

**MANCHESTER ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING / LIMITED BUSINESS MEETING MINUTES
June 9, 2016 – 6:00 p.m.
City Hall, Third Floor – Aldermanic Chambers**

Board Members Present: Chairman Allen Hendershot, Vice Chairman Michael Dupre, Matt Routhier, Raymond Clement

Alternates Present: Anne Dalton, Jose Lovell, Robert Breault

Absent: Thomas Puthota (member)

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

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

II. PUBLIC HEARING:

Michael Landry announced the postponement of case #ZO-47-2016, which is property located at 130 Middle Street. He said this case would be heard at the July 14, 2016 ZBA hearing. Mr. Landry said also, for everyone's information, the chambers are going to be undergoing some renovations over the month of July so the next ZBA hearing will be at the Rines Center where the Health Department is located and that is at 1528 Elm Street. All notices for that meeting will include that new address.

(New Cases)

1. **ZO-40-2016 (Subsequent Application)**
324 South Main Street, Ward 10

Joe Wichert (Agent) proposes to relocate an existing sign to 2' from front lot line where 5' is required and maintain parking expansion in the B-1 and R-2 zoning district and seeks a variance from Sections 9.08 (A)1 Signs, 10.02 (F) Business Parking in Residential District, 10.07 (G) Landscaping, 10.07 (K)1 Parking, Bumpers, 10.07 (K)4 Parking, Screening, 10.08 (C) Driveways, Width and 10.09 (A) and 10.09 (B) Parking, Setbacks, of the Zoning Ordinance, as per documents submitted through May 24, 2016.

Michael Landry said this case is a subsequent application. This case was heard earlier and there have been some changes made. The new case number is ZO-40-2016 and this property is located at 324 South Main Street.

Michael Landry addressed Chairman Hendershot and said the Board may want to take an action to open up the hearing and determine whether or not the application is sufficiently different to hear it.

Vice-Chairman Dupre made a motion to go into a Business Meeting to discuss this subsequent application which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier Breault

Nays: None

Chairman Hendershot said he would like to make one thing clear. He said the Board has definitely taken out the 10.06 (B) because the Board has no authority to change the size of a handicap space. He said they would just have to come up with a handicap space if their case is approved.

Vice Chairman Dupre said he believes this case is significantly different than the other so he would like to make a motion that the Board hears this case.

Vice Chairman Dupre made a motion to hear Case #ZO-40-2016 which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier Breault

Nays: None

Vice Chairman Dupre made a motion to return to the public hearing which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier Breault

Nays: None

Joseph Wichert said he was appearing on behalf of UDC Property Management, LLC. He said as Mr. Landry mentioned previously, this application was heard by the Zoning Board in December and basically, back in December he believes the request was to maintain as is. Mr. Wichert said the variance was denied and Don Duval who was doing the work then has retired due to some health issues so he inherited the case. He said he is working with Dr. Sudati and Dr. Solanek to try to resolve the issues and let them move forward with running their business.

Joseph Wichert said the subject property is Lots 18A and 19 and that is on tax map 325. Currently on the north side of the lot there is a three story building that houses the Amoskeag Urgent Dental Care. To the south, which he thinks used to be Lot 19, was a multi-family building.

Mr. Wichert referred to the handout he gave to the Board this evening and said the first page is just a colored rendering which kind of clarifies what they are proposing for landscaping. He said the second page is to show an exhibit that if they were to cut back and reconfigure this asphalt in order to make it fully comply with the City Ordinances they would only get 14 parking stalls. The third page is a newer picture of the property and Mr. Wichert said you can see that the building was removed and they were looking to gravel prior to

asphalt. The fourth page came from the City GIS map which is a photo circa 2009 that shows the existing multi-family building and shows 14 parking spaces in the existing parking lot. The last page was a photo from the GIS map circa 2002 that shows the multi-family there and no parking lot. He said it is kind of like pictures of where they are at and what they are trying to do.

Joseph Wichert gave a re-cap for any of the Board members who weren't here in December. He said UDC purchased the property in July of 2015 and it was after the previously owner had passed away. The previous owner had obtained permits to remove the multi-family building and pave a section of that to make parking for the dental practice. Unfortunately when they paved it, they did not comply with what was shown on the permit. Therefore, that lists the numerous citations that were there. The current owners wanted to merge this property and when they went merge it, all of this came to life. That is where the owners are at now, trying to move forward.

Joseph Wichert said if you look at the exhibit that came with the original packet, the asphalt for practical purposes goes right up to the lot line. It goes to the southerly lot line and goes almost to the right of way lot line. He said to the east there is a 12" to 18" retaining wall for half of it and then it just kind of stops. There is a substantial drop and then off of the Wheelock Street frontage there was an older parking area that was installed as parking for the multi-family building. The intent has always been that the lower lot would be used for employees and the upper lot would be used for patients.

Mr. Wichert said what they have done is shown a stairway to be constructed so there would be a connection to there. He said for any of the Board members who drove by the site and looked at the Wheelock end of it, it is kind of overgrown and in a little bit of disrepair. The intent would be to clean that up, green it up, cut it back, stripe it and make it a better, more complying and more aesthetically pleasing.

Joseph Wichert said he spoke with Michael Landry about what their plans were for the steep portion of the lot. He said they spoke with a couple of landscape architects and they are getting mixed signals about what they could or should do. The intent is to clean it up. He said they would not like to get into the specifics as to type of ground cover, number of plantings and things like that because he doesn't necessarily think that is germane to the variance.

Mr. Wichert said what they are proposing to do on the upper parking lot where they have all the violations is to cut back slightly on the south lot line, on the street side and on the east side up against the retaining wall and the edge of the asphalt. He said after reviewing the minutes, they have also called for installing guard rails on the southerly half of the asphalt where there is no retaining wall. There is a curb stop that would prevent a vehicle from going over and there would be a guard rail there. Mr. Wichert referred to the colored sheet and said the red dots are kind of the way it is striped now. One of the things they have tried to do is, as you came into the lot, there is an existing sign that sat in front of a parking stall and they had a parking stall behind it so you wouldn't hit the sign coming into it. In an

attempt to kind of clean this thing up and make it a little more compliant, they are proposing is that they eliminate that sign and re-locate it to the north side of the ramp which created a count for the setback for the sign. They have allowed for a 22 foot aisle coming in from street. The parking spaces as configured are 8½'x18½' so they are fully compliant and on the north side they have a 22 foot aisle.

Mr. Wichert addressed Chairman Hendershot and said he previously mentioned the waiver for the handicap spot. He said that handicap spot as drawn is 8'x20' which is what ADA requires. The reason they could make that one 20 feet and the others are 18½ feet is because there is no aisle behind it so there is all the room in the world to push that out to make it 20 feet.

