

**MANCHESTER ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING / LIMITED BUSINESS MEETING MINUTES
May 12, 2016 – 6:00 p.m.
City Hall, Third Floor – Aldermanic Chambers**

DRAFT

Board Members Present: Chairman Allen Hendershot, Vice Chairman Michael Dupre, Thomas Puthota, Matt Routhier

Alternates Present: Anne Dalton, Jose Lovell

Absent: Ray Clement (member), Robert Breault (alternate)

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

I. **The Chairman called the meeting to order and introduced the Zoning Board Members and City Staff.**

II. **PUBLIC HEARING:**

(Tabled from April 14, 2016)

1. **ZO-25-2016
Whalley Road - Map 675, Lot 43, Ward 9**

Gary Meehan (Agent) proposes to construct a single family dwelling on a lot that does not have minimum lot frontage for a depth of 100' and where the proposed residence is located within the required rear yard setback in the R-1B zoning district and seeks a **variance** from Section **6.02** Minimum Lot Width and **6.03 (B)** Rear Yard Setback, of the Zoning Ordinance, as per documents submitted through March 16, 2016.

Gary Meehan of 641 Blackbrook Road, Goffstown appeared along with the two owners; Joyce Feeney and Kathleen Meehan.

Mr. Meehan advised that at the last meeting the Board requested that they try to maximize the setback from the north property line and they were able to slide the proposed building to the south sufficient enough to create a 35 foot setback while still maintaining six feet to the property line in the rear.

Mr. Dupre advised the applicants that he appreciated that they made some adjustments. He asked if they had any plans to put a deck on the back because they may be a little close. Mr. Meehan advised that they do not have any immediate plans to do that. Mr. Dupre was concerned that one corner of their house would be six feet off the property line and if they are going to have any sort of steps going out back or any sort of decking they would end up encroaching onto the City's land. Mr. Meehan said they would not encroach upon the rear as they could go slightly to the north.

Chairman Hendershot turned the hearing over to the public and invited those in favor of this application to come forward. No one came forward and the Chairman invited those in opposition to come forward.

John and Sabrina Thomas of 23 Dixwell Street advised that they live directly across the street from the subject property. Mr. Dixwell had a major concern regarding water supply as he does not believe the water supply goes down Whalley Road; he believes it ends directly in front of his house. That information was taken from the GIS map. He advised that the road already has a pretty nasty spot on it and since he has lived there it has been paved three times and the road has risen up over 6 inches, which has now created a runoff problem onto his property. He was concerned that if they have to do road construction directly across from his property the road may have to be paved, which would further aggravate their runoff problem. He was also concerned that the agent is a member of the existing family that proposed that this land be turned into a non-buildable lot years ago and he is now asking that it be reversed. He was concerned about the taxes and why they weren't paid. He said his road might have gotten fixed the way the City said they were going to by dredging it out and then paving if the taxes had been paid. Mr. Thomas provided photographs to the Board.

Mrs. Thomas said the runoff was significant onto their land and their grass two feet into the lawn was dead because the tar is so high due to the construction that was done and the water line does not run to that property so there would have to be construction. She said they are taxpayers and they are very concerned that the land was in an unbuildable status and the taxes were reduced. She said they could have had that road fixed, as the City said they were going to, for the tax dollars that were not paid for all those years as it was in an unbuildable status. In looking at the house lots in the area, she said none of them are within six feet of another house. It is not the character of the neighborhood. She is also concerned about the property values

Dave Carlson of 40 Whalley Road said he appreciated that they moved the house down 35 feet. He has lived there for 22 years and there hasn't been a house there and now there will be. He asked for clarification on the setbacks.

The Chairman advised Mr. Carlson that at this time no plan had been presented. Mr. Landry advised that the applicant had a plan and he requested that he bring it forward so Mr. Carlson could see it. The Chairman advised that the only thing that gets presented to this Board is the footprint of the house.

With regard to the water issue, Mr. Meehan advised that they spoke to Water Works and they will have to extend the water line down. Regarding the runoff issues, he said he had no knowledge of that but they would certainly not do anything to hamper the rest of the neighborhood.

