



# 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 March 10, 2016 – 6:00 p.m. City Hall, Third Floor – Aldermanic Chambers

Board Members Present: Chairman Allen Hendershot, Vice Chairman Michael Dupre, Raymond Clement  
Alternate Present: Matt Routhier  
Absent: Thomas Puthota (Member), Larry Gagne, (Alternate)  
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-12-2016**  
**1475 South Willow Street, Ward 8**

Brian Pratt (Agent) proposes to construct a retaining wall greater than four feet in height within ten feet of the property line in the B-2 zoning district and seeks a **variance** from Section **8.27 (D) Fences, Walls**, of the Zoning Ordinance, as per documents submitted through February 29, 2016.

Brian Pratt of CLD Consulting Engineers appeared before the Board and said he was representing AutoFair. Appearing along with Mr. Pratt, was Mike Cheever of ArchCon Group, 10 M. Chestnut Drive in Bedford, Architect and Construction Manager for the project and Nicholas Lazos, Legal Counsel for AutoFair, who said his law firm is located at 66 Hanover Street in Manchester.

Brian Pratt said the best way to summarize what they are planning on doing is to take a look at a plan he submitted which is like a bird's eye photo. He said this plan shows everything that is pertinent to what they want to do. He said they want to do some improvements to the building and the primary reason is for a service drive-in. Currently, the service customers have to come and park and then walk in and the mechanics have to come out and get the car. This would add two drive-up lanes so that people can just pull up, drive right in, get service right up there on their car and then they can get out of their car and go right into the facility. To accommodate the addition, they would have to expand the pavement and on this plan it is to the left. The purple color on the plan is the expanded pavement which they are moving about ten feet. Mr. Pratt said the problem is that there is a property line in between AutoFair Hyundai

and AutoFair Ford. Right now the property line is about ten feet from the edge of existing pavement and what the proposed plan would do is put that edge of pavement right at the property line. There is a steep slope that separates the two properties and what they would do is replace that steep slope with a retaining wall. That retaining wall would be about five feet from the edge of pavement. Mr. Pratt said there are some light poles and trees in that area that they are going to push pack and that will accommodate full circulation around the building and allow them to continue parking the cars there. He said parking is at a premium there so they really can't lose any parking.

Brian Pratt said there are four variances associated with this. As previously mentioned, the first one is for a retaining wall. Michael Landry reminded Mr. Pratt that they were presently hearing the 1475 South Willow Street case.

Vice-Chairman Mike Dupre said he would like to make a motion to hear both this case, ZO-12-2016 and the next case, ZO-13-2016 together because they essentially are intertwined.

***Vice-Chairman Dupre made a motion to combine case #ZO-12-2016 and case #ZO-13-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Michael Landry then read case #ZO-13-2016 into record. He said to put this into prospective, 1477 is AutoFair Hyundai, which is closer to South Willow Street and the previous case read into record was for 1475 South Willow Street which is down the hill a little bit and that is AutoFair Ford.

Brian Pratt said they were asking for one variance on the Ford property and four variances on the Hyundai property. He said they are all, obviously, associated with that same improvement. The retaining wall is actually is on the Ford property along with the guard rail and the light poles and everything will be pushed over. The Dealerships function as one as they share an entrance and are owned by the same property owner. There is obviously no issue with the abutter not being ok with it.

Brian Pratt said the first variance is for the retaining wall less than ten feet from the property line and that is for both Ford and Hyundai. The next one is that they are not able to provide that landscape perimeter because the edge of parking is right at the property line. He said as he previously mentioned, they are moving the existing trees or replacing the existing trees there. There is an existing two to one slope and on that slope are some low evergreen ground cover and some trees at the top. Mr. Pratt said they would keep the trees at the top of the retaining wall but would just push them out a little bit.

Brian Pratt said another variance is for parking within four feet of the property line. The edge of pavement is right at the property line so the parking would be right up to the property line. He said effectively the buffer is kind of still there but on the Ford side.

The fourth variance is the lot coverage. This one is a little more complicated and Mr. Pratt said he is hoping to explain it so that it makes sense. He said in 2011 they received a variance for 89.1% lot coverage. By adding this addition and bumping that pavement out, it would bump them up a little higher than the 89.1%. He said as part of this proposal, there is some display area that is on the Rt. 293 side that was approved as part of that variance, but it was gravel. They are asking to pave that gravel area now. It is still going to be a service, storage and display area, but they are asking to pave the existing compacted

gravel. Lot coverage has been an issue and the applicant has been working with the City for years on this. They did actually purchase about an acre of land from the DOT. It is two separate parcels. One of the parcels is along Rt. 293 which actually took about two years to go through the DOT acquisition processing and buy about 27,000 square feet on that side and they also bought a strip of land along South Willow Street that is about 22,000 square feet. The primary purpose of purchasing these was to bring the green space more into compliance and to give them more land.

Mr. Pratt said obviously, the thought is why don't they just merge these three parcels and then they would be fine, they wouldn't exceed the lot coverage percentage. He said they would be happy to do that, but because of the mortgages, they can't just merge them right now because merging them would change the terms of the mortgage and that is something they cannot do at the moment. Once they get the site plan approval, they will get the mortgages for the improvements and merge that almost acre back into the parcel. That will change the lot coverage from what they are requesting right now which is 92.0% and bring it down to 76%, well under the 89% that it has been approved for previously. Mr. Pratt said they really wanted to do this and they looked into it but just couldn't merge them right now.

Brian Pratt said historically, the parcel has been very intensely paved so they are working to try to pick up the extra green space to help with that.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre said he remembered this case from 2011 and asked if they were purchasing even more land from the DOT. Brian Pratt referred to plan E1 and said that plan will show it pretty good. He said if the Board looked at the bold lines, those are the property lines. The strip along South Willow Street is called Parcel A and that was purchased back in 2010. Originally they were leasing from the State but they actually did finalize and buy it. Nothing physically has changed out there.