Joseph Wichert said one of the things he spoke with Michael Landry about during the course of this review was where their handicap access panel would be. Currently, what ends up happening, and he thinks it has been this way since at least the 2010 photo, is they are using for all practical purposes, the sidewalk as the panel. He said their hope was that they aren't necessarily changing that portion of the lot so they are hoping that will remain. Mr. Wichert said he thought Michael Landry and Leon LaFreniere spoke and said that probably is not an option for them. What they would probably do is an alternative where they would take the space immediately to the east of the handicap stall and stripe that and make it an 8'x20' panel. Now they would have the fully compliant handicap spot and the panel next to it. Mr. Wichert said he thought when Don Duval was here he had 23 parking spaces and as they initially submitted they had 22 and when they eliminate that one space for the access panel they will be down to 21.

Mr. Wichert said the office itself is a very successful dental practice which is doing well and they turn over a lot of patients. Joseph Wichert said there are approximately 25 employees of which 16 to 18 are there at any one time. The Urgent Care sees somewhere around 25 patients on a slow day and 45 to 50 on a busy day which puts an average of 35 to 40 patients a day. He said if you look to the north of 322 South Main Street you will see that Lot 325/18 is owned by Sudati Property Management, LLC, which is owned by Dr. Sudati, who is one of the principals of UDC. The employees of both dental practices would have the ability to share the lower lot so they think that would be a benefit.

Mr. Wichert said he would go through the counts they had. He said because they are relocating the freestanding sign at the entrance, even though they are pulling it further away from the right of way it is being cited because they are moving it and shifting it to the north. Regarding the landscaping buffer, Mr. Wichert said they are required by Ordinance to have a 10 foot buffer and as it shows on the south side which abuts up to the barber shop or 352 South Main Street, there is approximately 2 feet on the southeast corner of that asphalt to that lot line and about 4 feet on the southwest corner. He said they have tried to maintain a small buffer there. Mr. Wichert said on the street side the landscape buffer would go from about 3½ to 2 feet, a small green landscape area. He said they have talked to DPW and if the Zoning Board were to want more green area they probably would have the

ability to cut back that sidewalk because it is a little bit over wide right now. He said Todd from DPW said they are looking for a minimum of 5 or 6 feet. He said they would prefer not to do that and DPW would probably prefer them not to do that, also.

Mr. Wichert said the problem they have is the 23 parking spaces as they exist are a tight squeeze. He said when you go from 23 to 21 it would be a little tighter so they are trying to do everything they can to comply as best as possible with the Ordinance and still have functioning parking. Mr. Wichert said if you look at some of the GIS photos and the area around it you would see that there are very few businesses that actually have a 10 foot landscape buffer in that area and he thinks the reason for that is this is an older part of town and most of these developments and businesses pre-date the Ordinance. Mr. Wichert said if you looked at their second sheet which would be as if they took the existing asphalt and cut it back to make it a fully compliant parking layout they would have 14 spaces which is what they had on the old lot before they took the building down and re-paved. He said he thinks that is one of the reasons why they would need a little bit of relief in regards to trying to get this lot to configure.

Joseph Wichert said lastly, he is sure that everyone is aware of it, but he wanted to bring to everyone's attention that the current applicant really wasn't the cause of the violation. The current applicant purchased this property after an untimely death. It was an active dental practice and they were trying to be able to satisfy and service all of their existing patients. This isn't like your standard business transaction where you would have more time than normal to do your due diligence and even have recourse as to force the person who caused the violation to come back and remedy that problem. They didn't have that ability, so unfortunately they own it and they are trying to come back and make this as correct as they can.

Mr. Wichert said the only other thing he wanted to bring up is that when he went through all this, there was talk about bumpers on the southerly boundary. He said they are willing to stipulate that if the ZBA feels that the bumpers on the southerly boundary are beneficial or will serve as some kind of curb stop to prevent a vehicle from going forward, they would be agreeable to that. The reason they didn't call for them originally is their experience has been that when you put those into a parking lot like this, especially seeing that they have installed the guard rail on the east side, after about one or two winters they are going to be gone anyhow. Certainly, if the Board feels that is better, they are willing to entertain that and stipulate to it. They did look at putting a guardrail along that edge of asphalt but the problem is if they put the guardrail there they will not have the ability to do any kind of plantings so other than maybe some stone or bark mulch that would be all it would be. If it would be the Board's preference to see some kind of guardrail along that line, they are agreeable to that.

Chairman Hendershot turned the hearing over to the Board.

Matt Routhier addressed Joseph Wichert and said he had a quick comment. He said Mr. Wichert spoke to the option of guardrail along that southern side and he was wondering if it

would be an option to put a bollard in front of each space as opposed to a guardrail so there would be room for planting and thus eliminate the plowing problem with the wheel stops. Mr. Wichert said he thought that would work.

Chairman Hendershot said he would suggest a bumper at the end of each concrete bollard.

Raymond Clement said this is a lot better than the Board has seen on this property for a long time. He said he has gone through quite a few rounds with this property before and it has always been a hassle. Right now he thinks Mr. Wichert has done about the best that can be done to bring it up to conformity to some extent. He thinks the bollard idea is a good idea against the barber shop. Mr. Clement asked Mr. Wichert if the concrete pad was for a dumpster. Mr. Wichert said he wasn't sure what it was for. He said it may have been for a dumpster for the multi-family. Mr. Clement was wondering if they were just going to leave it there. Mr. Wichert said he didn't know, unfortunately as he wasn't involved when it was a multi-family. He said it is there now and he just doesn't know what it was for.

Vice Chairman Dupre said he knows that a big concern on the southern side was the fence being pushed over into the neighbor's property from plowing. He asked how that was being handled. He asked if it was still going to be pushed that way or is it going to be removed or is it going to be pushed down the embankment. He asked Mr. Wichert if that has been determined. Mr. Dupre said he thought this plan was a lot better but it is a very skinny buffer they created there. Mr. Wichert said he is assuming when they plow they are probably going to go north/south and not east/west. He said depending on what type of plow they had they could get some of it over the guardrail and some of it over the retaining wall, but he is sure there is going to be a snow bank on that south side. Vice Chairman asked Mr. Wichert if was a plan to remove the snow entirely because he did say parking was tight. Mr. Wichert said he is sure that if the snow banks encroach to the point that they can't get a parking stall, they are probably going to have to truck off site. He is just not willing to say that they can commit to that on every storm. Mr. Dupre said an abutter made a good point last time when she said the fence is basically leaning into her property because of snow. He realizes this plan is a lot better but they have added a couple of feet which can easily be plowed over and now you are back to the same problem again. Mr. Wichert said they did locate the fence and the fence is set roughly a foot inside the lot line on the 352 side. They would end up having roughly 3½ to 5 feet of store area that they can put there and if it starts encroaching more then they will have either look at trucking off site or on off hours, getting a loader to dump it over the guard rail onto the steeper parts.

Vice Chairman Dupre asked Joseph Wichert if the owners rented out these spaces or if it was strictly for their business. Mr. Wichert said they are strictly for the businesses.

Chairman Hendershot said he agreed with Mr. Clement and Mr. Dupre and said he thought the feeling of the Board was that they wanted them to do something. He said he knows that it is very difficult to completely comply and he likes the fact that this looks way better and it is going to be way less of an eyesore and said it will all be fully permitted now.

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.

