neighbor, how much of the fencing will be removed?*

*That question leads to my next comment*

*Lastly, I would like to address #4, "The values of surrounding properties would not be diminished". When aforementioned fencing is removed, the backyard of this home will be further exposed. What would become of the existing piles covered in tarps? These piles have been there for years so clearly they are not being used for any current home improvements. Piles like these invite critters. Due to the situation in their yard, property values have already been diminished and further modifications to this property will only drive them lower. No one wants to live adjacent to a junkyard. They have made it impossible for me to enjoy my own yard given what I have to look at. Please see current photos enclosed.*

*Please consider denying this variance.  
Thank You,  
Nancy Petrowski*

Michael Landry said the next letter was from Martin Miccio and he read it into record.

*As an abutter to the subject variance, I have concerns with the plan and application accepted for review by the Zoning Board.*

*The submitted plan is not an accurate drawing of the property. The parcel shape is a right trapezoid not a rectangle as depicted on the plan submitted for review. The dimensions do not fit with the deeded lot dimensions (lots 20, 20A, and 21 on HCRD plan 411), nor the current city GIS mapping.*

*The submitted plan shows the dimension from Overland Street as 14' where the actual dimension from building to the street right of way is closer to 4'. It appears the applicant based the drawing on the edge of pavement rather than the legal street, both on the Overland Street and Bellevue Street sides.*

*The driveway shown on the plan shows a large portion of the parking area being located within the city right of way. I believe encumbrances of a city street right of way, requires action by the Board of Mayor and Aldermen.*

*It would seem the Zoning Board should not grant a variance based on the erroneous data*

***presented.***

***In the relief sought area of the application the applicant states several times the granting additional variances on the property would not pose a “threat” to the public. That is not the criteria for a variance.***

Mr. Landry said Mr. Miccio goes on and lists the criteria and highlights portions of the applicant’s justification for the criteria. He said he would just read the highlights. It reads “poses no threat”, “no threat to public safety” and at the very bottom, the structure was built before current owner purchased the home”. Mr. Miccio continues:

***Adding a second curb cut for an additional driveway so close to an intersection is an additional burden to the public use of a fairly busy street. Allowing parking vehicles across the right of way encumbers the city right of way.***

***This property has already been granted 3 variances, so how would allowing additional variances be in keeping with the spirit of the ordinance? Granting numerous variances undermines the purpose of having ordinances.***

***There is nothing unjust in following the ordinances.***

***Granting a driveway into the rear yard of the property will make the current unsightly piles of materials even more visible than they currently are now and lower property values even further. If a driveway is granted, what will the owner do with the current piles, stack them higher? What vermin are making home amongst these existing piles can only be imagined.***

***The application states the structure was built before the current owner purchased the property which is true, however, the current owner has substantially changed the use from a screened in sitting area to an enclosed storage area. The application photograph does not accurately reflect the current use of the “porch”***

***Thank you for considering the opinions of this abutter,***

***Martin Miccio  
125 Bellevue Street***

Chairman Breault invited Mr. Finney to comment on these letters from abutters.

Mr. Finney said he would like to weigh in. He said first, he wishes he could apologize to the abutters about the piles in the backyard. He said his plan with those piles is if this moves forward, those piles will be gone by next spring. He said he has made his best effort to cover them with tarps that are earthy colors so it doesn’t affect visibility. Apparently they are not happy with it but as it pertains to this variance that he is requesting, the number one issue is that the proposed driveway on Overland Street would be a hazard because it is on a fairly

“busy” road. He said he would very much disagree that this is a busy road. It is not a through street to any major roads and he would say at most they get two to three cars per hour would be the average past the house. He said as he mentioned earlier, there is a house right up the street on the Corner of Dudley Street and Overland Street that has two driveways just like he is proposing here. He said one issue seems to be this 14’ mark that he has on the plans from Overland Street and it is not marked as from the street to the edge of the building, it is from the street, he believes, to the inside of the parking area is he believes that was notated as. He said he doesn’t have the ability to go out and measure it right now and he thinks they are correct. That is not 14’ from the edge of the building to the street, but he doesn’t believe that that is what that was supposed to be notating. He said he didn’t know that there were any other points. He said the fence again, will not be removed, it will be put up again and further he doesn’t see how the piles in the backyard are really relevant here to this situation. He said he is asking everybody to consider, although the piles are unsightly and he wished the neighbors would have just come talk to him, he doesn’t feel that that is really a relevant issue here. It is more of an issue of safety and he really doesn’t feel that this poses a safety issue whatsoever on Overland Street.