Vice Chairman Dupre asked if they were buying additional land beyond what they have already purchased. Mr. Pratt said yes and referenced the top of the plan and said there is kind of like a triangular shaped parcel which is the new land. Attorney Nicholas Lazos said that land was purchased last year and the difficulty they have is that there are three separate mortgages on this property. Mr. Dupre said he realized that and he was just trying to see what they were getting for new land because the last time they were before the Board, he didn't know if they purchased all the way up to the ramp and that was what he was trying to determine. He confirmed with Mr. Pratt that now they pretty much have it all the way out to the ramp. Mr. Pratt said as the DOT was willing to part with.

Chairman Hendershot 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 back over to the Board.

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

***Chairman Hendershot made a motion to grant variance case #ZO-12-2016 pertaining to the retaining wall which was seconded by Vice Chairman Dupre. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

2. **ZO-13-2016**  
**1477 South Willow Street**

Brian Pratt (Agent) proposes to construct an addition to the existing building in the B-2 zoning district and seeks a **variance** from Sections **6.04** for lot coverage greater than 75%; **8.27 (D)** for a retaining wall greater than 4 feet in height within 10 feet of a property line; **10.07 (G)** for not having a 10 foot landscaped perimeter and **10.09 (A)** for parking within 4 feet of a side lot line, of the Zoning Ordinance, as per documents submitted through February 29, 2016. *(Testimony above)*

***Chairman Hendershot made a motion to grant variance case #ZO-13-2016 pertaining to sections 6.04, 8.27 (D), 10.07 (G) and 10.09 (A) which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

3. **ZO-14-2016**  
**2305 Brown Avenue**

Chris Rice (Agent) proposes to maintain non-material changes to an approved site plan that resulted in lot coverage greater than 75% in the B-2 zoning district and seeks a **variance** from Section **6.04** Lot Coverage, of the Zoning Ordinance, as per documents submitted through February 4, 2016.

Chris Rice of TFMoran, 48 Constitution Drive, Bedford, said he was representing the applicant at 2305 Brown Avenue. He said the property is currently under construction as a retail building and is to the left on the page the Board was looking at is the Dunkin Donuts which was just recently constructed. Mr. Rice said they are requesting a variance from sections 6.04 to allow 79.8% of impervious coverage where 75% is permitted. He said he could not recall if it occurred during the site plan approval or just after, but he worked with Planning staff and they have requested for him to add a sidewalk connection, connecting this retail building over to the Dunkin Donuts lot. As such, some of the existing island was filled in with sidewalk. He said his client also made some minor sidewalk revisions and it was after the fact that they realized this pushed them slightly over the impervious coverage. The lot is rather small, 29,000 square feet, so 1% is essentially one parking space. Part of the variance, about half of that, added impervious coverages to allow some existing pavement that has been encroaching over the property line for as long as he can remember to remain. Mr. Rice said they feel it is a benefit to the applicant as well as the public as it provides for safe pedestrian access.

Chairman Hendershot turned the hearing over to the Board. There were no questions or comments from the Board.

Chairman Hendershot 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 back over to the Board.

Chairman Hendershot said the way he understands it, this is just a little piece of pavement that was left over. Ray Clement said it is about the size of one parking space.

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

***Chairman Hendershot made a motion to grant lot coverage for variance case # ZO-14-2016 which was seconded by Vice Chairman Dupre. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

4. **ZO-15-2016**  
**93 Katinka Drive, Ward 6**

Muzafer & Lindsey Aku propose to construct an accessory dwelling unit in the R-1A zone and seek a **variance** from Sections **8.26 (B)** for an occupant younger than 62 years of age and **8.26 (C)** for an accessory dwelling unit greater than 600 SF, of the Zoning Ordinance, as per documents submitted through February 4, 2016. Also, according to Section **5.11 (L)1** an Accessory Dwelling Unit may be allowed by **special exception**.

Michael Landry suggested to the Board that two actions be taken by the Board. The first action should be for the Special Exception and if that goes forward, the Board should proceed to the next two counts.

Muzafer Aku of 93 Katinka Drive said they are seeking a variance in regards to section 8.26 (B) which would be allowing occupancy for an in-law apartment for someone who younger than 62 years old. He said the reason for this is that his wife's father has cancer and they are trying to make it easier on him and have him move in with them.

Chairman Hendershot said they were going to talk about the special exception first.

Chairman Hendershot 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.

Michael Landry addressed Chairman Hendershot and advised that he was handed an e-mail and apologized that he did not have it with him. He said one of the neighbors wrote an e-mail in favor of this application.

Raymond Clement asked if this unit had already been built. Mr. Aku said it had not. He said the home has already been build but the addition had not. Mr. Clement referenced the garage and asked Mr. Aku if he planned on taking the roof off of the garage and building up without changing the footprint in any way. Mr. Aku replied it would change in the back. There would be a foundation in the back that is 18'x24' which would be an extension on the back of the garage which will go into the backyard 18 feet. Mr. Aku referenced the certified plot plan and said it has the proposal on the back with the addition which is 18'x24'.

Chairman Hendershot asked what the exact size of the proposed accessory dwelling unit was. Mr. Aku said it would be a total of 704 feet.

Vice Chairman Dupre asked Mr. Aku if he understood that this was an accessory structure inside of a single family home. He advised Mr. Aku that if and when he decided to sell his home in the future, he couldn't

sell it as a two family. It is basically an in-law apartment and it has to be a relative living in the house. Mr. Aku said he understood. Mr. Dupre said he just wanted to make that clear as this is a residential district.

