



# CITY OF MANCHESTER

## PLANNING AND COMMUNITY DEVELOPMENT

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

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### MANCHESTER ZONING BOARD OF ADJUSTMENT PUBLIC HEARING / LIMITED BUSINESS MEETING AGENDA

February 11, 2016 – 6:00 p.m.

City Hall, Third Floor – Aldermanic Chambers

Board Members Present: Chairman William Bevelaqua, Raymond Clement, Allen Hendershot,  
Thomas Puthota

Alternate Present: Matt Routhier, Larry Gagne

Absent: Vice Chairman Mike Dupre (Member)

City Staff Present: Michael Landry, Deputy Director of Building Regulations

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

II. **PUBLIC HEARING:**

(New Cases)

1. **ZO-01-2016**  
**38 Jefferson Street, Ward 3**

Irhad Kapidzija proposes to construct a new second floor within the side yard setbacks, maintain a porch within the side yard setback and maintain parking within 4' from a structure and 4' from the side lot line in the R-3 zoning district and seeks a **variance** from Sections 6.03 (C) Side Yard Setback and 10.09 (B) Parking Setbacks of the Zoning Ordinance, as per documents submitted through February 1, 2016.

Mr. Irhad Kapidzija of 38 Jefferson Street said he bought this house in 2015 for his family. He said he and his wife have three children and they were looking for a house for about 1 year. Mr. Kapidzija said while they were looking, they had a strict criteria and this house matched three out of four of their criteria. This house was within their budget and is in a quiet neighborhood as this house is pretty much the last house on a dead end. He said they were also looking for a house that wasn't too old and was structurally sound although they

didn't mind if it needed some fixing up. The one issue with this house is that there wasn't enough living space as they have three children. They decided to proceed and place a bid on the house which was up for sale by HUD. The house was offered to owner/occupants first and their bid was accepted. They then thought about dealing with the problem of not enough space. The house is a ranch style house in the R-3 zone and Mr. Kapidzija said other houses in their area have more than one floor so they figured they would be able to apply for a permit to add on another floor. He said he went to the Planning Department and found out that there were certain non-compliances with this house. He is looking to construct a new second floor within the side yard setbacks, maintain a porch within the side yard setback, maintain a canopy within the side yard setback and maintain parking within 4' from the structure and 4' from the side lot line.

Mr. Kapidzija said the property has been in non-conformance since before he bought it. He said he is not looking into expanding the non-conformance, just maintaining what is already there. He said he doesn't see that this presents any threat to public health, safety or welfare and he thinks whether he is approved or denied, the house would still remain as non-conforming as it is today, so to deny it would only cause his family unnecessary hardship.

Mr. Kapidzija said the last thing he would like to add is that he thinks that adding more square footage would definitely increase the property tax, add value to the house and add value to the neighborhood.

Chairman Bevelaqua confirmed with Mr. Kapidzija that he was planning on going straight up in the exact same footprint.

Chairman Bevelaqua turned the hearing over to the public. No one came forward either in favor of or in opposition to this request. The Chairman turned the hearing over to the Board.

There were no questions or comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

2. **ZO-09-2016 (Subsequent Application)**  
**750 East Industrial Park Drive, Ward 6**

Marcia Skersey (Agent) proposes to occupy 2,000 SF for an amusement arcade in the IND zone and seeks a use **variance** from Section 5.10 (H-4)2 Amusement Arcade, Dance Hall, of the Zoning Ordinance, as per documents submitted through January 12, 2016.

Michael Landry suggested to Chairman Bevelaqua that it may be appropriate for the Board to go into a Limited Business Meeting to discuss whether or not the Board would like to hear this application as it is a Subsequent Application.

***Allen Hendershot made a motion to close the public hearing and open a limited business meeting which was seconded by Raymond Clement. (Upon a unanimous vote, the motion was carried.)***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Mr. Landry said for the record, there are some distinguishing characteristics between this application and the prior application. The prior application sought to occupy about 4,300 SF for simulated golf in 2004. Mr. Landry said 12 years have passed and they are seeking less space and this is a call for the Board to make.