Mr. Dupre made a motion to approve all of the variance requests for this application, which was seconded by Mr. Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

(Current)

2. **ZO-34-2016 (Administrative Appeal)**
8 Goffstown Road, Ward 12

Gerald Prunier, Esq. (Agent) appeals an administrative decision that required the applicant to demonstrate unit density in accordance with Section **5.12 (B)** of the Zoning Ordinance.

(Per the request of the applicant on May 9, 2016, this case was withdrawn.)

3. **ZO-35-2016**
8 Goffstown Road, Ward 12

Gerald Prunier, Esq. (Agent) proposes to construct a planned development in the R-1A zoning district and seeks a **variance** from Section **5.12 (B)** which requires applicant to demonstrate that the unit density of the proposed planned development does not exceed the unit density allowed under subdivision control, of the Zoning Ordinance, as per documents submitted through April 11, 2016.

Attorney Gerald Prunier advised that his office is located at 20 Trafalgar Square in Nashua, New Hampshire. They are before the Board this evening looking for this variance over a plan that they have been trying to build and have had discussions with the Planning staff regarding what has to be provided. Because they want to do a cluster development of seven lots they need to provide a yield plan to show that the nominal subdivision can be done. To do that, the road has to go through a wetland. The staff requested that they get approval from NHDES for both plans and the DES told them that they would not do that. He said they are both approvable because it is a road so there is no problem. They have already received approval from the Conservation Commission for the road and they made a favorable recommendation to the Planning Board.

Attorney Prunier said if they can't get approval from NHDES to give both of them, the Planning staff made a suggestion that he provide this Board with the email in which he was told he needed to get a variance, which is why they are before this Board this evening. He said it is a "quirk" with the ordinance and they are between a rock and a hard place.

Tony Basil, an engineer from Keach Nordstrom advised that he could answer questions for the Board.

Mr. Dupre confirmed with Attorney Prunier that the Manchester Conservation Commission weighed in on the road. Mr. Dupre asked if they weighed in on the actual development beyond the road. Attorney Prunier advised that they walked the site a couple of times and went through their normal procedure to give the approval for the cluster development.

Chairman Hendershot turned the hearing over to the public. No one came forward either in favor of or in opposition to this application and the Chairman brought the hearing back to the Board.

Chairman Hendershot said they are obviously not making any judgments on plans or whether this is feasible or any other option. He thinks they have a definite hardship due to the lay of the land and they had to come up with a plan that obviously will make the Planning Board happy so he has no problem doing this very technical vote for approval.

Mr. Dupre confirmed with Mr. Landry that this will have to go before the Planning Board.

Mr. Routhier made a motion to approve this variance request, which was seconded by Mr. Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

4. **ZO-36-2016**
100 West Elmwood Avenue, Ward 9

Steven & Katrina Paquette propose to construct a 4'x2' addition to the front entryway and maintain a driveway with a width of 35.5' in the R-2 zoning district and seeks a variance from Sections **6.03 (A)** to allow for front yard setback of 11.3' where 15' is allowed, **10.08 (C)** to maintain driveway width of 35.5' and **6.04** for lot coverage of 62% where 60% is allowed, of the Zoning Ordinance, as per documents submitted through April 13, 2016.

Mr. Paquette advised that they would like to replace their front door and the way the house was built it has a very awkward entrance. As such, they would like to bump it out two feet and re-do the steps so it will be a safer entrance and make the house a lot more accessible. The other two variances are for the driveway and the impervious, which existed when they purchased the home over ten years ago. The stairs are currently 14.3 feet and they are looking to move three feet closer to the street.

Chairman Hendershot stated that the applicant didn't build the driveway; it was that way when they purchased the home and obviously their big driveway is their impervious surface problem. Mr. Paquette said they are adding 9 SF doing this project, which still keeps them within the 62% impervious.

Mr. Puthota asked if there was stump in the middle of the driveway. Mr. Paquette advised that City cut down a rotten tree down a few years ago. If the variance is approved, Mr. Puthota asked if they would remove it. Mr. Paquette said they are just seeking to maintain the driveway; it has nothing to do with the construction.