***Ray Clement made a motion to grant the special exception on case #ZO-15-2016 which was seconded by Vice Chairman Dupre. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the special exception was granted.

***Chairman Hendershot made a motion to grant the variance case #ZO-15-2016 pertaining to sections 8.26 (B) and 8.26 (C), which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

5. **ZO-16-2016**  
**211 Ash Street, Ward 2**

Michael Soucy proposes to maintain an accessory structure converted to a single family dwelling in the R-2 zone and seeks a **variance** from Sections **5.08** for more than one principal structure; **6.01** for lot size of 5,891 SF where 10,000 SF is required; **6.02** for lot width of 50' where 75' is required; **6.03 (B)** for rear yard setback of zero (0) feet where 20' is required; **6.03 (C)** for side yard setback of 2' where 20' is required; **6.04** for lot coverage of 68.1% where 60% is allowed; **6.06** for floor area ratio of .57 where .5 is allowed; **10.03 (B)** for 5 parking spaces where 6 are required and **5.12** for relief from Planning Board approval for a planned development, of the Zoning Ordinance, as per documents submitted through February 9, 2016.

Michael Soucy of 289 Manning Street said the separate dwelling was on the property at 211 Ash Street when he purchased it. He said he thought it was probably built in the 1970's and it was already converted to what he thought was referred to as an "in-law apartment" when he bought it. It already existed and was fully functioning when he purchased it. Chairman Hendershot asked Mr. Soucy when he purchased the property. Mr. Soucy said roughly eight years ago. Mr. Hendershot said that this has been a dwelling for a while, then. Mr. Soucy said yes, he believed they built in the 1960's or 1970's.

Mr. Soucy said he was there for a variance to see if he could make it a legal apartment and obtain a variance from an R-2 to an R-3 allowance.

Chairman Hendershot turned the hearing over to the Board.

Ray Clement said he didn't know where to begin. He said he is surprised it has been there this long with no one questioning it. Mr. Clement said it is no reflection on Mr. Soucy, just on that whole lot size and seeing what is there compared to what is supposedly allowed. Mr. Clement said it is going to be a tough decision on his part.

Matt Routhier said his comment was geared toward the Board. He said he felt the need to get a full survey of this site because of the intensity of the use on the property, prior to making any motions on this.

Chairman Hendershot questioned if it is on the line or a foot off the line and said he agreed with Mr. Routhier that a full survey was necessary. Vice Chairman Dupre said he agreed with both Mr. Routhier and Chairman Hendershot. He said he would like to add one additional piece to this. He said he would like to have somebody inspect the structure in the back to see if it is even up to code. Mr. Soucy said that is one of the reasons they are here. They had a recent COC inspection there and the inspector pointed out a few small things such as capping out an outlet and obtaining a carbon monoxide detector.

Michael Landry addressed Mr. Soucy and said he had a housing inspector come out and he checked for minimum housing standards. He was wondering if Mr. Soucy would mind if the Building Inspector came out to inspect the property for any structural sagging and asked Mr. Dupre if that is what he was looking for. Vice Chairman Dupre said yes, as this structure appears to be something that kind of morphed from one thing to something else entirely and now they are looking to put people into it. He said he would hate to say one thing and then find out it is something entirely different. Mr. Dupre said driving down the back alley, there are no windows in the back alley. He asked if there were supposed to have those in the building. Chairman Hendershot said only in the bedroom. Mr. Dupre questioned where the bedroom was. Mr. Soucy said there are windows in the bedroom. Chairman Hendershot said for instance, there may be windows in the bedroom, but they may not be egress windows.

Chairman Dupre asked Mr. Soucy how many dwelling units he had. He asked if there were two in the house in front or three. Mr. Soucy said there were two in the house in front and he is working to make the other one a third unit. Mr. Dupre asked how many bedrooms were in the front units. Mr. Soucy said there are 2 bedrooms in each front unit and the proposed unit would be a one bedroom unit.

Ray Clement asked if there was someone living in the proposed unit presently. Mr. Soucy said it is occupied. Mr. Clement asked if it was a relative of Mr. Soucy. He said it was not. Mr. Clement said he agrees with the rest of the Board saying a survey is needed on this property.

Chairman Hendershot asked there was a motion to table this case. Michael Landry suggested before this case is tabled, Chairman Hendershot might want to go to the public to see if anyone came to make it worth their while.

Chairman Hendershot 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 back over to the Board.

***Ray Clement made a motion to table variance case #ZO-16-2016 until the April 14, 2016 ZBA Meeting so the applicant could obtain a certified plot plan and have an inspection by the Building Inspector which will include a report to the Board, which was seconded by Vice Chairman Dupre. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the variance was tabled.

***Mr. Landry advised Mr. Soucy and the public that this case would be continued to the next public***

***hearing on Thursday, April 14, 2016 at 6:00 pm and there would be no additional notice to abutters sent out.***

6. ZO-17-2016

118 Wells Street, Ward 6

Jonathan Bourque proposes to construct a 24' by 16' garage with an attached 24' by 12' carport in the R-1A zone and seeks a variance from Sections 8.29 (A)2 for a side yard setback of 11.9' where 20' is required and for a rear yard setback of 23.5' where 30' is required and 10.07 (E) for a gravel parking area under the carport and no paved access drive to the garage, of the Zoning Ordinance, as per documents submitted through February 9, 2016.

Jonathan Bourque of 118 Wells Street said he is requesting relief from section 8.29 (A)2 and 10.07 (E), requesting relief to build a garage with a maximum height greater than 15 feet but less than 20 feet.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Mike Dupre said he didn't understand Mr. Bourque's reasons for not wanting to pave the area. Mr. Bourque said he actually brought an amended plan for that and he approached the Board.