Matt Routhier made a motion to add the condition that bollards be installed 1 per space on the southern end of the lot which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Vice Chairman Dupre made a motion to approve all of the variance requests read into record for this application which was seconded by Robert Breault. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

2. **ZO-42-2016**

320 Blevens Drive, Ward 1

Brian Baumgardner proposes to maintain expansion of deck with a 6' rear yard setback where 30' is required and maintain an 8'x8' shed in the side yard with a 7' setback where 10' is required in the R-1B zoning district and seeks a variance from Sections 6.03 (B) Rear Yard Setback and 8.29 (A)2 Accessory Structures & Uses, of the Zoning Ordinance, as per documents submitted through May 2, 2016.

Brian Baumgardner said he lives at 320 Blevens Drive with his wife and children. He said purchased the house in June of 2005 and there was already an existing deck. He said about a week after moving in his two year old child went out the door in the back of the garage and fell to the ground, which is a 4 foot drop. He said the next spring, he added to the existing deck, wrapping it around the back of the garage so he wouldn't have any more problems with this. The deck was already there and he just made it larger and wrapped it around. Mr. Baumgardner said the shed was there when they bought the house. He said the driveway and the retaining wall were all there as well.

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 and invited those in favor of this application to come forward.

Steve Fournier of 308 Blevens Drive said he is Mr. Baumgardner's next door neighbor. Mr. Fournier said as far as he is concerned, everything is fine and looks good and is well maintained. There are no problems with what he has done. Mr. Fournier said the rock wall has been there since everybody in the neighborhood moved in.

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

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

Vice Chairman Dupre made a motion to approve all of the variance requests for this application which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

3. **ZO-43-2016**
67 Donald Street, Ward 10

Denise and Mark Fournier propose to maintain expansion of driveway with a parking space within 4 feet of a building and a width of 26.5 feet where 24 feet maximum is allowed in the R-1B zoning district and seeks a variance from Sections 10.08 (C) Driveways, Width and 10.09 (B) Parking, Setbacks of the Zoning Ordinance, as per documents submitted through May 11, 2016.

Denise Fournier of 67 Donald Street said they purchased the house 30 years ago and 12 years ago, they enlarged their driveway because their children were getting their licenses and they needed a bigger driveway. She said they just recently got a permit to replace their fence and the staff at the Planning Department noticed that their driveway was 6 inches shy from the garage to the grass line. She said the staff also noticed that the width of their driveway is 26½' and it is supposed to be 24'. Therefore, they want us to add 6 inches of width at the end of the driveway at the garage and then, reduce the driveway entrance width by 2 ½'. Mrs. Fournier said they were hoping to be able to leave it as is because they think that would ruin the look of the property.

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

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Raymond Clement made a motion to approve all of the variance requests for this application which was seconded by Vice-Chairman Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

4. **ZO-44-2016**

720 Cohas Avenue, Ward 6

Darren Grasso proposes to maintain shed in the front yard in the R-1A zoning district and seeks a variance from Section 8.29 (A)1 Accessory Structures & Uses, of the Zoning Ordinance, as per documents submitted through May 16, 2016.

Darren Grasso of 720 Cohas Avenue said this all started with his phone call to the Building Inspector to inquire on an addition over his garage. He said that is when he learned that he had a code violation with the shed. He said he purchased the home in December, 2011 and when he purchased that home, which is a split level raised ranch, doesn't have a lot of storage. He said he is really hoping to keep the shed and said he was able to get signatures from all of the abutters stating they were okay with that.

Chairman Hendershot turned the hearing over to the Board.

Raymond Clement asked Mr. Grasso if the shed was there when he bought the property. Mr. Grasso said it was. Mr. Clement asked Mr. Grasso if he had any idea how old the shed was. Mr. Grasso said he didn't know but when he was on the phone with the Building Inspector, he was looking at the GIS maps and he believes it may have been placed there somewhere in the 2003 to 2005 time frame. It is unclear because there is a large tree there that was casting a shadow, but it is really undetermined. He said he has heard from some of the abutters who signed the petition that it has been there for a very long time but he couldn't say how long.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Chairman Hendershot turned the hearing back over to the Board.

Chairman Hendershot said his only comment was that he is not a big fan of front yard sheds. This one doesn't have the feel of the front yard shed for some reason because it is so far off to the side and Mr. Grasso obviously has issues with the land so he doesn't have a big problem with it.

There were no further questions or comments from the Board.

Raymond Clement made a motion to approve the variance request for this application which was seconded by Vice Chairman Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

Mr. Grasso said he had one other question. He said when he met with the Planning Department, they asked him to put something else on this variance as well and it looks like only one point is being covered in the variance. He said he has an interim draft plan for the addition over his garage and they want to go out 4 feet. Chairman Hendershot advised Mr. Grasso that he should submit a plan to the Planning Department and they will tell him if he has a zoning violation. If he does have a zoning violation, he will have to come back before the Board again. Chairman Hendershot said that wouldn't have anything to do with the shed because that has already been granted but he would have to take each specific case. Chairman Hendershot told Mr. Grasso that he could have combined them all together if he had made the plan but Mr. Grasso didn't do that so now he will have to do it again. Mr. Grasso said he saw what Chairman Hendershot was saying. He asked Chairman Hendershot if it is because he didn't give the Board a plan, is that the point. Chairman Hendershot said there is nothing in the proposal about a variance for his garage. Chairman Hendershot said Mr. Grasso will have to take that up with the Planning Department. Mr. Grasso said he believes he did give all that information to the Planning Department and they were the ones who suggested it to him and that is why he added it to his application. Mr. Grasso said there was actually one that he added in error and in the spirit of adding "everything" per the suggestion of the Planning Department he added a shed in the back that isn't a code violation. He said he found out afterward that it is fine for this location. Chairman Hendershot said he would have to turn this one over to Michael Landry.

Michael Landry addressed Chairman Hendershot and said he was going to approach the applicant. Mr. Landry asked Mr. Grasso if he could show him where the proposed garage is. Mr. Grasso referred to a plan and showed Mr. Landry where the proposed addition would be. Mr. Grasso said the Planning Department told him to add this to the variance request in order to save him some money and not have to go through this process again. Mr. Grasso explained the dimensions of the addition to Michael Landry.

Michael Landry asked the Board to bear with him as he was going to look something up. Mr. Landry said the reason why it wasn't picked up on the zoning review is because it is not a zoning violation. Mr. Landry told Mr. Grasso if he maintained his 20 foot setback he would be in compliance. He asked Mr. Grasso if that was what he was planning on doing. Mr. Grasso said he believed he would maintain that 20 foot setback but it would be very close though, so the Planning Department asked him to add it to this variance. Mr. Landry said unfortunately, it did not get picked up and properly noticed and said to Mr. Grasso, "Let's see if you can stay within the 20 feet". Mr. Grasso said that was okay but he wanted to go on record saying he is trying to save five hundred somewhat dollars and having to delay the project as his mom is in Florida and they want to bring her back here.