Chairman Breault turned the hearing back over to the Board.

Alderman Roy asked Mr. Finney who drew that map. Mr. Finney said he drew that map. He said he is not an experienced engineer. He said he does own Concord Construction and is a licensed Massachusetts contractor. Alderman Roy said Mr. Finney said he didn’t know what that 14’ was intended for but if he drew the map, what did he intend it for. Mr. Finney said he was getting a little confused by it himself to tell the truth because he goes through so many details in a day and he drew this map a couple weeks ago.

Alderman Roy said one of the things that Mr. Finney said was that he takes great pride on the outside of his home but he is looking at these pictures and he has to say that that isn’t quite true but that is neither here nor there, either. He said South Beech Street to Brown Avenue, Overland Street is a cut through. He said he knows because he used to live in the area and used to use it all the time. He said there is quite a bit of traffic that goes through there.

Alderman Roy addressed Chairman Breault and said this abutter, Mr. Miccio, is a Licensed Land Surveyor and he brings up some very salient points, he believes about this map being off. With that being said, he said he is not comfortable with making a decision at this time without having an actual survey of this lot because as he states here, if the parking here is going to be located in the city right of way then the Board of Mayor and Aldermen are going to have to act on it. He said he thinks this application is incomplete, actually.

Michael Landry said he thinks that Alderman Roy just stole his thunder. He said the plan really shouldn’t be the basis of any action at this point. He said he thinks that Mr. Miccio, like Alderman Roy said, is a well-known surveyor in town. He said he was looking at the GIS map now and he realizes that the edge of that carport is probably somewhat less than 5’. He said the plan is just not sound enough to act on.

Chairman Breault said the Board could either vote on this as we see it or the Board could make a motion to table this case. He asked Mr. Finney if he would be prepared to provide a certified plot plan by a surveyor. Mr. Finney said he would need to scratch his head on that and he potentially would. He said he doesn't know if it is possible for anyone to just weigh in generally, if they felt that they would be inclined to pass it if he does that because obviously, it is another several hundred dollars for him to spend to move this forward. He said he is not sure if that is possible for anybody to weigh in.

Chairman Breault said without having an actual survey in front of him, he wouldn't be in a position to say yea or nay on this and he thinks other Members of the Board would be in agreement with him there. He said the Board needs to see the facts on what it is and this is not representation of the actual conditions there. The measurement from the edge over to the street is 14' which probably puts him on the right of way and puts that second driveway in the right of way. He said Mr. Finney had a choice and the Board could vote to table this and let it be at his discretion what he chooses to do and if he chooses not to pursue it any further, he could withdraw the case or the Board could vote on it and chances are he would be denied based on this plan. Mr. Finney said if it was up to him, he would choose to table it.

***Keith Hirschmann made a motion to table case ZBA2020-086, to give the applicant the opportunity to return to the Board with a certified plot plan which was seconded by Joe Prieto.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was tabled.

Chairman Breault addressed Mr. Finney and said obviously, he needed to come back with a plan that is more accurate and more representation than what he has there in order for the Board to make a decision.

Michael Landry said there would be no new notices sent out and this announcement will be the notice. This case will be heard on Thursday, October 8, 2020 at 6:00 pm in the same virtual form that we are in now.

Mr. Landry advised Mr. Finney that if he was unable to get the survey done for whatever reason, we could postpone it a second time if he needed to.

15. **ZBA2020-088**  
**281 Bodwell Road, R-1A Zoning District, Ward 8**

Sean Harrington proposes to construct a full second story onto the single family dwelling with a 15.5' side yard setback where 20' is required and seeks a variance from section **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New

Hampshire, as per documents submitted through August 24, 2020.

Sean Harrington said he was before the Board just shy of a year ago on October 11, 2019, where he got a variance granted to extend the right dormer by 12'.6" with the 15½' setback. In the process of deconstructing the construction there that had taken place, the situation presented itself that in the existing dwelling some of the rafters were sliced together and it wasn't structurally sound. At this point, it would make more sense to deconstruct and reconstruct the building in a safer condition and construct a full second story as opposed to the 12'6" dormer on that right side.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there were no comments on this case. The Chairman turned the hearing back over to the Board.