Chairman Hendershot turned the hearing over to the public. No one came forward either in favor of or in opposition to this application and the Chairman brought the hearing back to the Board.

Mr. Puthota made a motion to approve this variance request, which was seconded by Mr. Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

5. **ZO-37-2016**
181 Westwind Drive, Ward 6

Jose Ribeiro proposes to pave an area of approximately 1,200 SF in the rear yard for use as a play area in the R-1A zoning district and seeks a variance from Section **6.04** for lot coverage of 49.3% where 40% is allowed, of the Zoning Ordinance, as per documents submitted through April 19, 2016.

Jose Ribeiro of 181 Westwind Drive submitted photographs to the Board. He advised that he had made some changes so the actual area he is asking to be paved would be 900+ feet.

Mr. Routhier asked the applicant if he was opposed to using something other than asphalt and Mr. Ribeiro said he wanted to use asphalt.

Mr. Dupre asked about the need for pavement in a play area. Mr. Ribeiro said his plan was to have a patio so he could set up a chair and put up a basketball hoop for his son.

Chairman Hendershot advised that he did not see a hardship that poses the need to pave to the property line as depicted in his drawing. In addition, he did not see any reason why he could not stay within the 40%, when they are only asking for 42%. He explained that is only a 5% reduction in his space and he wouldn't have to come before this Board other than the fact that he is going to the property line.

Chairman Hendershot explained that the Board always has a problem with building anything right on the property line. Mr. Ribeiro advised that the original plan showed 1,200 SF and now it is 900+ SF. The Chairman confirmed that he already took the 10% off so he is already under 40%. He said that would be verified by the Building Department who will go out and measure to be sure that he is under the 40%. Given that, the only issue is going to the

property line. The Chairman asked if he was staying away from the property line now. He asked if the stone wall in the backyard the property line and Mr. Ribeiro said it was. The Chairman confirmed with Mr. Ribeiro that the property line was actually the front of the stones.

The Chairman turned the hearing over to the public and no one came forward either in favor of or in opposition to this application.

Mr. Ribeiro advised that he had two letters in support of this project.

Chairman Hendershot said part of the property line issue for him was that it really goes to the bottom of the wall, which is about 10 feet tall. He liked the fact that he was under the 40% lot coverage.

Mr. Dupre advised that he read the letters when he first saw that they were in favor, but they speak of a patio being expanded, not a basketball court. Mr. Ribeiro said it is a patio and Mr. Dupre reminded him that he said he was going to put a basketball court there. Mr. Ribeiro said it was going to be a 25'x21' area. Mr. Dupre said there is a big difference between a patio and a basketball court. Mr. Ribeiro clarified that he is basically looking for a place for his child to play safely. In addition, outside of the existing deck he would like to be able to set up a grill and stuff like that.

Mr. Dupre said he appreciated what he was doing but he already has a 16'x14' patio already and a three car garage so there is plenty of space with a 36 foot driveway to play basketball in the front. He said there are a lot of things that can keep a ball in a driveway. Mr. Ribeiro said the driveway was at an angle so it is very easy for the ball to go to the street.

Chairman Hendershot advised that he did not have a problem with the basketball hoop as there are basketball hoops all over that neighborhood. His main concern was that he not encroach onto his neighbor's property and that he stay under the impervious surface.

Mr. Routhier said they could add a stipulation in the approval that it not be asphalt and that it be something that would allow water to infiltrate into the ground. He explained that anytime you put asphalt behind a house it begs the opportunity for other things to happen.

Chairman Hendershot did not have a problem with that but wondered if they could do that since he is under the 40%.

Mr. Landry said the way he calculated it, the original proposal (approximately 1,200 SF) represented about 10.5% additional coverage to bring him up to somewhere over 49%. Therefore, if he is saying he is bringing it down to around 9 feet, he is still going to be over the 40%.

Mr. Routhier made a motion to approve this application with the stipulation of using pavers with gaps in between them to allow for water infiltration as opposed to asphalt.

(There was no second to Mr. Routhier's motion.)

Mr. Ribeiro said there are stones in the area. Mr. Routhier said his concern lies with the fact that they are putting asphalt, which is typical of a driveway, behind the house. He advised that he does not have a problem with pavers because it has more of a patio feel but asphalt does not fit the character of the neighborhood.