Chairman Hendershot said he felt for Mr. Grasso but the Board's hands are tied in this and it is all about the Planning and Community Development Department and what they want to do. He said if Mr. Grasso stayed within the 20 feet he obviously wouldn't have to come back before the Board. Michael Landry said the Planning Department needs to rely on the plot plans, where people represent that this is what is proposed. The plot plan needs to be to scale and accurate. He said Mr. Grasso is showing the side setback at 20.1' so the Board cannot give Mr. Grasso a variance in advance for something that might go beyond that and advised Mr. Grasso to do his best to stay within that and if he absolutely needs to he can come back before the Board. Mr. Grasso said absolutely, that is where he believes it will land. Mr. Landry said it is not a problem until it is a problem. Mr. Grasso said he appreciates that but he was taking the Planning Department's recommendation.

5. **ZO-45-2016**
26 Leighton Street, Ward 12

Kathleen Haley-Kersting proposes to create a second parking space within the required front yard setback and maintain shed 0' from rear lot line where 4' is required in the R-1B zoning District and seeks a variance from Sections 8.29 (A) Accessory Structures & Uses and 10.09 (B) Parking, Setbacks, of the Zoning Ordinance, as per documents submitted through May 16, 2016.

Kathleen Haley-Kersting of 26 Leighton Street said they are looking to widen their driveway to get an extra space. She said they have a narrow one door garage so they cannot fit two cars in there. The beginning of their driveway is much narrower than up toward the garage space so if they are trying to pull in they are very close to hitting one of their other vehicles. They have opened doors and banged each other's cars a few times. They have a third vehicle now and it does not fit in the driveway or the garage so it is parked on the street with many of the neighbors and they live on a very short street. She said there are probably at any given time, seven or eight vehicles parked on the street in front of their house along with all of the other houses.

Mrs. Haley-Kersting said they bought the house in December of 2013 and the shed was there prior to that. They didn't think there were any issues until they filed for a permit for the driveway.

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

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

Linda Snow of 366 Goffstown Road said she found out that they are one of her abutters which was unknown to them. She said they purchased their house in 2013 and had no knowledge that their property went over there. She said she is not saying she is against this but she is just in awe of this to know that their property goes that far. She wants to know how much of the shed is actually on her property. Chairman Hendershot said he could not

answer that question. Linda Snow said she thought she would ask that because they received a letter. Chairman Hendershot asked Linda Snow if the shed was a problem for her. She said it is not even near what they thought was their property. She said she is not opposed to it, she is accepting of it. It isn't a problem for them she was just totally unaware that they had anything on their property. She said when they purchased the house there was no talk about variances or anything from other property.

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

Chairman Hendershot turned the hearing back over to the Board.

Chairman Hendershot addressed Kathleen Haley-Kersting and said one of the reasons she is here is to get a building permit because she is planning on re-paving the whole thing. Kathleen Haley-Kersting said they are going to re-pave the whole thing. She said the driveway is falling apart and every time they try to shovel it there are big chunks coming out and it is cracked. She said they cannot even seal it because there are just big divots in it. Chairman Hendershot asked Mrs. Haley Kersting if they were planning on putting one car in the garage and two on the proposed driveway. Mrs. Haley Kersting said yes. Chairman Hendershot advised Mrs. Haley Kersting not to make it bigger than 20 feet. Mrs. Haley-Kersting said she doesn't think they would want to make it any bigger than that.

Michael Landry submitted a letter to the Board and asked Chairman Hendershot to make reference to it.

Chairman Hendershot said the Board received a letter stating there are no issues from Christopher Gagnon of 40 Leighton Street, speaking in favor of the proposal.

Vice Chairman Dupre said they speak in favor of the garage but make no mention of the shed. Chairman Hendershot said they do not make mention of the shed. Vice Chairman Dupre said he would like to discuss the shed. He said he had no problem with the shed. Sheds are a pain for the Board. He thinks that given that the abutter just came to the realization that there is a shed back there, it may be in Kathleen Haley-Kersting's best interest to get a certified plot plan to make sure that shed is truly on her land as well as any fences or anything else. He said it benefits Mrs. Haley-Kersting as well so she would know where her lot lines are for everything. He said you would hate for something to become a legal issue but these things happen. The Board has seen it. He said you could pave your driveway and find out you actually paved your neighbor's yard. Mrs. Haley-Kersting said that is why she filed for a permit to make sure they didn't do that. She said they aren't looking to re-do the fence or anything. Chairman Hendershot said or move the shed two feet and call it a day. Mrs. Haley-Kersting said it is a big shed. Chairman Hendershot said it would be easy to move actually. Mrs. Haley-Kersting said she hopes it would be easier than paying for the plot plan because that is pretty expensive in itself.

Vice Chairman Dupre said he didn't know how the rest of the Board felt but he would hate to see trouble arise later.

Raymond Clement said that is why the Board usually requires a certified plot plan at the very least. In this case there is no opposition from the neighbors but as Vice Chairman Dupre said it would behoove them to get it legally surveyed to make sure this problem doesn't happen where it does become a legal issue with that shed or anything else that might happen there. Mr. Clement said that is just his advice. He said they don't have any opposition to that shed right now but they could possibly have had opposition and then the Board would have been forced to make them go out and get a certified plot plan or have it surveyed. In his opinion, Mrs. Haley-Kersting dodged a bullet here tonight. He said that is why they don't usually accept something like this.

Vice-Chairman Dupre said Mrs. Haley Kersting could open herself up for other things, something as simple as painting or something or someone gets hurt and the shed is on her neighbor's yard. He said he has just seen things where everything is great until something happens. Mrs. Haley Kersting said actually, from their shed to the neighbor's shed there is about 4 feet between both of their fences. Vice Chairman Dupre said you can't really use those as points of reference. He said their shed could be right on the line and hers is in or vice versa. He said the Board has seen sheds on other people's property by a couple of feet.

Raymond Clement made a motion to approve all of the variance requests for this application which was seconded by Matt Routhier. (Motion Carried)

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

Upon a unanimous decision the variance was granted.

6. **ZO-46-2016**
553-557 South Commercial Street, Ward 3

Robert Simonds proposes to erect a 20 SF freestanding identification sign within the CBD zone where freestanding signs are not permitted and erect an 80 SF "now leasing" banner where 32 SF maximum is allowed and seeks a variance from Sections 9.03 (F) and 9.09 (D) Signs of the Zoning Ordinance, as per documents submitted through May 19, 2016.

The applicant was not present. Chairman Hendershot asked the Board if they would like to hear the case without the applicant present. Raymond Clement said he would be willing to hear the case without the applicant present as it was pretty cut and dry. Chairman Hendershot said he didn't think this doesn't violate the spirit of the Ordinance in any way. He said it is way off by itself and it is not blocking any traffic lines or site lines or anything. He said he certainly did not have a problem with it.

Robert Breault asked if the banner would be approved forever. Chairman Hendershot said he had the same question. He wondered if that would be a permanent thing.

Michael Landry said Robert Breault raised a good question or point and said the Board could put some reasonable stipulations on it. He said right now it is just getting built out and he didn't know what the occupancy is but the Board could say for 6 months after the completion of the entire complex it would need to come down. Mr. Landry said if the Board wanted to put a stipulation, it needs to be kind of concrete and easy to enforce and understand. He was thinking of something like 6 months or it all depends on the market. It could take a year after substantial completion of the entire complex to achieve full occupancy.