Chairman Hendershot asked Mr. Bourque if he was planning on extending the paved surface into the carport. Mr. Bourque said strictly into the carport, yes. Chairman Hendershot said then they can take off the proposed one story carport with the gravel surface because it is all going to be paved. Mr. Bourque said underneath the carport will be a gravel surface but it will be paved to the carport.

Michael Landry said the modified plan is not showing a driveway into the garage and asked Mr. Bourque how he was going to use the garage. Mr. Bourque said he was not planning on using the garage for car purposed at all. He said it was for storage for snowmobiles, tools, lawnmowers and that type of stuff. He said the reason about paving all the way to the garage door is because he has water problems in his basement already and he is requesting relief so he doesn't have that much pavement sloping towards the house. He said there is already enough water headed that way.

Chairman Hendershot asked Mr. Bourque if he had a garage door on the garage. Mr. Bourque said there would be a garage door. Chairman Hendershot said then it could easily be used as a garage. Mr. Bourque said correct and Chairman Hendershot said and that is our problem.

Chairman Hendershot said he had two problems. One is that the pavement is not going to the garage door and the other one is the gravel as it is not a dust free surface. Mr. Bourque said if that is an issue, he could pave below it underneath the carport.

Matt Routhier said he doesn't particularly see any kind of hardship with this based on its location as it looks like it would fit in the setbacks without any kind of issue. He said unless Mr. Bourque could attest to a reason why it wouldn't fit in there with minor alterations, he doesn't feel that he can support this.

Michael Landry said if you look at how long the house is, there is no rear yard. He said an accessory structure can be four feet within the lot line so if this was in the rear yard, it could be four feet from the lot line but because the house is so long, it is considered to be in the side yard. It is required to satisfy all the setbacks for a principle structure, but for the orientation of that long house, that's what is triggering

that.

Jonathon Bourque said he agreed with Mr. Landry. He said the existing topography of the lot is why he separated it and said if you look at the west end of the house, the elongated portion of the house, there is about a four or five foot difference in grade so that would require a bunch of fill and/or a retaining wall right next to the existing structure.

Chairman Hendershot 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 back over to the Board.

Chairman Hendershot said he had a problem in that he is building a garage with a garage door. He said if it were different kinds of doors where you couldn't drive a car into it that would satisfy that problem for him. He said he is not too happy about the gravel part as that is really not dust free. Mr. Bourque said he would be willing to pave in alteration to that plan.

Vice Chairman Dupre said he knows Mr. Bourque is concerned about the drainage issue given the pitch of the street and said this is purely a suggestion. He said Mr. Bourque has an existing driveway that is close to the house and asked him why he doesn't just tear that up and reset the driveway over in front of the garage and the carport so he wouldn't have a drainage issue. He said Mr. Bourque is going to increase his drainage problem because of the pitch of his roof. It is going to go right into his basement. Mr. Bourque said he added an under drain between where the proposed carport is in that area and there is ledge approximately two feet deep below the surface so that would require major alterations to the existing topography and possibly hammering or blasting the ledge to get it out. Vice Chairman Dupre addressed Mr. Bourque and said so you can't go deep on that and you understand with the pitch of the roof you've got water now coming down and being directed into that location. He said Mr. Bourque doesn't have that right now but will have that if the garage is approved. Moving the driveway over may be a solution for Mr. Bourque. Mr. Dupre said it is a straight shot now into the garage because if the Board approves something and Mr. Bourque says, you know, I will pave it or whatever, he basically would be coming out with a 45 degree angle to get into his driveway for his carport or anything else. Vice Chairman Dupre said moving the driveway over may be to Mr. Bourque's benefit long term.

Chairman Hendershot asked Vice Chairman Dupre if he meant a whole new curb cut. Mr. Dupre asked Mr. Bourque if there was curbing out there. Mr. Bourque said there was curbing out there, asphalt curbing. Mr. Dupre said if it is asphalt curbing, that would not be a huge expense. Mr. Dupre said he didn't see the hardship where Mr. Bourque can't have his carport and his driveway paved to the new garage he is proposing. Mr. Bourque said he was just trying to minimize the impact and obviously the cost of moving a driveway is very expensive. Mr. Dupre said he understood that, but the Board can't start letting people have gravel driveways. Mr. Bourque said he offered to pave it to whatever limits the Board feels fit.

Ray Clement said he likes Vice Chairman Mike Dupre's suggestion and he would like to see the whole area paved into the garage also, to get that cleaned up, whichever way the Board went. Mr. Clement said he thinks that would be to Mr. Bourque's advantage. Vice Chairman Dupre said it would be easier and cheaper to pave a straight area.

Matt Routhier said Mr. Bourque could leave the curb cut and curve the driveway and swing in quicker into the property. Chairman Hendershot said Mr. Bourque could just leave the same curb cut and just curve it into the front. He said he is personally opposed to granting this variance with a garage door without it being paved. Mr. Bourque said he has offered to pave that.

Michael Landry addressed Chairman Hendershot and said he could address the issue by simply not granting the relief for the paved driveway when he comes in for the building permit it would be a requirement. He said if the Board just drops it, it would take care of itself.

Chairman Hendershot confirmed with Michael Landry that if the Board made a motion to deny and Mr. Bourque just went back to the Planning Department and redoes it for the building permit, he would be all set.

***Vice Chairman Dupre made a motion to grant the variance for 8.29 (A)2, case #ZO-17-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

***Vice Chairman Dupre made a motion to deny the variance for sections 10.07 (E), case ZO-17-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was denied.