Chairman Breault said the applicant isn't looking to encroach any further into the side yard than the home already is. He said the Board already granted him a variance at one point and it is an older home. He said being in the business, it sounds very familiar that some of the homes in the area where things are discovered while taking things apart that you find are not worthy of keeping.

Alderman Roy said he was wondering why Mr. Harrington was coming back before this Board within a year and he thanked him for explaining that the way he did. He said thanks for doing it the right way. He said a lot of times he sees builders that don't do that. He said he is impressed and he is in support of this.

***Jim Roy made a motion to grant the following variance count for case ZBA2020-088, 6.03(C) Side Yard Setback which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

16. **ZBA2020-089**  
**277 Pinebrook Place, R-1B Zoning District, Ward 6**

Spiro Millios proposes construct a 12' x 12' deck in the side yard resulting in one parking space in the front yard and one parking space within 4' of the proposed deck and seeks a variance from section **10.09(B)** Parking Setbacks (2 counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 25, 2020.

Spiro Millios said he just wanted to point out that the location of the deck has to be towards the driveway because of the Tennessee Gas Pipeline easement in the back. He said it pretty

much goes right up to the back of his house. Chairman Breault said that kind of presents a challenge in building anything in his rear yard. Mr. Millios said he is just trying to do this fully permitted and the right way.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said if anyone visited this neighborhood, there is that Tennessee Gas pipeline that runs parallel to the highway behind all of these homes on Pinebrook Place and crosses Island Pond Road and continues behind the homes on Lavender Lane and through the city. He said it limits anybody from building anywhere near on this pipeline so he is quite limited to where he can add a deck. This is the only place that he can really put it that would suit his needs. He said he doesn't see it as being an unreasonable request.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said he had one email in favor of this application. He said it is from Scott Fuller and he read it into record.

***My name is Scott Fuller and I live at 280 Pinebrook Place, Manchester, NH. I have received notice of my neighbor's request for a variance which is Case #ZBA2020-089. I have no objections at all to the committee granting a variance for Mr. Millos proposed 12'x12' deck and the associated parking spaces in his driveway.***

***Regards,  
Scott Fuller  
280 Pinebrook Place***

Mr. Landry said that is all he had on this case.

Chairman Breault turned the hearing back over to the Board.

Michael Simoneau said he agrees and the issue with the Tennessee Pipeline does create the hardship. He said he believes it meets the other four criteria.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2020-089, 10.09(B) Parking Setbacks (2 counts) which was seconded by Joe Prieto.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

17. **ZBA2020-090**  
**761 Amherst Street, R-1B Zoning District, Ward 4**

John Russo, II proposes to construct a full second story onto the 15'x20' addition built onto the rear of the structure with a 1' side yard setback where 10' is required and seeks a variance from section **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 27, 2020.

John Russo said this is his first time trying to pull a permit and he is just trying to add onto his kitchen. He said his roof has failed over the kitchen and he has a bathroom that where the shower is located is part of the gambrel roof, so standing straight up into his shower where it currently is, is not possible. He said it is an older home and he would like to move his bathroom over so he can have a full functioning shower and add an additional room to the house. Chairman Breault asked Mr. Russo if it was all on the second floor. Mr. Russo said it was.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said Mr. Russo wasn't encroaching further into the yard, he is just adding to what is already there for a footprint. Mr. Russo said he is just going straight up.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there were no comments on this case. The Chairman turned the hearing back over to the Board.

Chairman Breault said this is another home that dates back many years. He said he thinks this area probably precedes the ordinance. It is a tight lot and they are just trying to make the house more habitable for themselves. He said he didn't have an issue with this application. He said it meets the criteria and they have a hardship that parts of their home that are unusable and not suitable to today's standards and it just so happens that they are a little close to the property line.

Joe Prieto said he believes the criteria had been met.