Chairman Bevelaqua asked if there were any questions from the Board. There were no questions from the Board and they proceeded to vote on whether to hear this application.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Upon a unanimous vote, the Board agreed to hear case #ZO-09-2016

***Chairman Bevelaqua made a motion to close the limited business meeting and open the public hearing which was seconded by Matt Routhier. (Upon a unanimous vote, the motion was carried.)***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Matthew Birch of 4 Candy Lane, Bedford appeared along with Marcia Skersey of the same address. Mr. Birch said they have run businesses in the past but this is the first time they have tried to start up a business. Unfortunately, they are learning some things the hard way. He said they have had meetings with the Small Business Administration to get some advice and nothing really came up that they didn't expect.

Marcia Skersey said they didn't realize when they signed the lease on the property that it was zoned industrial and they would not be considered industrial. Mr. Birch said they explained to the Realtor what kind of business they were planning on opening and he put all of that information into the lease agreement. Mr. Birch said he didn't think to check the zoning for it because there is a bingo hall in the area as well as restaurants, child care and hair stylists. It just never occurred to them and they signed a 3 year lease at this location which is a little bit less than 2000 SF. Mr. Birch said this is a great location for them as it has

the things they need for the business. He said they looked in the mill area and looked at probably 30 different places before they found this one which they feel is perfect because of the parking and its great location. Mr. Birch said he didn't know if the realtor was aware of this, but he and Ms. Skersey did not know they potentially could not perform this business at this location.

Chairman Bevelacqua asked Mr. Birch what this business was, exactly. Mr. Birch said it is a room escape. He said a lot of corporations use it for team building. It is also used as a form of entertainment and is something that is fairly new that is popping up across the US. There is another one in Manchester actually, called Granite State Room Escape. People come in and are locked in a room and the room has a theme and the occupants try to solve puzzles to find keys to unlock something to find another puzzle and eventually you get out of the room. It is something in which people work together, communicate and solve problems to reach a common goal.

Chairman Bevelacqua said then it could have a commercial/industrial application. Mr. Birch agreed and said a lot of the corporations in that area have already expressed interest and want to schedule with them. The Union Leader has a group interested as well as Fairpoint.

Marcia Skersey said she understands from researching the industry that it is normally expected that 50 percent of the income comes from corporate. She feels they would definitely be adding value to the neighborhood with their services.

Chairman Bevelacqua turned the hearing over to the public and invited those in favor of this application to come forward.

**Sheri Monastesse** said she represented 750 East industrial Park Drive. She said they would really love to see this proposal go through. She said she thought they would be a great tenant and they would add a lot of value to the neighborhood. Ms. Monastesse said she did not realize it would be zoned as an arcade or type of dance hall.

Chairman Bevelacqua invited those in opposition to this application to come forward. No one came forward in opposition to this application.

Chairman Bevelacqua turned the hearing over to the Board.

Allen Hendershot said he thought this was a perfect example of back when these ordinances were devised, they didn't take in the technologies and so forth that were coming along. He said he didn't see how this was in any way contrary to the spirit of the Ordinance because these things didn't exist when they made the Ordinance.

There were no further questions or comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

3. **ZO-10-2016**  
**795 Grove Street, Ward 5**

Christopher Swiniarski (Agent) proposes to build a 16'x31' building for a small cell telecommunications facility within 50' of the limited activity buffer with pavement other than site access within 10' of street lot line and arborvitae within corner lot clearance area in the RDV zoning district and seeks a **variance** from Sections 6.08 (B) Screening/Buffers, 8.27 (E) Visibility at Corners and 10.09 (A) Parking Setbacks of the Zoning Ordinance, as per documents submitted through January 14, 2016.

Attorney Christopher Swiniarski of the law firm McLane Middleton at 900 Elm Street said he is representing Verizon Wireless and what Verizon is trying to do is build a headend building. The building supports a new technology of small cells which is a network that is comprised more of smaller antennas, not towers and these antennas can be positioned on utility poles, on light poles and sometimes on the sides of buildings. They are designed to really target a very specific area of need.

Attorney Swiniarski said this application has nothing to do with antennas but this is sort of the nucleus of that entire system. He said they have had discussions with the City about renting space on various City facilities to do that and to get it going and this is the first step needed to get that system going.