Mr. Ribeiro advised that he has somebody that does paving and he doesn't have money for concrete. He said this proposal was a financial and safety thing for him.

Mr. Routhier advised when he spoke about pavers, he meant more like a brick or a concrete preformed paver, not pouring concrete and having it leveled out, so the cost would be similar. Chairman Hendershot said there would be spaces between the stones and it would not be solid.

Mr. Dupre made a motion to deny this variance request, which was seconded by Mr. Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous decision the variance was denied.

Mr. Ribeiro inquired what he had to do to get this approved. The Chairman advised him that he has 30 days to appeal this decision and he can bring a different plan to the Board. He advised that the denial is based on the impervious surface coverage. He said if he could come back with a plan that does not violate the impervious surface portion of the ordinance then he can present that to the Board.

6. **ZO-38-2016 (Administrative Appeal)
48 Henriette Street, Ward 10**

Daniel Muller, Esq. (Agent) appeals an administrative decision requiring applicant to seek additional relief from the Zoning Board of Adjustment for additional units built after a variance from 2005 expired and the building permit for additional units was denied in 2013, as per document submitted through April 20, 2016.

Daniel Muller of Cronin, Bisson & Zalinsky, 722 Chestnut Street appeared on behalf of the applicant, Sarah Chartier. Also present was Robert Duperant, her father.

Attorney Muller advised that in 2013 a building permit was sought for additional rooms for tenants. His client was advised that additional relief would be required to add more rooming units. In order to facilitate the management of the facility they have converted the common area on the first floor to an office containing two rooms which will be for staff only (a manager and a cleaning person). There will also be a bathroom in this office. They are

not adding additional rooming units.

Attorney Muller said it was their perspective that under the Zoning Ordinance the definition of a rooming unit is described as being for tenants (ie. people who are going to pay you to stay there). Since this is for use by their staff, he said they would be glad to stipulate that it will only be for staff.

Attorney Muller also advised that they are not dwelling units. To be a dwelling unit under the Zoning Ordinance you have to have among other things cooking facilities and there are no cooking facilities for these two rooms. As they are not "guest rooms", which is the term the Zoning Ordinance uses for lodging houses in terms of determining parking needs. There are some apartments in this building; again because they are not dwelling units they do not give rise to any other requirement in terms of either a zoning approval or a conditional use permit.

The Attorney stated that they are not claiming that they do not need to get a building permit to get these approved, they agree with that. They are not here to argue as to whether if you add additional rooms for tenants whether you would need relief. That is not the case before the Board. The case before the Board is simply whether two rooms designated for staff only, not for paying tenants, are rooming units as contemplated by the Zoning Ordinance in particular the definition of "lodging house" and whether those two rooms, which are neither for tenants nor dwelling units, trigger the need for parking.

From their perspective, Attorney Muller said this is an accessory use, which is allowed by variance. It is on the property. It is not unusual in this sort of circumstance to have onsite management. This simply provides for better management of the facility, which is a benefit to the neighbors and everybody else.

He stated that it is minor to the overall principal use, which is a mix of rooming units for tenants and for apartments. They are only talking about two rooms. They basically sleep there, they have an office and there is a shared bathroom, as shown on the plan. As such, they asked that the Board hold that while they do need building permits that no further zoning relief is required to essentially maintain these.

Attorney Muller advised there was some discussion on the accessory use and some reliance upon accessory use provisions that deal with other uses. He advised that the Supreme Court, prior to the City adopting its most recent Zoning Ordinance, decided a case called "Hannigan", which basically talked about even if you have a Zoning Ordinance that says "anything that is not provided here is prohibited". In terms of accessory uses, because the law recognizes that the Zoning Ordinance cannot address each and every one, if it is not expressly addressed in the Zoning Ordinance you go to the common law. As he explained previously, this satisfies both the common law provisions as to what an accessory use is and, therefore, he requested that the Board simply rule that these quarters for staff only do not require additional zoning approval.