Raymond Clement said in the literature provided by the applicant they do make mention of it being a temporary sign. They make mention that they will take it down when they meet a certain point of occupancy. However, they didn't say exactly what that was. Chairman Hendershot said the Board didn't have any way to enforce that anyway. Raymond Clement said no, the Board didn't but they did make mention that it wouldn't be a permanent thing.

Michael Landry said the Board could table this case. Chairman Hendershot said he didn't have a problem with saying they have 6 months to take it down.

Matt Routhier said he thinks the market is going to vary. He said he would put a percentage of occupancy to be quite honest. Chairman Hendershot said he would like that too, but how does the Board come up with that. Matt Routhier said obviously the sign wouldn't stay up once the building is fully occupied.

Vice Chairman Dupre asked why they were requesting a sign 80 square feet rather than 32 square feet. Raymond Clement said so they could see it from across the river. Chairman Hendershot said 80 square feet is not a big sign. Vice Chairman Dupre said it is if it's flopping in the wind for four years.

Chairman Hendershot asked the Board if they wanted to split this into two different things and approve the sign and table the banner and wait until they come here and make a case. Raymond Clement said he would be in favor of tabling this because he doesn't think there is a big rush on this thing. Chairman Hendershot asked if the Board wanted to table the whole thing. The Board agreed to table the whole thing.

Vice Chairman Dupre made a motion to table case #ZO-46-2016 until the July 14, 2016 ZBA Meeting which was seconded by Raymond Clement.

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was tabled to the July 14, 2016 ZBA Meeting.

Michael Landry announced to anyone who showed up this evening for this case and anyone who wishes to attend the ZBA Meeting next month, this case, ZO-46-2016 for 553-557 South

Commercial Street regarding the signs will be heard at the next ZBA hearing on July 14, 2016 and will be held at 1528 Elm Street at the Rines Center located where the Health Department is. There will be no new abutter notices sent out.

7. **ZO-47-2016**
130 Middle Street, Ward 3

Ira Chaplain (Agent) proposes to convert general office use on first floor to retail antique shop in the R-3 and Amoskeag Corporation Housing Historic Overlay zoning districts and seeks a variance from Section 5.10 (F)5 Sale of General Goods and Merchandise within an Establishment of up to 8,000 SF, of the Zoning Ordinance, as per documents submitted through May 19, 2016.

Mr. Landry announced that this case has been postponed to the July 14, 2016 hearing.

8. **ZO-48-2016**
223 Jewett Street, Ward 7

Robert Kondi proposes to create two street/front yard parking spaces in the R-2 zoning district and seeks a variance from Sections 10.08 (C) Driveways, Width and 10.09 (B) Parking, Setbacks, of the Zoning Ordinance, as per documents submitted through May 20, 2016.

Robert Kondi of 223 Jewett Street said he bought the house in October of 2013 and he didn't notice the dirt parking. During the winter he has a very hard time driving over there and all the mud that's picked up on Prout Avenue. He said the other problem is he wants to landscape everything over there so he spoke with a pavement company and he spoke with Glenn Gagne and they offered him some advice. He said to do the pavement over there would be easy for him and easy for his neighbors because all of the mud. Mr. Kondi said he is a new owner and came from another country and he is proud to get this house and fix it. He said it is the only house there on the street where there is no pavement for parking. He said he doesn't want to go close to the right side of the garage so he would be 6 or 10 feet from his neighbors on the other side. He said his neighbor has accepted this and he has consulted with them and they suggested he come here.

Chairman Hendershot turned the hearing over to the Board.

Matt Routhier asked if it was currently paved to the garage right now. Mr. Kondi said yes, somebody tried to pave it but the pavement is completely dislodged so he has to pave in the front of the garage. He said before he gets a decision, he has to talk to Glenn. He said Glenn told him to say to the Board that he would like to open the steps to the porch in the back while he is doing the landscaping and paving. He would like to take off two feet off the steps. Matt Routhier asked if Mr. Kondi was planning on paving the full 37 feet. Mr. Kondi said no, he is paving right to the garage which is 18.6 feet on the side plus 4 feet in the front of the garage. He said he got this from the Planning Department and they measured and they put in where the line is 5.6 feet from the garage so he is going to connect this to Prout

Avenue. He doesn't want any problem with the neighbors. Chairman Hendershot asked Mr. Kondi if he was going to add pavement to the right of the garage. Mr. Kondi said no, just on the left and front of the garage which is 5.6 feet. Chairman Hendershot said then he is going to re-pave in front of the garage, the 4 foot space between the garage and the proposed parking spots. Mr. Kondi said yes. Chairman Hendershot asked Mr. Kondi if he was going to pave 21 feet to the left of the garage as you are facing it. Mr. Kondi said yes but he is not going to use that space. Mr. Kondi said he needed advice. Should he leave it grass or pave it. Chairman Hendershot said he was just trying to understand what Mr. Kondi is doing.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Chairman Hendershot turned the hearing back over to the Board.

Raymond Clement said he was still a little confused with the 4 foot piece along the left side of the garage. In other words, are they going to pave that entire area right up to the garage. Chairman Hendershot said Mr. Kondi is going to pave 21 feet to the left of the garage as you are facing the garage. He said it is probably better than leaving it mud.

Mr. Kondi said when he consulted with the inspector he told him it is better to pave from the garage instead of all the holes over there.

There were no further questions or comments from the Board.

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

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

9. **ZO-49-2016**
81 Gold Street, Ward 9

Gina Liporto proposes to build a garage/hall/pantry addition with bonus room over garage having a 9' side yard in the R-1B zoning district and seeks a variance from Section 6.03 (C) Side Yard Setback (2 counts), of the Zoning Ordinance, as per documents submitted through May 24, 2016.

Gina Christina Liporto said she lives at 81 Gold Street. She said her variance request is as stated, for a garage with a bonus room on top and a pantry off the back as well as a porch on the front of the house. She said she submitted the plans and there is a 10 foot setback requirement from the property line from what she understands and the garage itself would encroach upon that and so there would only be a 9 foot setback from the property line.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked Gina Liporto if she was before the Board a few years ago. She said she was 5 years ago. Vice Chairman Dupre said this was a total rehab house, right? Ms. Liporto said yes was.

Michael Landry said just to clarify, the proposed garage is going for a 9 foot setback but Ms. Liporto is proposing to build a deck on the other side. Ms. Liporto said yes, on the front of the house. Mr. Landry said on the other side so that would have a 9½ foot setback so they are looking for variance relief on both sides. Mr. Landry said to be further clear, the existing house was already 9½ feet from the setback but they are just expanding that so that is where we are at.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Raymond Clement made a motion to approve the variance requests for this application which was seconded by Vice Chairman Dupre. (Motion Carried)

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

Upon a unanimous decision the variance was granted.