Attorney Swiniarski said what they are proposing is really simple. It is a small building, less than 500 square feet, specifically, 496 square feet. He said they need a few variances to put it in this location. He said they chose this location because all of these small cells, which he previously described, are connected back to this building via an existing fiber optic infrastructure. This particular location is right near existing fiber optic cables that are in the old railroad right of way that abuts this property. When they looked at this property and saw that it has a little bit of a corner spot, such that they can put their very small facility there without using up an entire lot. If they have to use an entire lot it is not really a problem financially, they could do that, but it is going to be blighted. They aren't going to build something else to fill the lot just for the sake of filling it. There would be a little 496 square foot building and then a vacant lot. The proposed site is in a redevelopment zone which is the perfect place to do this. He said they can utilize this small part of the land and make it look a little better than what it is now and still preserve the rest of it to be utilized instead of wasted.

Attorney Swiniarski stated as provided for in the application, they need 3 specific variances.

He said it also requested in his application any other variances which they may need as a result of site plan review. He said it has recently come about that they will probably have to do this as a subdivision as well and that is because the owner of the land wants it that way. He said personally, he doesn't care one way or the other and the difference is not one in reality it's a difference on paper. Attorney Swiniarski said they would also need a variance for this resulting lot being small. What they are trying to carve off is 3,542 square feet where 10,000 square feet are required. That is something else he wants to add for the Board to consider.

He said the specific variances they need as described are from 6.08, there is a 50 foot buffer in place because they abut on a residential zone across Grove Street. Within that buffer, you cannot have HVAC units or generators. He said their HVAC units are actually inside this building but, the units do stick out of the building as most HVAC units do because they need to draw fresh air. He said they really don't have units within the buffer. Technically, a couple inches of it does stick out of the building. That is one variance. The generator does have to be there as they do need a back-up power generator. Obviously, the spirit and intent of the Ordinance there is you don't want a loud, noisy generator bothering people in a residential neighborhood. He said they use a sound enclosure and mufflers and this thing hardly makes any noise. It is about the same as an idling pick-up truck and it only runs when the power is out. This is not running all day long so when the power is out, this thing kicks on as do probably a thousand other generators in Manchester and as all other generators, it cycles for about 20 minutes a week, too, which is usually mid-day, mid-week and they can make that at any time that any Board wants.

Attorney Swiniarski said another variance specified in this application is borderline as to whether they even need it or not. There is a requirement in 10.09 (A) that you cannot have parking within 10 feet of the street. He said they don't really need any parking. Parking is not defined in Manchester's Ordinance and this is an unmanned facility so nobody will be going there and nobody will be parking there. Somebody does have to go there periodically to do inspections, so in a given year, a vehicle will be parked at this spot less time than the mailman is parked at your mailbox. It is not really parking. Attorney Swiniarski said they could use that variance or they could say it isn't parking because it's really not parking to him.

The final variance is for a planting which they are proposing. He referred to the plans and said if you know Grove Street, this is kind of an intersection with a triangle. Under the Ordinance, section 8.27 (E), take that triangle, go back 30 feet from the point and draw a line across. You can't plant anything within that 30 feet. He said they are proposing to put an arborvitae there just to make it look better. He said honestly, he doesn't need that arborvitae. They are doing that purely for aesthetics, so he would ask the Board that they are allowed to make it look better. If the Board feels they don't want them to do that, it is ok with them, also.

Chairman Bevelaqua confirmed with Attorney Swiniarski that this was a microcell and this will be the base station for microcells. Chairman Bevelaqua said he believes there was a big thing a couple of years ago on the West side where they wanted to put a monopole over by Valley West Condominiums and the neighborhood was all upset about it. He said something like this would probably fit right in over there. Attorney Swiniarski agreed and said that is really the types of areas that are being targeted with these and one of the other important things about this is that it is very dynamic. Building a new tower takes 6 months to permit and you can throw one of these up very quickly as demand arises and as demand falls off, you can get rid of that antenna too. The antennas they are using now are made to look just like transformers. He said if he pointed one out they may notice the difference, but if he didn't point it out they would never even know it is there. That is the whole idea there. He thinks it is what everybody wants and this is the first step in making that happen.