Chairman Hendershot addressed Mr. Bourque and said this just takes care of itself. He said Mr. Bourque can just go and get a new building permit and change the driveway structure and he wouldn't have to come back before the Board. Mr. Bourque asked for clarification on that driveway. He said if he was to pave where the existing driveway is, all the way to the garage door, the Board would not oppose. Chairman Hendershot told Mr. Bourque he would have to pave it to the garage door and the carport because the Board denied the gravel carport. Mr. Bourque asked if he could present that when he applied for the building permit. Michael Landry told Mr. Bourque if he had any questions he could just call.

7. **ZO-18-2016**  
**94 Sinclair Avenue**

Claire & Eugene Normand propose to maintain a fence in the front yard greater than four feet in height; and also construct a new garage the same size as the existing garage to be replaced only two feet further from the street in the R-1A zoning district and seek a variance from Sections **8.27 (B)** Fences, Walls (two counts) and **8.29 (A)** Accessory Structures and Uses, of the Zoning Ordinance, as per documents submitted through February 11, 2016.

Eugene Normand of 94 Sinclair Avenue said he got the C.O. for his new house for which he applied for a variance last year. Mr. Normand referred to photos he submitted to the Board and said when the Building Inspector came to give him his C.O. he noticed that the fence was five feet on his side and six feet on the neighbors side. He said the existing fence was like that and he built the new one the same way. When the Building Inspector noticed that, he advised Mr. Normand that this was against the zoning ordinance and

the fence needed to be four feet. Mr. Normand said the fence needs to be four feet on his neighbor's side. He said there is about a foot difference between the elevation on his neighbor's side and his side. Mr. Normand said he took pictures and used tape to show that it would be three feet on his side and four feet on his neighbor's side and the second picture shows that it would be four feet on his side and five feet on the neighbor's side. Mr. Normand said he is he has already taken the first section of fencing down and he hasn't put it back up because he is now looking for a decision from the Zoning Board.

Mr. Normand said the second variance he is seeking is for the garage. He asked the Board to look at the house he built compared to the old house, they will notice the garage has a berm to keep the water from going into the garage. Mr. Normand said he would like to tear the existing garage down, raise it up between a foot to sixteen inches higher than it currently is so that the water runs away from the garage. He would like to move the new garage back two to three feet which would be almost even with the back of the house.

Chairman Hendershot turned the hearing over to the Board.

Ray Clement complimented Mr. Normand on the nice job that he did on the house. Mr. Clement asked Mr. Normand if he was going to save the existing garage and just move it back. Mr. Normand said he was going to tear it down and build a whole new garage. Mr. Normand said the bottom of the garage has been in the ground for a long time and he bought the house last year and rebuilt it and what he would like to do is raise the garage up so it will be higher than the road. Mr. Clement asked Mr. Normand if the proposed garage would be a 1 car garage. Mr. Normand said yes, it would be in the same footprint, 14'x22', but he is just going to move it back so it is even with the back of the new house that he built.

Chairman Hendershot said this proposal actually improves the setback.

Chairman Hendershot 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 back over to the Board.

There were no further questions or comments from the Board.

***Chairman Hendershot made a motion to grant the variance for sections 8.27 (B) and 8.29 (A), case #ZO-18-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

Mr. Normand clarified with the Board that he could have the fence four feet on his side, just the way it has been, so when the inspector comes out he will be happy with it. Chairman Hendershot said yes.

8. **ZO-19-2016**  
**1649 Candia Road**

Jeffrey Merritt (Agent) proposes to demolish a portion (27,425 SF) of the existing facility housing Anderson Equipment at 1649 Candia Road and construct a new addition of 16,373 SF and seeks a variance from Sections **6.08 (B)7** storage of equipment or machinery within required 50' limited activity buffer; **7.11 (C)1**

sales, rental and repair of heavy equipment in the Lake Massabesic Protection Overlay District where not allowed; **7.11 (C)2** impervious pavement within 50' of water ways or wetlands in the Lake Massabesic Protection Overlay District; **8.27 (B)** 8' fence in side yard where maximum of 6' is allowed; **8.28** outside storage of equipment without required screening; **10.02 (F)** business parking in a residential district and **11.04 (G)** expansion/change of a non-conforming use, of the Zoning Ordinance, as per documents submitted through February 19, 2016.

Jeffrey Merritt said he is an Engineer with Keach-Nordstrom Associates, 10 Commerce Park North in Bedford. Mr. Merritt stated he was accompanied by Frank Moody, Project Manager from Mark Carrier Construction, 175 Lincoln Street and Mark Van Zanten, Attorney with Craig, Deachman & Amann at 1662 Elm Street.

Mr. Merritt said he thinks the Board is probably familiar with the property which is located at 1649 Candia Road which is indeed the home of Anderson Equipment. They are a sales, rental and service facility for large construction equipment, excavators, bulldozers and that kind of stuff. They have owned and operated this property since 2009. Prior to that, it was owned by R.C. Hazelton Company and the same type of use was operated there prior to their purchase in 2009. The use of the property started back in the late 1940's, well in advance of the City's Zoning Ordinance, so there is quite a history of this use on this particular parcel. The parcel has about 440 feet of frontage on Candia Road and access to the site is off of Candia Road. It is about 6.3 acres in area and is located entirely within the R-1A zoning district, so this is a residential zoning district. There is also an overlay district associated with Lake Massabesic that this falls into. This use is pre-existing, non-conforming in the base district as well as the overlay district.

Mr. Merritt said if you look at their existing conditions which is the first sheet in the plan set that he submitted you will see that there are a number of structures on the property. The main building is about 26,000 square feet, which is the one directly opposite the entrance off of Candia Road. You will see that there are some other structures on the property, primarily to the south. Those are old steel Quonset huts which house a lot of large part storage and they do use them from time to time for some of the service end of their business.