Mr. Dupre confirmed with Attorney Muller that this is their management's office, where there will be a manager and somebody who does cleaning. He asked what the hours are for the management office. Attorney Muller advised that they reside there so it is 24/7.

Chairman Hendershot confirmed with Attorney Muller that there will be one bathroom shared by the manager and the cleaning person.

The Chairman said the variance to do this was granted in 2005. Attorney Muller stated that the actual variance was granted in 1985. Chairman Hendershot asked if a building permit was taken out to execute the 2005 variance. Attorney Muller said that variance was sought by a prior owner. The Chairman asked if there was ever a building permit taken out to execute any of the variances granted in this building. Attorney Muller understood that building permits were granted in connection with the 1985 variance. According to PCD staff, a permit was not taken out for the expansion of the number of rooming units that was contemplated by the 2005 variance. Therefore, the 2005 variance, in terms of allowing additional rooming units for tenants, expired. There was a removal of stipulation and the Department has taken the position that still remains in effect. Originally when this was granted it was for elderly housing only and that stipulation was removed in 2005.

Chairman Hendershot asked Mr. Landry if a building permit was ever pulled that addressed the zoning case 38-ZO-2005. Mr. Landry advised that within two years a permit was not pulled, but sometime in 2013 an owner of that property applied for a building permit for four additional rooming units and that was denied because there was no variance in place.

Mr. Landry advised that they are talking about a very close distinction with these rooming units and considering it a rooming unit when a tenant lives there and not if a caretaker lives there. He said the Ordinance and the Department does not see a difference between someone living in a rooming unit and paying cash money for rent versus someone living in a rooming unit and getting to stay there for the consideration of their labor. It is the Department's opinion that these are virtually the same and a rooming unit is a rooming unit regardless of who lives there and consideration is being paid whether it is in the form of rent or labor.

Chairman Hendershot understood and agreed with that and stated that he was sure there was a microwave or coffee maker so they are living there. For him, the biggest issue is that they had a variance for two years and did not take out a building permit. As such, it was his opinion that they are more than welcome to come back to the Board with a plan and renew the variance and get a building permit. He said he agreed with Mr. Landry that there was really no distinction in the dwelling unit and that the people live there.

Mr. Landry said he agreed with Attorney Muller that they were talking about rooming units. He explained that dwelling units are the apartments that have a bathroom, sleeping quarters and a kitchen. These rooming units have a bathroom outside and it is essentially a bedroom type space.

Chairman Hendershot reiterated that his major objection was that they did not execute the variance within two years. Attorney Muller said they are not looking to execute the variance. The Chairman said they do not have a variance to do what they want to do and they didn't pull a building permit.

Attorney Muller said the other issue he has with the interpretation that they are giving for Section 10.0, which says the unit of measurement for parking is guest rooms. It doesn't say any living quarters; it says guest rooms. He said there are definitions and they are stuck with them.

Mr. Puthota said regardless of whether it is a rooming house or an accessory unit they still need to get a permit. Attorney Muller said they don't deny that they need to get permits. The question as whether to maintain the quarters for the staff they have to get a variance and a conditional use permit because they are saying that there are more quest rooms and they are saying that there are more rooming units as the same as contemplated by the Zoning Ordinance.

Chairman Hendershot stated this could be easily resolved if they came back with a plan and get a variance for what they want to do and then the Board could discuss it again.

Chairman Harrington turned the hearing over to the public. No one came forward in favor of this request and he invited those opposed to it to come forward.

Dan Larochelle of 25 Theophile Street, one street over from the property. He is also an abutter as he owns King Bowling Lanes, which abuts the property, so this was a "double whammy" for him. He was disappointed that Mr. Clement was not present because he was familiar with the parcel as he used to be very involved with St. Edmonds so he could go back a lot with this. Mr. Larochelle did not recall the senior housing part taken out in 2005.

As a bit of history, Mr. Larochelle advised that it was a former convent with some classrooms. The 32 rooms are one step above a jail cell. They are 10'x10' rooms with a sink in them. The 32 rooms share a kitchen. They used to share a livingroom area, which he believes has been taken over by the two units that they built in. The eight apartments were former classrooms and they are either efficiencies or one bedroom units. He said there is a lot of police activity at this property. In 2015 there were 73 incidents whether it be drugs, assaults, thefts, etc. This year to date there have been 24 incidents. In the past there has been numerous sex offenders living in the building. He couldn't say there was any right now but certainly in the past there has been.