***Joe Prieto made a motion to grant the following variance count for case ZBA2020-090, 6.03(C) Side Yard Setback which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

18. **ZBA2020-091**  
**223 Coolidge Avenue, R-1B Zoning District, Ward 11**

James Gillett proposes to construct a 1½ story, 24'x28' garage with a 6'x12' breezeway with a 1' street yard setback where 20' is required, as well as maintain a 6' high fence in the front

yard and a shed in the Bremer Street, street yard and seeks a variance from sections **6.03(A)** Street Yard Setback, **8.27(B)** Fences and Walls and **8.29(A)1** Accessory Structures and uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 27, 2020.

***Case ZBA2020-091 for 223 Coolidge Avenue has been postponed per the request of the applicant. It will be heard at the October 8, 2020 Zoning Board of Adjustment Meeting at 6:00 pm.***

19. **ZBA2020-074**  
**1720 Candia Road, R-1A Zoning District, Ward 6**

Felisha Jones proposes to maintain an 8'x28' open deck with stairs having a 10' street yard setback where 25' is required and seeks a variance from section **6.03(A)** Street Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through August 31, 2020.

Felisha Jones said they had a deck there prior but it was 8'x8'. That deck was actually made out of plywood and exited off onto Candia Road. The deck was bowing in the middle so they did want to extend it back into their backyard and have the stairs exit into the backyard rather toward Candia Road for the safety of their three young children. She said the bowing deck was just unsafe for their kids to be on.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said this property fronts Ledgewood Way on Candia Road and Hester Street which becomes Victorian Way. He said Hester Street originally had just a few homes on it with this being one of them on the corner.

Alderman Roy addressed Felisha Jones and said just to make it clear, her current stairs are close to the road already, correct. Ms. Jones said when she drew this plan, she didn't add those front stairs on the side deck. The stairs are in the back. She said she doesn't know how those got added on. Alderman Roy said but the stairs in the back are already within that 25'. Ms. Jones said on the original one that was there, yes. Alderman Roy said they are already within that buffer and they are just trying to do it again but they want to make it better and safer. Ms. Jones said yes.

Chairman Breault turned the meeting over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said we have no comments on this case. Chairman Breault turned the hearing back over to the Board.

Joe Prieto said he believes this case meets all five criteria.

***Joe Prieto made a motion to grant the following variance count for case ZBA2020-074, 6.03(A) Street Yard Setback which was seconded by Keith Hirschmann.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann  
Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry said that concluded the cases for the evening. He said we have a couple of items on the agenda and he would like to bring up another item regarding the definition of repair when we get to it.

### III. BUSINESS MEETING:

#### 1.

##### 1. Review and approval of the ZBA Minutes of July 9, 2020 and August 13, 2020.

*Michael Simoneau made a motion to accept the minutes of the July 9, 2020 ZBA Meeting which was seconded by Joe Prieto.*

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the Minutes of the July 9, 2020 ZBA Meeting were accepted.

*The ZBA Minutes of August 13, 2020 were not available and would be put back on the agenda for a motion at the October 8, 2020 Meeting.*

##### 2. Any other business items from the ZBA staff or Board Members.

Chairman Breault said Michael Landry was referring to the repair definition that was emailed to the Board. Mr. Landry said he sent maybe what appeared to be an informal email regarding the definition of repair and he guesses it would be a better practice if we could just have a brief discussion and maybe even take an action to just say there is a consensus, so when we move this forward to the Board of Mayor and Aldermen, we can say with confidence that the Zoning Board has approved these changes and they think it is a good thing for the city to move forward. He said he thinks with that, he is trying to find his email so he can just read the language to the Board Members because he did not include anything in the packet.

Mr. Landry said he would start with the word repair. The definition currently reads in the zoning ordinance, repair is defined as "any construction which replaces material but does not change the height, number of stories, size, use or location of a structure." He said he

wanted to read the current definition of alteration to kind of give the Board a basis where the Department came from when it would interpret that. Currently, alterations are defined as “any construction resulting in a change in the structural part or height, number of stories, size or use or location of a building or other structure.” He said we have always looked at, oh, you are doing structural alterations, you are replacing the bones of the structure, and that is an alteration and alterations needed to comply with the ordinance. He asked the Board if they remembered the two cases a couple of hearings ago and good points were made. He said they wouldn’t read the two definitions in context with each other, they would just focus on the words of the definition “repair” and say, “I’m not changing the height, I’m not changing the number of stories or the size or the use or the location of the structure” which was true and was kind of in conflict with the alteration.