Chairman Bevelaqua said he noticed on the plan where they have the building, they have coordinates that looks like it is for the subdivision. Attorney Swiniarski said that was what they are for. He said they were initially thinking this would be a subdivision because that's what the owner of the property wants. He said it takes a little bit more time to get that through permitting and they are now in a rush to deploy these things. The demand has skyrocketed and he is currently working on about 50 different municipalities right now. The idea was, if they do this as an easement, State law exempts it from any sort of subdivision approval. He said his argument was that, even if they do it as a subdivision it doesn't require Planning Board approval. He said the Planning Department didn't take the same position and he doesn't have the time to fight about that so he will simply go through the process. Again, as he stated before, this is something the owner wants and it does not change anything in reality. That is a paper change whether it is called an easement or call this a lot, it doesn't really matter. Obviously, this lot is not buildable for anything else and when they have to go and get subdivision approval, he knows for sure there will be a restriction that this cannot be sold off and used for any other purpose. In fact, he said he would probably even phrase his application that way to make it crystal clear. Attorney Swiniarski said they do anticipate they will have to go the subdivision route. He said he didn't think that was going to be the case until 2 days ago when the owners seemed to communicate to him that that is the only way he wants to do this.

Chairman Bevelaqua asked Michael Landry if there was a motion made on this to allow a subdivision of this property, was there proper notification in order for the Board to do such a thing. Michael Landry said he did not think proper notification was given to the public. The application was for the 3 variances which the Board has in front of them. Mr. Landry said he understood and thought it wasn't terribly unreasonable, he just didn't feel comfortable that the Board has the authority to grant this and thought the better course would be to handle this as a separate variance because again, it wasn't included in the application and notice had not been provided. Chairman Bevelaqua asked Mr. Landry if they could approve this but it could potentially open up a law suit for someone who is opposed to it. Mr. Landry said that was his opinion and what he sees as the best course, however the Board is responsible for that decision.

Allen Hendershot asked if the Board cared. Chairman Bevelaqua said he really didn't care. Mr. Hendershot said if they granted that additional variance, the worst that can happen is they can say it is null and void. Mr. Hendershot said he really likes this proposition. He actually read a big article about these things and he thinks it's great, especially since the guys who have been on the Board know of all the hassles they have had with cell phone towers. This is obviously the wave of the future and cell phone towers are going to soon be history which is cool. Not all of them but a lot of them. Attorney Swiniarski said he never said that. Allen Hendershot said Attorney Swiniarski knows that is going to happen. Attorney Swiniarski said the ones that are up are going to stay but you will see less of them. Mr. Hendershot said he personally doesn't have a problem with granting it and if they call it null and void, they call it null and void.

Matthew Routhier referenced the plan and asked if that was a proposed fence around the generator. Attorney Swiniarski said it was. Mr. Routhier said he assumed it was a 6 foot plus metal fence. Attorney Swiniarski said he didn't recall the height and said he was obviously very flexible on the height as it didn't matter that much to him. Mr. Routhier addressed Michael Landry and asked if the 6 foot fence would be another issue. Michael Landry asked what it was called for now. Attorney Swiniarski said they didn't actually have the height on there. Mr. Routhier said it is the same chain link fence and he just wanted to make sure in case something was missed. Allen Hendershot said according to their scale, it is at least 6 feet. Michael Landry said the zoning review says there is an existing 8 foot high fence on a portion of the lot and they are proposing a new 6 foot chain link fence which is conforming. Chairman Bevelaqua said that 8 foot fence pretty much goes along the property line. He said if that is an issue, he is sure it would be brought up during Planning review. Attorney Swiniarski asked if a 6 foot fence was the maximum allowed. Michael Landry said yes, by right. Attorney Swiniarski said he doesn't have a scale to confirm that it is 6 feet but he would be happy to make it 6 feet as the fence doesn't mean that much to him.

Chairman Bevelaqua turned the hearing over to the public. No one came forward either in favor of or in opposition to this request. The Chairman turned the hearing over to the Board.

Chairman Bevelaqua said he would like to make a motion to allow the Board to go forward and vote on the variance for lot size for subdivision of the property.