Mr. Larochelle asked if the staff pays to live there. This past winter he found a couch on his property that came from their property. He called their staff and they weren't quick enough for him so like any good neighbor he threw the couch back. Whether it is right or wrong, that is what he did. This spring he found a dryer on his property, he has found grills, kids' toys, tires, etc. They just throw things over the fence onto his property. He believes kids are living in the building. There are often kids in and around the building and that is not a

place for children.

Nick Hatzibiros of 164 Lodge Street advised that he owns Ollie's Restaurant. He said this building happens to be the nightmare of the neighborhood. The management, if that's what they want to call it, is not management whatsoever. He has tenants criss-crossing through his parking lot all day going back and forth Cumberland Farms throwing their trash all over the place. His employees have seen their tenants urinating in his parking lot. They approach his customers asking them for money and cigarettes and they pick the cigarette butts out of his ashtrays, so it is a nightmare. He said their request to expand anything should be denied.

Mike Capps of 43 Henriette Street advised that he and his wife purchased their property several years ago when their kids were real young and they weren't aware of the building across the street. They didn't really know until months after they purchased the property what they had gotten themselves into. He doesn't have any problems with the new owners and he said that they try. His issue is with the tenants that live there and the management, who he said is just as bad as the tenants. She lives there with her son. He believes the housekeeper lives there at well. She has a son that lives out in front in his van with a child and his girlfriend. There is another van that keeps parking in the church parking lot and they are living out of a van. He has had to run alcoholics off of his porch. The building is out of control and when they call the police the first response they get when they call Manchester is that they have to call Goffstown and when they call Goffstown they are told to call Manchester so by the time anybody arrives it is two hours later.

Mr. Duperant advised that in rooming houses you do get a lot of people that are parolees and some are sex offenders who need a second chance in life. There are recovering alcoholics and drug users and they try to provide them with clean affordable housing and they have tried to improve the building. They have replaced all the windows and in the last year they put in a security system. He said they are trying to bring the building under control. The building itself has gone up for auction on 3 or 4 occasions just because of the issues it has had. They are trying to bring them under control and make it a better and safe place where people can have a second chance in life.

Mr. Duperant advised that the people who work there do not have a paycheck or anything like that.

Chairman Hendershot turned the hearing back over to the Board.

Mr. Dupre asked how long they have had the office staff in place. Mr. Duperant said it has been since May 2013. Mr. Dupre said it sounded like the police activity has gone up and Mr. Duperant did not think it had.

In looking at the units, Mr. Dupre said he saw it as additional places for people to put a bed.

Chairman Hendershot said they were welcome to come back before the Board with a

comprehensive plan that deals with the units the way they should be and they could hear the neighbors' concerns again.

Mr. Landry advised if the Board grants this appeal they are saying they don't need to come back before the Board. He said the appeal really turns on whether or not the decision was right or wrong. That is what the Board is deciding is whether or not the decision that said they needed to come back to the Zoning Board for this work was the right decision or if Attorney Muller was correct in saying they didn't need a variance to do this work and they are good to go forward.

Mr. Dupre made a motion to deny the appeal, which was seconded by Mr. Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous vote, the appeal was denied.

7. **ZO-39-2016**
11 Log Street, Ward 10

Richard Webster is seeking a variance from Section **13.04** Computation of Impact Fee, to waive the imposition of school impact fees for a new 20-unit apartment building under construction that consists only of one-bedroom apartments and intended to house people with disabilities in the R-2/B-2 zoning district, as per documents submitted through April 20, 2016.

Attorney John Deachman advised that he serves as the general counsel for the Manchester Housing Redevelopment Authority. His office is located at 1662 Elm Street. Also present was Dick Webster who is the development manager for Manchester Housing. They are here for a variance from Article 13 of the Zoning Ordinance, specifically school impact fees. They have been before the Board in years past on similar projects that were going to be housed primarily with disabled people.