Mr. Merritt said if the Board flips the sheet to page 2, that is their site plan and it shows the scope of what they are proposing. The applicant is proposing to make some significant improvements and generally modernize this site. He said they will be removing the Quonset huts and a portion of the main building and they are proposing an approximately 16,400 square foot addition. That addition will have nine service bays and the interior of the existing building would be reconfigured for office, showroom, part storage and other uses. The project, if you total up the gross floor area of the structures that exist there today and compare it to what they are proposing, it actually is a decrease in floor area when you look at it in that respect. He said they are losing about 11,000 square feet of floor area with the modernization here but of course it is going to be much more efficient in the layout that they are proposing here, so they can still conduct their business even though it is a smaller gross floor area.

Mr. Merritt said around the proposed addition you will see a concrete apron which is going to provide a stable base for moving the equipment through the bays. In the southwest corner of the site, they are proposing to continue to use that area for equipment parking and storage as it is today. On the west side of the site, kind of near Candia Road, will continue to be used for equipment display. As part of this project, they will be installing a closed drainage system, meeting or exceeding the City standards for storm water and meeting or exceeding the NHDES AOT standards. As you can imagine, when this was developed in the 1940's there were no storm water requirements so there are very few storm water measures in

place today. That will be retrofitted as part of this development and be fully compliant with the storm water standards that are in effect today. He said he thinks that will obviously be beneficial to the Lake Massabesic Overlay District.

Mr. Merritt said other site improvements are your typical enhancement of site landscaping, lighting, utilities and that kind of thing. To facilitate the project, they do need a number of variances. He said he would briefly run through them.

Section 6.08 (B)7 is for storage of equipment or machinery within the required 50 foot limited activity buffer. He said if you look at their plan there is a limited activity buffer along the southwest property line which is where the adjacent residential uses are. Currently, there is already storage in that location, so they are simply changing the plan a bit so they have to get permits to do that.

Section 7.11 (C)1 for sales, rental and repair of heavy equipment in the Lake Massabesic Overlay District. Again, this use although it pre-dates the Zoning Ordinance, it is not permitted in the Overlay District, so modification of it requires a variance.

Section 7.11 (C)2 for impervious pavement within 50 feet of wetlands located within the Overlay District. The site itself does not have any wetlands on it, but adjacent to the site, specifically the rail trail on the east side of the site, there is a wetland there if you project the buffer associated with that wetland, the buffer falls on the property, not the wetland itself. They are proposing within that buffer to have some pavement and some concrete. He said he should mention that that buffer is already impacted. Today there is gravel there, so they will be changing that to pavement and concrete. Currently, no storm water treatment and all that area that they are proposing to pave within that buffer is going to be picked up and treated, so they think it is an improvement.

Section 8.27 (B) for an 8 foot fence in the side yard where a maximum of 6 feet is allowed. The fence that is proposed is to screen the equipment storage area. There is currently a 6 foot fence in that area and they are proposing to remove that fence and install a solid 8 foot high fence so that the storage area can be more effectively screened.

Section 8.28 for outside storage of equipment without required screening. This section of the Ordinance requires outside storage areas to be screened in on all four sides. They are proposing to screen that storage area along the south and east property line but they do not propose to fully enclose the storage area on the two internal sides. By not installing the fence on those two internal sides, they can provide for unobstructed interconnection between the repair bays, the display area and the equipment storage area. Again, this is very consistent with how it has been used historically out there. There isn't a fence around the entire equipment storage area because they move equipment back and forth.

Section 10.02 (F) for business parking within a residential district. They are proposing modifications to the current parking layout, so they do need a variance from this section. There are about 60 spaces there today and the project proposes 62 spaces so there is a slight increase. Interestingly enough, the way the parking calculations work in the City Ordinance, the Ordinance suggests they need 121 spaces. They don't need that and they are going to go to the Planning Board if they are successful here and they would request a Conditional Use Permit with them for a reduction in parking to the 62 shown on the plan.

Lastly is section 11.04 (G) for expansion or modification of a non-conforming use. The historic use of the property is not permitted in the base zoning district so any modification of the non-conforming use is

allowed as long as this Board finds that, 1) the project would not have an adverse impact on the surrounding neighborhood and, 2) the change in use is more conforming with the intent and purpose of the Ordinance.

Jeffrey Merritt said they have submitted written arguments for the criteria associated with the variance request as well as the criteria associated with the expansion in the non-conforming use. He said the project Attorney was present to go through them if the Board would like but that is about all he has.

Chairman Hendershot turned the hearing over to the Board.

Ray Clement said he had a question on the 4,000 gallon waste oil tank and the other 1,000 gallon fuel tank. He asked if that would all be in regular containment. Frank Moody said they would be in a double walled containment/storage tanks.

Ray Clement asked if they have been in front of the Conservation Committee yet. Jeffrey Merritt said they have made application to them but have not been before them yet.

Chairman Hendershot said he was talking earlier that the City notified the Overlay District but had not heard back from them and wondered if that was correct. Michael Landry said when staff sent out the abutters notice, one was sent to Manchester Water Works. He said he didn't see anyone from Water Works in attendance, but they were notified and they will be notified again when they appear before the Planning Board. Jeffrey Merritt said just to add to that, they reached out to Manchester Water Works before they submitted the ZBA application just to see if they wanted to have input prior to that application being made and they were interested in it but thought the appropriate time for them to review it would be when they made application to the Planning Board. They said they would take a look at it then. Chairman Hendershot asked if then the Water Works and Conservation Committee will still look at it somewhere down the process in the Planning Board. Mr. Merritt said that was correct. He said they have to go to the Planning Board for this project so it will go out to Water Works for department review and then they are scheduled to be before the Conservation Commission at the next hearing, he believes.