***Chairman Bevelaqua made a motion to allow the Board to go forward and vote on the variance for lot size for subdivision of the property at the applicants request which was seconded by Allen Hendershot. (Upon a split vote, the motion was carried.)***

**Yeas: Bevelaqua, Hendershot, Puthota,  
Nays: Clement, Routhier**

Raymond Clement asked if they were just going to cut off that piece of property that is owned by Grove Street Storage. Michael Landry said he understands the vote the Board just took was to include this in a motion going forward, but it is to provide relief for the lot size or to give a variance for a substandard or smaller lot size than required. The subdivision would need to go before the Planning Board to get approved. The Zoning Board is not approving the subdivision itself.

There were no further questions or comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

4. **ZO-11-2016**  
**55 River Road, Ward 3**

Gary Beaulieu proposes to convert solarium (aka penthouse unit) into two (2) dwelling units resulting in 78 dwelling units in the building plus accessory office (for building use only) on the 2nd floor, also maintain canopy, circular drop off area with 25' driveway width and distance between driveways within 30 feet of each other in the R-3 zoning district and seeks a **variance** from Section 6.01 Minimum Building Lot Area and an **equitable waiver** from Section(s) 6.03 (A) Front Yard Setback; 10.08 (B) Driveway Location and 10.08 (C) Driveway Width of the Zoning Ordinance , as per documents submitted through January 20, 2016.

Michael Landry recommended the Board take two votes, handling the variance and equitable waivers separately.

Gary Beaulieu said he was representing the 55 River Road property under his company, Topnotch Properties and appeared along with Jim Marr, also of Topnotch Properties. Mr. Beaulieu said they are looking under the variance to take what was known as the solarium or the work out room at the top of the penthouse of the 55 River Road apartment building which is currently being used as one big condo. It is one big unit which has a kitchen and bathrooms and all that and they would like to just chop it in half as it is just under 3,000 square feet, but the norm in that building is 800 to 1200 square feet. They would like to cut it right down the middle to make mirror images and make it two townhouses.

Chairman Bevelaqua turned the hearing over to the public. No one came forward either in favor of or in opposition to this request. The Chairman turned the hearing over to the Board.

There were no questions or comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

Michael Landry addressed Chairman Bevelaqua and said to be clear, the Board addressed the request for the variance and equitable waivers in one vote. Chairman Bevelaqua said that was correct.

### III. **BUSINESS MEETING:**

#### 1. **ADMINISTRATIVE MATTERS:**

1. Review the proposed changes to the ZBA by-laws.

Michael Landry asked who read the proposed changes to the ZBA by-laws. Allen Hendershot asked if this was still open for change. Mr. Landry said it was. Mr. Hendershot asked where they were in the process. Mr. Landry said they were in the beginning. He said he came up with a draft and it is open for comment.

Allen Hendershot said he spoke with a couple of other Zoning Boards and one thing they are doing is to just kind of take away some of the clutter that we see. They are doing things like exempting sheds of 100 square feet or less, they are taking decks and giving them a 50% credit on side and back setbacks. In other words, if there was a 20 foot side setback, you can have a deck within 10 feet of the setback. Chairman Bevelaqua said it costs half the cost of the deck just to come in front of the Zoning Board. Mr. Hendershot said in areas with like a 10'x10' shed that you can go buy from Home Depot and you put it on 2 blocks in your backyard, has the Board ever denied one of those? Raymond Clement said no and he doesn't get excited about it because it's really not a permanent structure. Mr. Hendershot said "exactly" if it doesn't have footings and is movable. He said the Board always has to discuss these sheds. If you are going to build a 24'x20' out building or whatever, fine. He said he thinks you can go up to 24'x12' without footings. Michael Landry said that doesn't sound right. Twenty-four feet sounds like a big span. Mr. Hendershot said he is talking about the footprint of the deck. He said he thinks you can go to 24'x16' or something like that.

Chairman Bevelaqua said he is talking about a 10'x10' shed. Michael Landry said those are good points, but changes to the Zoning Ordinance would be required to effect those changes. He said the Board could talk about them, but this is about the procedures and how

the ZBA conducts its own meetings. Mr. Landry said Max Sink left a draft of a proposed revised Zoning Ordinance when he left and at some point, it's going to get picked up and the Board is going to try to make some meaningful changes to make the process easier for residents.

Michael Landry asked if there were any comments about these by-laws for how the Board conducts business. Chairman Bevelaqua asked Raymond Clement if he had the chance to read the by-laws. Mr. Clement said he had not. Chairman Bevelaqua said the problem is that Ray Clement is a Planning Board member also and he values Mr. Clement's input. To not have Mr. Clement's input is not good.