Mr. Landry said with that said, he found this definition in the International Building Code for “repair”. The definition is, “the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.” He said it wouldn’t be the whole structure. In both those cases last time, they weren’t proposing to replace the entire structure. One was an attached garage and one was an attached porch. He said he did admit at the hearing that this is one of the tough rubs of the ordinance. It seems like there was an appetite on behalf of the Board to make that change. He said we are proposing, and he thinks by making this change and the change to “repair” being “the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.” He said then, we are going to propose to change “alteration” and that would be “any construction or renovation to an existing structure other than repair or in addition.” He said we define “addition” now with a new definition. He said “addition” is “an extension or an increase in floor area, volume, or height of a building or structure.” He said he thinks with those three definitions, we would avoid these good faith disagreements. He said he did understand their position. He said he thinks this will be better for the public. He said the porch has been there for a hundred years, and they would be allowed by right to rebuild that. He said he agrees with the Board, but he has a job to do and he has to enforce the ordinance as it is written. That is what he has done faithfully.

Mr. Landry said he believes that this would be a good thing for our residents, a good thing for the Board and a good think for the Department. He said he would like to hear some comments from the Board. He said to discuss it and ask him questions and at the end, have the Board take some type of action representing a consensus so that we can go forward and tell the Board of Mayor and Aldermen that the Zoning Board is on board with this proposal.

Chairman Breault asked Michael Landry if this was something he would like to get into tonight. Does the Board have to make a decision this evening? Mr. Landry said it has been kicking around. He said he sent that email a while ago asking for the consensus, but then again, he did it rather informally. Ultimately, he said we would like this Board to kind of support this amendment. He said it has some weight to say the Board supports this amendment. He said if the Board wanted, they could think about it more. Chairman Breault said he already looked at it and he felt confident. He said every kind of definition can be interpreted more than one way. No one is going to interpret it exactly the same way, but

this, he thinks, clarifies it better than it did before and it presses the matter in a concise way and it clearly defines it. Chairman Breault said he is comfortable with this and asked the rest of the Board Members how they felt. He asked if they looked at it. He said he just brought it up on his screen and he is looking at the email from August 13<sup>th</sup> that Mr. Landry sent out with this. He said he feels the same way he did when he read it initially.

Alderman Roy said he got that email also and he believes that he responded to Mr. Landry as well. He said he agrees with him and thinks it is long overdue that the Board does something like this. He said his only concern is that there are three Members that aren't here tonight and if we are going to come to a consensus, he thinks that we should all Members of the Board should agree. He said he doesn't know how to do that correctly because there is no guarantee that there are going to be eight Members here next time. Alderman Roy said maybe in an email.

Mr. Landry said point well taken. He said he did hear from Jose Lovell but he did not hear from Guy Guerra or from Anne Ketterer. He said to go back to that email that was sent on August 13<sup>th</sup> and look at it some more. He said to call him if anyone had any questions and give it some thought as to would this change any cases we have seen or does that provide a result you would like to see. He said that is where he is trying to go. Chairman Breault said to Mr. Landry that what this would do would be to clarify it in his mind when he was reviewing an application and make it easier for him to make a determination as to what is a repair and what is an alteration. Alderman Roy said he thinks it is going to make it less onerous on the applicants, too. Mr. Landry said he thinks it is more for the applicants because like the Board Members heard the Director say, we have been interpreting this this way for forty years or so. He said he sympathizes with the applicant, especially the gentleman on Coolidge Avenue who really presented respectful cogent arguments and he empathized with him and there was nothing he could do to help him. He did suggest that we look at the changing of the definitions and he is happy that we are doing that and he is happy to continue this discussion. He said we do want to move it along but let's get the full Board on board. Chairman Breault asked Mr. Landry if he could send the email back out to people who aren't in attendance tonight or maybe to all of the Board Members and ask them to present their opinions on it and then we have a consensus and if Mr. Landry wants to come back to him with it and as Chairman, he would have no problem.