Mr. Webster said 11 Log Street/168 South Main Street is a project that Manchester Housing put together in cooperation with the Mental Health Center of Greater Manchester. The occupancy is only by referral by the Mental Health Center or agencies that provide supportive services to people with disabilities. The people have to be disabled and receiving supportive services. The units are all one bedroom units and not suitable for households with children. The Housing Authority's occupancy standards stipulate that separate bedrooms be provided to persons of different generations within a household and they have other programs than can offer should there be. Should anybody want to refer a family to them with children, they do have other resources they can provide and get them into a two-bedroom apartment, but it wouldn't be at this location. The Mental Health Center itself has also said they would not be referring households with children to this facility.

Attorney Deachman advised that they supplied the legal argument in their application as well as addressed the five criteria.

There were no comments from the Board and the Chairman turned the hearing over to the public. There were no public comments and the Chairman brought the hearing back to the Board.

Mr. Routhier made a motion to approve this variance request, which was seconded by Mr. Puthota. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton
Nays: None

Upon a unanimous decision the variance was granted.

Chairman Hendershot stated that the project looks real nice.

8. **ZO-41-2016**
Porter and Hudson Streets, Ward 7

Joseph Wichert (Agent) proposes to construct a single-family residence with a setback of 12.5' in the street yard where 20' is required in the R-1B zoning district and seeks a **variance** from Section **6.03 (A)** Street Yard Setback, of the Zoning Ordinance, as per documents submitted through April 22, 2016.

Joe Wichert appeared on behalf of the Susan Ashooh Lazos Revocable Trust and Pierre Peloquin. He advised that the revocable trust owns Lot 4 on Tax Map 508. The property sits on the southeast corner of Porter and Hudson Streets and it has 47 feet of frontage on Porter Street and 100 feet of frontage on Hudson Street. It is a 4,700 SF lot in the R-1B zoning district, which requires 75 feet of frontage and 100 feet of lot area. It is his understanding that staff is in agreement that this is an existing lot of record. Because this is a corner lot they would end up needing two front setbacks and two side setbacks so they would need 20 feet off of both Hudson and Porter Street and then 10 feet off of the south and east lot line. The problem they have is on a 47 foot wide lot that would only allow them a 17 foot building envelope is impractical to develop to a degree that would make sense. If this was a 47 foot lot that wasn't a corner lot they would have a 27 foot wide building envelope, which they could put a 24 or 26 foot wide house in. Therefore, they are proposing to put a 23-1/2 x 32 foot house with a 5x23-1/2 foot farmer's porch and a 10x10 foot deck on the rear. They have that set so it complies with the southerly building setback, the Porter Street setback and the side setback on the east lot line. However, they can't make it work to the front setback on Hudson Street. As such the side of the house, which would be the façade facing Hudson Street, is only going to be 12-1/2 feet off the street line. In looking at the GIS map submitted, the lots on the north side of Hudson Street pre-date the ordinance and they are approximately 8-15 feet so he believes they are comparable to

what they are proposing. On the east side of Knowlton Street the houses are closer to the road. On the opposite side of Porter Street they are probably a little bit more than 12 feet but less than 20 feet, which is what the ordinance requires.

Mr. Wichert advised that Mr. Peloquin built this house before at 375 Bodwell Road and pictures of that were provided to the Board showing what it would look like. Floorplans were provided in the packet showing the façade. The value is estimated to be \$235,000-\$239,000 and they believe that is probably higher than much of the surrounding neighborhood. It is their opinion that approval of this variance and subsequent construction of the house would not reduce the property values of the surrounding neighborhood.

Regarding substantial justice, Mr. Wichert said it was their opinion that building a modest sized house that fits the character of the neighborhood by 23-1/2 feet wide is preferable than building a 16-1/2 foot wide house, which would look out of place and awkward.