10. **ZO-50-2016**
189 Norfolk Street, Ward 9

Charles & Betty Liporto propose to maintain 3 parking spaces in the front yard 0' from front lot line, maintain membrane structure within required side yard setback 1' from lot line where 20' is required and maintain shed in rear yard 1.5' from side lot line where 4' is required in the R-1B zoning district and seeks a variance from Sections 8.29 (A)2 and 8.29 (A)3 Accessory Structures & Uses, 10.08 (C) Driveways, Width and 10.09 (B) Parking, Setbacks, of the Zoning Ordinance, as per documents submitted through May 26, 2016.

Charles Liporto of 208 Norfolk Street said he lives directly across the street from 189 Norfolk Street. He said he purchased this property eleven years ago in 2005. He said he submitted pictures to the Board showing that that structure existed in 2003. He said after 9/11 he sort of got laid off and his wife told him he would never work again so he figured he would buy the house across the street not knowing there were outstanding violations. All he is trying to do is correct an error that he inherited.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked if Mr. Liporto's proposal was to put in a shed. Mr. Liporto said no, all that stuff is already there. He is just trying to maintain something that has been

there 11 years. Mr. Dupre said he didn't know if there was another shed coming in there, if Mr. Liporto was adding another one in there.

Raymond Clement referred to the diagram submitted by the applicant and asked Mr. Liporto if he was proposing three parking areas at the bottom. Mr. Liporto said the three parking spaces already exist. He said everything on his proposal has already been there for the last eleven years. Chairman Hendershot said he thought everybody was just trying to clarify that Mr. Liporto was not adding anything. Mr. Liporto said nothing what so ever. No change in any way, he is just trying to maintain that which has been there for eleven plus years.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Chairman Hendershot then turned the hearing back over to the Board.

Michael Landry addressed Chairman Hendershot and said he would like to ask the applicant a question. He asked Mr. Liporto if the membrane structure has been there for eleven years. Mr. Liporto said it was. Mr. Landry asked Mr. Liporto if he could produce some data that would demonstrate the snow load capacity because the City considers those seasonal structures. If they are to remain permanent they need to meet 65 or 70 pounds per square foot for snow load and some of those membrane structures do satisfy that, but a lot of them don't. Mr. Liporto said this is a ShelterLogic that has been there for a long time and it is only 6'x8'. He said if it were larger, he could understand where Mr. Landry was at. Chairman Hendershot asked Mr. Liporto if he had any problems with it 2 winters ago when we got 50 feet of snow. Mr. Liporto said no, no problems. He said he goes out there and if he thinks there is anything bending on it what so ever he just pushes the snow and away it goes. He has had no problems with it what so ever.

Vice Chairman Dupre said he kind of agrees with Mike Landry. He said he would hate to just say yeah, sure you are okay when there is a potential safety issue. Chairman Hendershot said if it didn't fall down two winters ago it's probably not going to. Chairman Hendershot said this is not on their paperwork. Matt Routhier said it is a temporary structure. Chairman Hendershot asked if they were adding something here. Michael Landry said it was up to the Board. He said unfortunately the City gets complaints about them from neighbors and the City has to enforce against them and he would be remiss if he didn't bring it up as a concern of the City. A lot of people don't appreciate them in the front yard and they are not really intended to be permanent structures. Chairman Hendershot said it seems to him that the Board is dealing with land use and the structure. He said we aren't dealing with the specifications of this building. He said he would think that's something that would come up for the Building Department. If they want to inspect it and say look it, this does not meet the requirements for a temporary structure, then he would be able to replace it with a temporary structure with this vote. Chairman Hendershot said he doesn't see how the specifications of a building are under the Board's purview. Michael Landry told Chairman Hendershot he was right but what he is foreseeing is that a lot of times when people come

to maintain structures they don't realize they need permits and in this case, if everything went accordingly, Mr. Liporto would apply for a building permit and be asked to demonstrate that this is capable of withstanding New Hampshire snow loads. Mr. Liporto said he thought that was what was supposed to happen next. After the Board approves it he would have to apply for a building permit. Mr. Landry addressed Chairman Hendershot and said if he wanted to make it an explicit condition and remind Mr. Liporto that he needs a building permit application and it should take care of itself. What he is concerned about is that he doesn't get the permits. Mr. Liporto said once again, he would like to point out that these two structures have been there for over 11 years now and the only thing inside that structure by the way is his snow blower that he uses to plow out everybody in his immediate area for free. Mr. Liporto said he is just trying to clarify that it is not like a garage, it is a small little thing that just houses a snow blower.

Chairman Hendershot said the Board never talks about the specifics and he just doesn't see it as under the Board's purview to make any kind of determination. He said he thinks the Board is talking about land use and does the Board want to give him the variance to have him maintain a membrane structure that he already has.

Raymond Clement said it is not a permanent structure no matter how you look at it. He said eventually it is going to disappear. Mr. Clement said he is not as concerned as if they were putting in a foundation that is going to be there for a long time. It has been there for all these years and the neighbors haven't complained. He assumes it is eventually going to disappear on its own.

Vice Chairman Dupre said this application calls to maintain a membrane structure so even if it goes away someday, the Board is giving the option for it to come back. Chairman Hendershot said then they would need to get a building permit if he wants to replace it. Vice Chairman Dupre asked if the Board was going to put in a stipulation for a building permit. Chairman Hendershot said he wasn't making that proposal. Charles Liporto said he was going to get a building permit. He said he thought that was the next step. He said he doesn't do this often and he doesn't know what the process is. His thought was, after talking to Jim Tierney and Nancy Caplette, that he would appear before the Zoning Board and if they say everything is okay that would allow him to get a building permit and then the Building Inspector would come out and measure everything that is already there and says "yup, that is the way it measures". Chairman Hendershot said if the Board votes to grant this proposal, you do not need to get a building permit unless you tear it down and you want to build another one. Michael Landry said that is incorrect. In order to perfect the variance, a building permit must be pulled. Chairman Hendershot said then that settles the whole issue. He said then it will be inspected and if it fails, it doesn't pass inspection. Robert Breault said if it failed or caved in and they wanted to replace it, they would need a building permit to replace it.

Matt Routhier asked Mr. Liporto if he would be opposed to taking it down or moving it behind the driveway. Mr. Liporto said the problem with that is the way the land bends. The reason why it is there is because that is the closest flat area because all the rest of the land

sort of slopes down and in order for him to change anything that currently exists, he would have to re-landscape it or dig out or put a retaining wall or something to that effect. He said it is actually flat and then starts hilling up and if he took that, moved it and put behind it would be fine on paper but if you go see the property you will see it sort of goes up. Matt Routhier asked if those spaces are currently being utilized. Mr. Liporto said they were. He said it is a two-family with up and down tenants.

Chairman Hendershot said he would just like to clarify something with Michael Landry. He said if the Board votes to approve this, the Building Department is going to inspect it and it could fail. If it fails, he has to tear it down but he still has the right to put another one. Michael Landry said he could put up another one that meets building code. Chairman Hendershot said then the temporary thing goes away because it is not temporary so does he then have to build a real shed if this one fails. Michael Landry said some of these structures do meet the snow load. Chairman Hendershot said what if it doesn't. How does that affect the variance. Michael Landry said he wouldn't get a building permit for that membrane structure. Chairman Hendershot said he wouldn't have to come back before the Board to put up another membrane structure as long as it meets the building code. Michael Landry said as long as it meets the building code. Chairman Hendershot asked Mr. Liporto if he was clear on that. Mr. Liporto said he was. Mr. Liporto said like he said previously, it has been there for 11 years and he doubts very much that it doesn't meet the code. Chairman Hendershot told Mr. Liporto if it fails, he would have to tear it down but he could still put up another one if it passes. Mr. Liporto said that sounded good. He said he comes from an Italian construction family so he knows.