Chairman Bevelaqua said he would like to make a motion to postpone this discussion to next month to give Raymond Clement a chance to review the draft and come back with some insight. He said Mr. Clement has been a Board member for many years. Mr. Clement said the Board just got notification that they would be reviewing this a few days ago. Chairman Bevelaqua said he had the chance to read it since he is up very early in the morning.

***Chairman Bevelaqua made a motion to postpone review of the by-laws until the March 10<sup>th</sup> ZBA Meeting, which was seconded by Raymond Clement. (Upon a unanimous vote, the motion was carried.)***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Thomas Puthota asked what the reason was to introduce these changes to the by-laws. Michael Landry said time and just getting it right. He said probably one of the biggest things to update is that the variance criteria changed by statute so the current set of by-laws contain the old language from the old statute. When you start doing that, you see other things like it is calling for meetings on Wednesdays at 7:00 and two meetings a month. Mr. Landry said it is just a lot of house cleaning and he also injected a couple of things he thought might help, but it is up to the Board to decide whether or not they agree with that.

Matthew Routhier said he sees that the possibility to require a plot plan was amended in 2000 and he was wondering if that was correct. Mr. Routhier said he was referring to the formal application submission, page 8 of 13. Michael Landry said he was on the page and could Mr. Routhier repeat his question. Mr. Routhier asked if they could in fact change that to request a plot plan at all times. Mr. Landry asked if he was referring to the third bullet point. Mr. Routhier said yes. Mr. Landry said he didn't change that language. Mr. Routhier said he was just asking the question if changing this changes the submission requirement or does it have to be changed in the actual Zoning Ordinance. Mr. Landry said this would be the place to change it as it is how we do business. He said he personally likes that it is not mandatory and the Board can use its judgment. Chairman Bevelaqua said it depends. He said if they have a driveway they want to do that is in the middle of a field. Ray Clement said

that is exactly the way he looks at it. If there is a question of it being on someone else's property line, if they are talking inches they could make that mistake and suddenly the Board is in hot water legally because they allowed it to go through without that plot plan. Chairman Bevelaqua said he thought the Board has been very good about that. Raymond Clement agreed saying he thinks the Board has been using their own judgment with that and he thinks for the most part it has been a pretty good judgment. Chairman Bevelaqua said it saves the taxpayers money, too. Allen Hendershot said the Board agreed pretty much every time they wanted to get a plot plan.

Michael Landry asked Matthew Routhier what his feeling was on this. Did he feel it is too permissive or does he think every application should come in with a certified plot plan. Mr. Routhier said he felt it was just easier for clarity and for any kind of future legal action. He said a stipulation could be put on it that a certified plot plan is required for certain costs or certain construction. He said adding a plot plan for \$600.00 or whatever adds a lot of value to your property one way or the other.

Raymond Clement asked Michael Landry if this would be something that the staff could look at when someone comes in with an application and they see that the driveway or the porch or something could be sitting very close to someone's property and they do not have a certified plot plan, that one could be requested. Matthew Routhier said he thinks a lot of stuff that comes before the Board may not necessarily need it because they don't actually know what they are looking at. He said you have a fence, but that doesn't necessarily mean that that's the property line, that is the problem. Mr. Landry asked Mr. Routhier if he meant when they were preparing it themselves. Mr. Routhier said yes, when the Department is looking at it, they are looking at hand drawn stuff and the Planning Department could save people a lot of time and effort to come in here for it. It is a catch 22. Mr. Landry said it is a tough one. He said writing these by-laws and then the Zoning Ordinance it is hard to regulate every possible thing because you have a good intent to regulate something but then you are going to have these unintended consequences. He said he treads lightly about making these changes. He said he heard some of the Board members say it works the way it is. It is really going to be a consensus of how the Board feels about that. Mr. Landry said his opinion really doesn't matter but if the Board asks him questions, he will try to help and give guidance but ultimately it is the Board's decision.

Raymond Clement said he thinks when the Board sees a plan like this they are doing the applicant a favor. If there is any doubt on the Board's part the applicant should do his due diligence on where he is putting whatever he is looking at to keep him out of hot water with his neighbor because for the little amount of money he is going to pay for a plot plan is going to be a lot less than if he has to go into a legal fight with that neighbor.