Chairman Hendershot asked if the Board needed to make a motion, if they so desired, that if the ZBA grants the Lake Massabesic, section 7.11 (C)1 and 7.11 (C)2 and the Overlay District says they don't like the plan, can a stipulation be put on there that the variance would only be approved if the Overlay District and the Conservation Committee approves it. Ray Clement said he thought that is understood, pretty much. Michael Landry said he agreed with Ray Clement and said these are steps of a process and the ZBA can do their job and let the other Boards do theirs.

Chairman Hendershot turned the hearing over to the public. No one came forward either in favor of or in opposition to this request. Chairman Hendershot asked if there were any general comments.

**Brandon Colson** of 72 Peabody Avenue said it sounds to him like the applicant would like to pave fairly close to the rear of the property, within 50 feet and this is very much in line with the rear of his property. He said he found comfort that they are putting in drainage because that was a concern of his. He said they already have quite a bit of water collection back there. Mr. Colson asked if this proposal will provide more activity for this business in the rear of the building with more customers, more equipment and so on.

Frank Moody said the new section of the building which is to the left of the existing building is a service bay area. Currently, the service bay is in the rear of the existing building so vehicles are coming in and out of that rear section going out towards the back lot where Mr. Colson is mentioning. In effect, there shouldn't be any more traffic than they are used to now, it is just that there will be a newer building there that they will be accessing. As far as the pavement, that area on the south or west side of the lot is actually going to be gravel, there is no pavement there. Jeffrey Merritt said the equipment parking and storage area is gravel and there is a transition between that and where the concrete apron is and that is where it goes from gravel to pavement. It is currently all gravel now.

**Brandon Colson** said he had one additional comment. He said they are sometimes operating equipment on the weekends and this is probably an issue he needs to bring up somewhere else. He said he has heard equipment hammering down as early as 6:00 or 7:00 in the morning and he is not a big fan of that on the weekend. Chairman Hendershot said it is not really a zoning question but said Mr. Colson could certainly go to the City Planning Department and they will tell him who to speak with.

**Chuck Holloway** of 78 Minot Street said this property is located right behind his house and he has a couple of concerns. He said he would like to know what kind of fencing that they are proposing. He wants to know if it is going to be the same type as they have now or a solid fence much higher to keep the noise out. Jeffrey Merritt said the fence they are proposing there is 8 feet in height and it will be screened because the requirement for an outside storage area is to have a solid fence, whether that be chain link with slats or a stockade fence or something like that. It will be a fence that they shouldn't be able to see through. Mr. Holloway confirmed that he wouldn't be able to look out his back window and see what is going on there. Frank Moody said currently in the rear of the building there is a 6 foot clear chain link fence that you can see right through. He said they would be putting in an 8 foot solid fence, whether it be vinyl slats or an impervious mesh product that you can't see through.

**Chuck Holloway** said lighting on the rear of the building is another concern of his. He said the lighting could potentially shine right into his house. Ray Clement said all of these questions could be brought up at the Planning Board Meeting. He said all of this still had to go in front of the Planning Board for review and that is when these questions are usually brought up and addressed. It really is not in the purview of the Zoning Board to address those things right now. The Zoning Board is just looking at the variance requests here, but all of those concerns can be brought up at the proper time which would be in front of the Planning Board. Mr. Clement advised Mr. Holloway that he would be advised of when the Planning Board Meeting would be held. Chairman Hendershot said it is just a different meeting because these issues are not what the Zoning Board deals with. He said Mr. Holloway could certainly do the same thing and go to the Planning Board Meeting and get up before them and voice his concerns.

Chairman Hendershot asked the Board if they wanted to vote on all counts collectively or separate them into individual votes. The Board agreed to vote on all counts at the same time.

***Chairman Hendershot made a motion to grant the variance for sections 6.08 (B)7, 7.11 (C)1, 7.11 (C)2, 8.27 (B), 8.28, 10.02 (F) and 11.04 (G), case #ZO-19-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**  
**Nays: None**

Upon a unanimous vote the variance was granted.

9. **ZO-20-2016**  
**1250 South Willow Street**

Steven Clermont (Agent) proposes to add a freestanding sign within area restricted from corner clearance obstructions resulting in six freestanding signs where two are permitted in the B-2 zoning district and seeks a **variance** from Sections **8.27 (E)** visual clearance on corner lots and **9.09 (A)1** (2 counts) addition of 6th sign exceeds maximum of 2 allowed and sign placed 3 feet from lot line where a minimum of 5 feet is required, of the Zoning Ordinance, as per documents submitted through February 24, 2016.

Steve Clermont stated he was representing Quirk Automotive Group of 1250 South Willow Street. He said just to give a little background on this case, Quirk recently opened up a Kia Dealership down on South Porter Street. He said they have extremely high visibility from Rt. 293 and have been operating there since the end of last year. One of the common complaints and concerns they are getting from people trying to get to that property for service, sales and parts is that coming from the north end of South Willow Street there is zero visibility. What they are doing is cutting across two or three lanes of travel to get into the correct turning lane, or they are getting up past the mall and getting frustrated and banging illegal U turns on South Willow Street compounding the current and future traffic problems they are going to have on that site. They are proposing to put a small, not to exceed 3'x5' directional sign just simply stating Quirk Kia with an arrow. The sign would not be so much for advertising, but for somebody that is looking for that dealership and has that destination, they would be looking for that sign and they would be able to catch it allowing them enough time to maneuver into the correct lane of travel easing them onto the correct street that they should be going to.

Steve Clermont said he did have a letter from one of the abutters, the Board of Directors at Porter Place Condominiums Association sent an e-mail stating they have no objection to putting the sign there.