Robert Breault made a motion to approve all of the variance requests for this application which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Routhier, Breault

Nays: Dupre, Clement

Upon a split decision the variance was granted.

11. **ZO-51-2016**
166 Seames Drive, Ward 8

Margaret Hayes proposes to maintain a 10'x16' three season porch and a 14'x16' open deck having a rear yard setback or 25.8' where 30' is required. The addition of the three season porch places the existing detached garage, which is 4' from the side lot line, into the required 10' side yard setback. Also, maintain a shed in the rear yard within 4' of the side lot, into the required 10' side yard setback. Also, maintain a shed in the rear yard within 4' of the side lot line in the R-1B zoning district and seeks a **variance** from Sections **6.03 (B)** Rear Yard Setback, **8.29 (A)2** and **8.29 (A)3** Accessory Structures and Uses, of the Zoning Ordinance, as per documents submitted through May 27, 2016.

Margaret Hayes of 166 Seames Drive said she expanded a previous deck and enclosed part of it as a three season porch. She said she would like to be able to maintain it as is. The garage and the shed have been there since she purchased the house about 24 years ago.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked Margaret Hayes how long it had been since she expanded the deck. She said actually it has been a number of years. Probably seven or eight years. Mr. Dupre asked her how long she had been in the house. She said 24 years.

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

Elaine Tremblay of 154 Seames Drive said she has no problems with this proposal.

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

Raymond Clement made a motion to approve all of the variance requests for this application which was seconded by Vice Chairman Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

12. **ZO-52-2016**

810 Goffstown Road, Ward 12

Aaron Doucet (Agent) proposes to construct a 10'x16' enclosed addition with a rear setback of 54', where 100' is required, maintain a 14'x14' shed within the required 30' side yard setback, maintain 2 additional parking spaces in the front yard, maintain an unpaved turnaround area and maintain lot coverage of 18% where 15% is allowed in the R-S zoning district and seeks a **variance** from Sections **6.03 (B)** Rear Yard Setback, **6.04** Lot Coverage, **8.29 (A)2** Accessory Structures & Uses, **10.09 (B)** Parking, Setbacks and **10.07 (E)** Parking, Paving, of the Zoning Ordinance, as per documents submitted through May 27, 2016.

Aaron Doucet of 289 Seames Drive stated he was appearing on behalf of Hillary Louis who is the property owner at 810 Goffstown Road. Mr. Doucet said he originally proposed to tear down an existing structure that was 10'x12' in the rear of the home. He said he filed for the building permit and one of the office clerks noticed that the structure would be encroaching on the rear setback so they proposed that he apply for a variance for the 10'x16' addition.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked Mr. Doucet if he could articulate the hardship on not paving the driveway. The Board kind of frowns on just doing gravel.

Hillary Louis, owner of the property asked Vice Chairman Dupre if he could repeat the question. Vice Chairman Dupre asked Ms. Louis why she wasn't paving the driveway. Vice Chairman Dupre said she is asking that she doesn't have to pave the driveway. Ms. Louis said they added the landscape crushed stone about fifteen years ago just to make it easier to get out of their driveway because Goffstown Road is pretty dangerous drive to back out on. Vice Chairman Dupre said he is familiar with the road itself but questions putting stone down rather than asphalt. Ms. Louis said for cost reasons. She said they purchased the house twenty years ago and they didn't realize it was a requirement to pave it to be honest.

Chairman Hendershot said the problem for the Board is that she cannot have a gravel driveway, it has to be impervious. He said they are already over the lot coverage also. Michael Landry said the turnaround was not part of the lot coverage calculation so it was not considered impervious. They are not parking spaces per se. He said the Board could choose to grant the relief. He said the City does not like parking spaces that are not paved however, these are not parking spaces although it did come up in the zoning review that way.

Aaron Doucet said the driveway does still conform. Vice Chairman Dupre said that while the driveway conforms, the turnaround could still be used as parking. Vice Chairman Dupre said he didn't know how the rest of the Board felt about this.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Chairman Hendershot turned the hearing back over to the Board.

Raymond Clement said they definitely need that turnaround there because that road is a terror. He said he has mixed feelings on the stone turn around. He said he would think that sometime in the future if they do some paving over there that could be included in it. It has been there all these years and he can see the value, but he doesn't want to put undue strain on them to do something that they weren't aware would be in non-compliance having been there that long. He said that is his concern. He doesn't like to see it as a dirt turnaround but he is willing to live with it.

Chairman Hendershot said he didn't have any problem with all the other stuff. He said he knows the Board doesn't like to see gravel driveways and he doesn't know how essential it is that no one else has got a turnaround on that road.

Hillary Louis said her neighbor across the street has a turnaround. Raymond Clement said he looked around and there are quite a few people who have a wide driveway and he can guarantee that in the morning and at night it is suicide on that road, it is a busy road.

Matt Routhier addressed Michael Landry and asked if that was changed to pavement, would it put them over the allowable lot coverage. Michael Landry said yes, this is the R-S zoning district and lot coverage is really low and setbacks are really high and so they are already at 18% and certainly that would tip them over. Matt Routhier said they would have to come back before the Board if this was paved because obviously that number is not included in the application tonight. Michael Landry said correct, it is not included.

Chairman Hendershot said he is looking at the safety issues and he is pretty much willing to let this go because it is a really, really busy street.

Vice Chairman Dupre said he feels this would be opening Pandora's Box by saying they don't need to pave. Chairman Hendershot said he had mixed feelings about it, no doubt about it. He asked Robert Breault how he felt about this. Robert Breault said he realizes how unsafe the condition is and to make them have to pave it and create a financial hardship is a lot to ask. Mr. Breault said the lot coverage issue is a whole other matter. If they did pave that they would probably be well over 20%.

There were no further questions or comments from the Board.

Raymond Clement made a motion to approve all of the variance requests for this application which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Clement, Routhier, Breault

Nays: Dupre

Upon a split decision the variance was granted.

13. **ZO-53-2016**
71 Hamburg Street, Ward 10

Laurie Pappas (Agent) proposes to remove existing 16'x21' rear portion of house and rebuild a 16'x19' addition with 6' side yard setback in the R-1B zoning district and seeks a **variance** from Section **6.03 (C)** Side Yard Setback, of the Zoning Ordinance, as per documents submitted through May 31, 2016.

Dennis Freeman of 71 Hamburg Street said they purchased the house in 2005 and it had a flat roof at that time and it has been nothing but a problem. He said it still leaks creating and causing interior mold and ceiling and wall damage. The supports underneath are not properly installed so the floor buckles and heaves to the extreme. He said it was poorly insulated and wasn't insulated right up to the main house so they get frozen pipes and extreme heavy drafts year round.