Mr. Peloquin said that exact photograph is a home that they built about 6-7 months ago on Lafayette Street, which was a 50x90 foot lot. That plan was specifically designed to accommodate a lot of these last remaining records that may have very narrow shallow lots. They have done about a dozen of these homes over the last 7-8 years. In looking at the house, even though it is 23-1/2 feet wide it doesn't give the appearance as being a narrow home at all, probably because of the farmer's porch, and it blends in well with the neighborhood. He said they have had very good success with it and have gotten accolades from the neighbors that they were afraid that it would look like it was shoe horned in on these lots and once they see the finished product they are very, very happy. The last home they sold on Bodwell Road was \$235,000 and they tend to appeal to first time home buyers that don't want to buy an older home. They believe it will be a great benefit and asset to this particular corner lot.

Mr. Routhier advised that he grew up around the corner from this lot and his parents still live in the neighborhood and he thinks they definitely have a hardship as far as the front setback is concerned. He said it would be nice to see the area developed as opposed to be being overgrown. He knows this property has been before the Board numerous times in the past and there was some opposition from a neighbor to the rear at that point. He wasn't sure if that gentleman is still around, but he thought this would be an improvement to the neighborhood.

Chairman Hendershot thought this was a good fit for the neighborhood.

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

Scott Patterson of 209 Porter Street thanked the two gentlemen because they cleared up a lot of his concerns in their presentation. It is his understanding that this is a street yard frontage issue. Living on that property and having lived there now for 12 years, his concerns were simply that of privacy and resale. He has not seen the picture of the house or 375

Bodwell Road. It is interesting to him that the gentleman used the term “shoe horned” because those were his bigger concerns because clearly just by asking for this exception to be made it is a smaller lot than is typically buildable. He said it already feels tight for him. He doesn’t disagree that it would be an upgrade to the neighborhood as that lot has been neglected for the twelve years that he has lived there. A neighbor of his calls the City to cut it back so people can turn the corner safely. He was concerned about how close the deck would be to his property line and how this would affect his property value when he is ready to sell.

Chairman Hendershot advised Mr. Patterson that as far as the distance to his property that was all within code. Chairman Hendershot showed Mr. Patterson the photograph of what the proposed house will look like. Mr. Patterson asked if the ordinance is five feet from the property line. Chairman Hendershot advised that the house is 10 feet.

Mr. Landry explained the setbacks to Mr. Patterson. Mr. Patterson asked what the setback to his property line for a structure would be and the Chairman advised that it was 10 feet. The Chairman explained that the only issue is that it is closer to Hudson Street than it is supposed to be.

Mr. Wichert said the way it was designed the only relief they were asking for was to the Hudson Street side so they are allowing more than what is required to the south, which is Mr. Patterson’s property. He advised that the GIS map shows his garage being located on the north side so he actually thought there would probably be a little bit more than a 20 foot separation. Mr. Patterson had asked about the placement of a deck and Mr. Wichert said it is actually going to be closer to Hudson Street than it would be to that south lot line. As such, the deck will probably be somewhere in the range of 20-22 feet from the lot line. He said the only thing that they had that was the five feet was the last parking stall and that is allowed to be four by ordinance so they have actually gone one extra.

There were no further comments from the Board.

Mr. Routhier made a motion to approve this variance, which was seconded by Mr. Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Puthota, Routhier, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

Mr. Routhier made a motion to close the May 12, 2016 public hearing of the Manchester Zoning Board of Adjustment, which was seconded by Mr. Dupre. (Motion Carried)

III. BUSINESS MEETING:

Chairman Hendershot convened the May 12, 2016 Business Meeting of the Manchester Zoning Board of Adjustment.

1. ADMINISTRATIVE MATTERS:

- **Review and approval of the Zoning Board of Adjustment Minutes of March 10, 2016 and April 14, 2016.**

Mr. Dupre made a motion to postpone the approval of the Minutes, which was seconded by Mr. Routier. (Motion Carried) (Opposed: Hendershot)

Yeas: Dupre, Puthota, Routhier, Dalton
Nays: Hendershot

- **Any other business items from Zoning Staff or Board Members.**

There was a brief discussion concerning a document Mr. Landry prepared to provide the Board members with an overview of the applications.

A motion to adjourn was made by Chairman Hendershot, which was seconded by Mr. Puthota. (Motion Carried)

ATTEST:

Michael Dupre, Chairman,
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT:

- With Amendment
- 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.