Allen Hendershot said he doesn't have a real problem with most of that but wouldn't the Board also have to word it, if the Board decided to do this, it does not affect what's in existence. In other words there are a lot of houses that are a foot from the property line and they were built that way. If a guy wants to put a second story on his house, we wouldn't

want him to get a plot plan for the second story. Raymond Clement said that was common sense. Chairman Bevelaqua said if it is automatic for everything you need, it is a \$600.00 to \$800.00 bill, it adds up. Matthew Routhier said it could be written so if the applicant is planning to expand outside their existing footprint, a certified plot plan would be required. Allen Hendershot said it would have to be some kind of wording that wouldn't catch everybody.

Chairman Bevelaqua said this particular Board, the way it sits right now, they are all pretty experienced in this stuff so it is easy, but who is to say that a Board 5 years from now will be or won't be. Raymond Clement said his history with the Zoning Board and the Planning Board, there have been very few incidents, but there have been incidents where it leads to a legal problem when something was done such as a foundation being put in the wrong spot. Chairman Bevelaqua said a foundation does need a certified plot plan. He said that is part of the Building permit, that is a given. He said with a lot of this stuff, you are required to have a certified plot plan when you go in with the building permit application. That is automatic.

Raymond Clement said he thinks it should be left up to the Board to decide if an applicant needs to return with a certified plot plan. If the Board thinks there may be a problem it is their duty to inform the applicant there could be a problem. Allen Hendershot said the Building Department could put wording in when they are filling out their application that it is very likely they may need a certified plot plan and otherwise, proceed at your own risk. Chairman Bevelaqua said some people have tried without a certified plot plan and have made out fine and other people have tried without a certified plot plan and the Board says no, that is too close. Chairman Bevelaqua said it gets expensive. Chairman Bevelaqua reminded the Board that this discussion was tabled to the March meeting.

Larry Gagne said the Board had to be very careful with their wording when amending the by-laws.

Chairman Bevelaqua said this was his last meeting and he would like to make a motion to hold an election to appoint a new Chairman and Vice-Chairman.

***Chairman Bevelaqua made a motion to hold an election to appoint a new Chairman and Vice-Chairman of the Zoning Board of Adjustment which was seconded by Raymond Clement. (Upon a unanimous vote, the motion was carried.)***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Chairman Bevelaqua asked which member would like to be Chairman of the Zoning Board. Allen Hendershot said he would like to offer his services. Raymond Clement said he seconded that and would like to give a reason why. He said this is one of the first times since he has been on the Zoning Board and Planning Board that there is someone who is from the inner City itself to be a Chairman of the Board. There aren't too many people on

the Boards who are from the downtown area and he thinks this would be a good fit and he thinks Allen Hendershot would do a good job.

There were no further comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Upon a unanimous vote, Allen Hendershot was elected Chairman of the Zoning Board of Adjustment.

Chairman Bevelaqua said the Board needed to then elect a Vice-Chairman. There was discussion among the Board members regarding the absence of Vice-Chairman Michael Dupre. After discussion, it was determined that an election could be held at any time at the discretion of the Board.

Allen Hendershot and Raymond Clement suggested electing Michael Dupre as Vice-Chairman in his absence.

There were no further comments from the Board and they proceeded to vote.

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

Upon a unanimous vote, Michael Dupre was elected Vice-Chairman of the Zoning Board of Adjustment.

2. Review and approval of the Zoning Board Minutes of January 14, 2016.

***Chairman Bevelaqua made a motion to approve the Minutes of January 14, 2016 with amendments, which was seconded by Raymond Clement.***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

***Chairman Bevelaqua made a motion to adjourn, which was seconded by Allen Hendershot. (Motion Carried)***

**Yeas: Bevelaqua, Clement, Hendershot, Puthota, Routhier**

**Nays: None**

**Attest:** \_\_\_\_\_  
Michael Dupre, Vice Chairman  
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: MARCH 10, 2016  
WITHOUT AMENDMENT

**Full text of the agenda items is on file for review in the Planning & Community Development Department.  
The order of the agenda is subject to change on the call of the Chairman.**