Chairman Hendershot turned the hearing over to the Board.

Raymond Clement said someplace in the literature the applicant submitted there was mention of Mr. Freeman's driveway going through an easement with the City. Mr. Freeman

said it was like that when they bought the house. His understanding is that Hamburg Street was to take a right and go down to the ball field below his house and that never occurred so it has been like that since he purchased in 2005. Mr. Clement said he was just curious.

Chairman Hendershot invited those in favor of or in opposition to this application to come forward. No one came forward to this request.

Chairman Hendershot turned the hearing back over to the Board.

Matt Routhier made a motion to approve the variance request for this application which was seconded by Robert Breault. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

6. **ZO-46-2016 - Continued**
553-557 South Commercial Street, Ward 3

Robert Simonds proposes to erect a 20 SF freestanding identification sign within the CBD zone where freestanding signs are not permitted and erect an 80 SF "now leasing" banner where 32 SF maximum is allowed and seeks a variance from Sections 9.03 (F) and 9.09 (D) Signs of the Zoning Ordinance, as per documents submitted through May 19, 2016.

It was discovered that the applicant, Robert Simonds was in attendance at the end of the meeting and after discussion among the Board members, they decided to hear the case as there were no abutters in attendance when asked earlier in the evening.

Robert Breault made a motion to remove case ZO-46-2016 from the table which was seconded by Matt Routhier.

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Robert Simonds from SMC Management said they own the River Walk Apartments at 553, 555 and 557 South Commercial Street.

Chairman Hendershot asked Mr. Simonds if he was in attendance when they discussed the case earlier in the evening. Mr. Simonds said he was not in attendance. Chairman Hendershot explained to Mr. Simonds that basically the Board didn't have a problem with the sign the issue with the banner was that the Board was concerned about the banner being a permanent part of the signage. Mr. Simonds said in speaking with staff his understanding is that the banner is allowed but there is a time duration that they are allowed to have a banner for what he believes is a couple of weeks and then they would have to take it down and reapply to have it reinstalled. Mr. Simonds said they anticipate

starting the leasing process in September and wrapping up just around Thanksgiving or December sometime. Instead of having to go through that rotation of a temporary banner they were hoping to extend it and put it on the side of the building that faces the highway. He said their leasing team is starting to get phone calls and people are curious about the project. He said they anticipate August or Labor Day through Thanksgiving or Christmas so about three or four months.

Robert Breault suggested the board put a stipulation that the banner be down by the first of the year. Chairman Hendershot said the Board could do that and they also talked about whether the Board would put a stipulation on occupancy of the building. Mr. Breault said that was a hard one and Chairman Hendershot agreed.

Chairman Hendershot addressed Robert Simonds and said just to be clear, what time frame does he want the banner to be up. Mr. Simonds said they would love to have it up until it is occupied but they anticipate the buildings will start coming on line around Labor Day and the last building would come on line right around Christmas so however the lease up would go. It is tough to tell.

Chairman Hendershot said his view about the banner is that yes, they would like it there permanently but it is not attractive and it is not appropriate to have it up there permanently. He said they are going to have people coming out of their apartment for as long as they lease them and there are other ways to advertise properties. Mr. Simonds said it is not a permanent leasing banner that they are looking for. Chairman Hendershot asked Robert Simonds how long he was looking for, three months or four months. Robert Breault suggested the Board put a stipulation on it of six months. Mr. Simonds agreed. Vice Chairman Dupre asked the Board, six months from what day. Chairman Hendershot suggested from the day it goes up. Robert Breault said Mr. Simonds would have to file for a permit application and suggested they start from the date of the granting of the permit to six months later when it would have to come down.

Matthew Routhier said he would just like to make a comment on the monument sign. He asked if there were any other signs down there other than existing buildings that have been there for a long time. Mr. Routhier addressed Mr. Simonds and said "you are allowed signs on the building, am I correct?" Mr. Simonds said no, the site plan has a two square foot sign which is 18"x18". He said his understanding that in the CBD zoning district, which is essentially the downtown district, was all rezoned for the ball park and the hotel and they brought that zoning district to the area and what came with it was the signs they wanted in the downtown area. The ball field, the hotel and the apartments, there really is a lot more green space. Matthew Routhier said they are still allowed a sign on the building. Robert Simonds said he didn't believe so. He said they would have numbers on the building for the fire department. Chairman Hendershot said what they are not allowed is a free standing sign in the CBD zoning district.

Chairman Hendershot asked Michael Landry if they could put a sign on the building. Michael Landry said the Ordinance does allow building signs not to exceed 10% of the

building area but also not to exceed 500 square feet in the CBD zoning district. He said he thinks part of Mr. Simonds hardship is simply being in the CBD zoning district where you don't see multi-building apartment complexes. He asked Mr. Simonds how many units they were building. Mr. Simonds said 150 units. Matthew Routhier said his thoughts were that they were planning on putting a sign on the ground and they would see it on the building much better as they are able to get a bigger sign on the building than what is on the ground. He said some of the other buildings down there don't have anything on the ground. Although it is a residence, they are allowed to put it on the building and people will see it better coming down the road better on the building than you are on the ground.

Raymond Clement said he thought that when they were looking at that years ago any buildings in that area that were residential style, they weren't looking to have a sign on the buildings. He said a monument sign was more appropriate because it is more of an upper class sign. Chairman Hendershot said he thought a free-standing sign is much more attractive than putting it on the side of a building. He said he thought the way this area has been developed is a little beyond what the spirit of the Ordinance was about free-standing signs in the Millyard and downtown. He thinks it is more of a unique place and he thinks they do have a little bit of a hardship there for the kind of buildings they are putting in the CBD zoning district. Chairman Hendershot said he personally has no problem with this sign.

There were no further questions or comments from the Board

Robert Breault made a motion to add the condition that the banner be allowed to remain only 6 months after issuance of the sign permit which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Vice-Chairman Dupre made a motion to approve all of the variance requests for this application with the addition of the stipulation for the banner which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

Upon a unanimous decision the variance was granted.

Chairman Hendershot made a motion to close the public hearing which was seconded by Matthew Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Breault

Nays: None

III. BUSINESS MEETING:

1. ADMINISTRATIVE MATTERS:

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

Matthew Routhier made a motion to approve the Minutes of March 10, 2016 without amendment, which was seconded by Chairman Hendershot.

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

Vice-Chairman Dupre made a motion to approve the Minutes of April 14, 2016 with amendments, which was seconded by Raymond Clement.

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

Matthew Routhier made a motion to approve the Minutes of May 12, 2016 without amendment, which was seconded by Raymond Clement.

*Yeas: Hendershot, Dupre, Routhier, Breault, Dalton
Nays: None*

Raymond Clement recused himself as he wasn't present at the May 12, 2016 ZBA Meeting.

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

Attest: _____

Allen Hendershot, Chairman
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: July 14, 2016

With Amendment
 Without Amendment

The above minutes are a summary of the meeting and are not intended to be verbatim.
Audiotapes are available in the Planning and Community Development office for a limited time.