Michael Simoneau said he wanted to thank Michael Landry for his time and efforts with respect to this. He said he read it and he thought he had replied to Mike and if he hasn't, he apologized. He said he likes how it is reworded and it is more of a clear definition. He thinks it is going to not only help Mike's area but the applicants as well. He is very supportive and in Mike's corner with respect to this and he thanked Mr. Landry. Mr. Landry said it was his pleasure to do his job. He said Mr. Simoneau very well may have responded but he couldn't particularly remember. He said he knows a couple of people didn't, but even if everyone did, it is not what they are looking for. He said we wanted to have something on the record, something in the Minutes where we did have a thorough discussion so he guesses he wasn't fully thinking when he sent out the email and he thinks we will go on record and have this discussion. Mr. Landry said just for background stuff and for anyone that is listening, this

Board doesn't have the authority to make this change. If this change was ever to move forward, the way it would be adopted by the city would be by the Board of Mayor and Aldermen and they would have a public hearing. He said if anyone was listening and thinking that they want to be part of this discussion, this is just a preliminary discussion and the public hearing for the adoption of this ordinance would be before the Board of Mayor and Aldermen in public sessions in case anyone is wondering.

Chairman Breault asked if the Board needed to take an action before the next meeting. Mr. Landry said he would say to put it on the table and put it on the agenda for the next meeting and we will keep moving it along. He said a motion for that would be in order.

***Jim Roy made a motion to table discussion of the new definitions until the October 8, 2020 ZBA Meeting which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the discussion of the new definitions was tabled until the October 8, 2020 ZBA Meeting.

Chairman Breault said in the meantime, maybe Michael Landry can send an email out that this will be voted on next month as well so anybody that will be absent can comment on it. Mr. Landry said he would send out an email and he said to be clear, any action that the Board takes developing a consensus really is a preliminary step and it really has no affect other than giving him the ability to go to the Board of Mayor and Aldermen and say the Zoning Board is on board.

Alderman Hirschmann said he would like to say something before the Board adjourns. He said he would just like to defend his integrity as an email went out today to the Mayor and the Zoning Board Chairman and maybe even the Zoning Board Members about having Aldermen on this Board. He said he just wanted to say that he doesn't know if his integrity was called into question in that letter, but the gentleman that wrote it was an attorney named Mr. Bisson and he complained about possibly him voting on the Straw Road situation, which when asked by Mr. Bisson, he recused himself and then he asked for the item to be tabled knowing the rules as a lawyer, that once he recused himself that the item couldn't be taken up. He said he wanted to tell this Board and everybody in Manchester that every case that he has listened to, he has listened to intently and judiciously and had done his job. He has not done anything that a regular citizen in this city wouldn't do. He was put on this Board unanimously by the Board of Aldermen. He said he came on this Board and he voted for at that same meeting, other issues that benefited Mr. Bisson's business partner, John Cronin. He said he voted to pass two of Mr. Cronin's projects because he judges everything on its own merit. Never in his life has he done anything out of the ordinary.

Alderman Hirschmann said Straw Road was an application for multi-family in a single-family

zone. The actual owner, Stephen Duffley was shocked to find out that somebody put that application in because that was not his intention and he withdrew the application. He said he feels that Mr. Bisson has some kind of sour grapes writing this email and he does take offense to this email and he wants to tell everybody that he will continue to be on the Zoning Board and he will continue to serve Manchester with integrity and he is not intimidated in the least by Mr. Bisson and his measure.

Chairman Breault said when he received the letter, he asked Mr. Landry to share it with the Board. He said he hopes that Alderman Hirschmann doesn't take that as an offense, as that was his part. He said he thinks everybody should be aware of what comes to him. Alderman Hirschmann said it is affront to their sitting on this Board. He said it affects him and it affects Alderman Roy and if the Board of Aldermen takes this up, there will be a lot more said and he will be saying it live, trust him. Michael Landry said he would like to just follow up and say being on this Board is a lot of work and he appreciates everyone, including Alderman Hirschmann's service on this Board and he thanks them all. He said it is not easy and we have long nights and have hard decisions to make and it is not easy. He said he appreciates what everyone does.

***Keith Hirschmann made a motion to adjourn the ZBA Meeting of September 10, 2020 which was seconded by Jim Roy.***

Yeas: Breault, Simoneau, Roy, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the ZBA Meeting of September 10, 2020 was adjourned.

Each case file is available on-line at <http://www.manchesternh.gov/Departments/Planning-and-Comm-Dev/Zoning-Board/Project-Applications>. Or search for "Manchester NH ZBA Project Applications".

The order of the agenda is subject to change on the call of the Chairman.