Mr. Clermont said back in 2003 there was a large pylon sign on the side of that hill. He referred to photos submitted and said the renderings of the sign, if you look at the side view to the left and up the hill a little bit, you can still see the electrical box that is still currently in the grass. That sign was removed sometime between 2003 and 2005 according to the Manchester GIS. Historically there was a larger pylon sign there that was removed. Again, they aren't looking to put anything near the size of that, just a small directional sign to give customers and the public better knowledge of where to turn.

Chairman Hendershot 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 comments or questions from the Board.

***Chairman Hendershot made a motion to grant the variance for sections 8.27 (E) and 9.09 (A)1, case #ZO-20-2016 which was seconded by Ray Clement. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

10. **ZO-21-2016**  
**125 Theophile Street**

Daniel Spenard proposes to construct a new 30'x19' garage to replace an existing carport within the required front, side and rear setbacks and with a parking space within four feet of the garage and front lot line and seeks a variance from Sections **6.03 (A)** front yard setback, **6.03 (B)** rear yard setback, **6.03 (C)** side yard setback and **10.09 (A)** parking setback, of the Zoning Ordinance, as per documents submitted through February 22, 2016.

Daniel Spenard of 125 Theophile Street said he is seeking a variance to construct a 30'x19' garage to replace an existing carport. Chairman Hendershot said this would actually improve the setback a little bit. Mr. Spenard said his Architect, Gary Thomas, was in attendance and maybe he could answer those questions for the Board. Gary Thomas from Northpoint Construction Management said he helped out the Spenards with the design as Mrs. Spenard is his sister. He said it actually does improve the setback. Currently their carport is actually over the property line and the way they were configuring this is they were trying to follow the property line on the back corner of the property. He said the Spenard's are looking to more or less do this because Mr. Spenard is a contractor himself and he has been having some issues with keeping tools out in the truck and they want to try to get everything under a better enclosure.

Chairman Hendershot turned the hearing over to the Board. There were no questions or comments from the Board.

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

***Chairman Hendershot made a motion to grant the variance for sections 6.03 (A), 6.03 (B), 6.03 (C) and 10.09 (A), case #ZO-21-2016 which was seconded by Vice Chairman Dupre. (motion carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

Upon a unanimous vote the variance was granted.

***Chairman Hendershot made a motion to close the public hearing which was seconded by Vice Chairman Dupre. (Motion Carried)***

**Yeas: Dupre, Hendershot, Clement, Routhier**

**Nays: None**

III. **BUSINESS MEETING:**

1. **ADMINISTRATIVE MATTERS:**

1. Review and approval of the Zoning Board of Adjustment Minutes of February 11, 2016.

***Ray Clement made a motion to approve the Minutes of February 11, 2016 without amendment which was seconded by Matt Routhier.***

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

**Abstained: Dupre**

2. Discussion and adoption of proposed changes to Zoning Board of Adjustment bylaws.

Vice Chairman Dupre said he had questions about changes to the bylaws. He said there was some back and forth about some additional changes made in the minutes and he asked if anything had become of that. Chairman Hendershot asked what part he meant. Vice Chairman Dupre read an excerpt from the minutes regarding a comment Chairman Hendershot made. Chairman Hendershot said those comments were not part of the bylaws. The bylaws are only procedures and administrative things, not changes to the Zoning Ordinance. Vice Chairman Dupre said the procedural changes he saw were related to the “fact to the back and forth”. Michael Landry said that was one of them. Vice Chairman Dupre said that was fine.

Michael Landry said the first real substantive change appears at “Article VI, Applications to the ZBA”. The language that was deleted was from the prior statute that has since changed, so all that new language is from the statute that was changed in 2009. Mr. Landry said it is about time we update these.

Michael Landry asked Vice Chairman Dupre if he would like him to go through the changes and he can digest them and the Board could talk about them at a later time. Mr. Dupre said no, he had a pretty good handle on it because he did read through this. He said the one that kind of caught him, which he couldn’t figure out, was on page 8 where it says “each application will be reviewed for completeness, accuracy and compliance with the zoning ordinance. This review may take up to 30 days. An application is not complete until it has been reviewed by staff to the Zoning Board.” Vice Chairman Dupre said never mind. He then read “The public hearing shall be held within 30 days of the receipt of properly completed application.” Michael Landry asked Vice Chairman Dupre if he would like a little background on that. Mr. Dupre said no, he knew where stuff like that was coming from. He said he has been doing this long enough.

Vice Chairman Dupre then read “If a planning application is submitted in reliance upon the variance, the variance shall not expire within 6 months of resolution of the planning application” and asked what that meant. Michael Landry said that is a state statute which is to provide people an opportunity to vest their variance. He said you have two years, but if you needed to go to the Planning Board, it will not allow your variance to expire while it is at the Planning Board. It is additional protection for the applicant and it is taken straight from the statute and that language is verbatim.

Chairman Hendershot said he read through them and he didn’t see anything of concern. Vice Chairman Dupre said there is nothing huge in this group. He said the ones the Board saw four or five years ago were pretty extensive. Chairman Hendershot said this is minor stuff.

***Ray Clement made a motion to approve the updated Bylaws and Rules for the Transaction of Business which was seconded by Matt Routhier. (Motion Carried)***

**Yeas: Hendershot, Clement, Routhier, Dupre  
Nays: None**

3. Any other business items from Zoning Staff or Board Members.

*The meeting concluded with a brief discussion on Board procedures.*

***Ray Clement made a motion to adjourn the ZBA Meeting of March 10, 2016 which was seconded by Chairman Hendershot. (Motion Carried)***

**Yeas: Hendershot, Clement, Routhier, Dupre  
Nays: None**

**Attest:** \_\_\_\_\_

Michael E. Dupre, Vice Chairman  
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: June 9, 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.**