



CITY OF MANCHESTER
PLANNING AND COMMUNITY DEVELOPMENT

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MANCHESTER ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING / LIMITED BUSINESS MEETING MINUTES

July 14, 2016 – 6:00 p.m.

Carol M. Rines Center, 1528 Elm Street, Room 164

Board Members Present: Vice Chairman Michael Dupre, Raymond Clement, Thomas Puthota
Alternates Present: Anne Dalton, Robert Breault
Absent: Chairman Allen Hendershot, Matt Routhier (Member), Jose Lovell (Alternate)
City Staff Present: Michael Landry, Deputy Director of Building Regulations

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

II. PUBLIC HEARING:

(Postponed from June 6, 2016)

1. 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.

Per the request of the applicant, this item will continue to be postponed.

(Current Items)

2. **ZO-54-2016**
786-796 Elm Street, Ward 3

Donald Eaton (Agent) proposes to add 2 upper story wall signs (1 on Elm Street façade and 1 on Merrimack Street façade) and an awning sign over the doorway in the CBD zoning district and seeks a **variance** from Section **9.09 (A)2** Signs (3 counts), of the Zoning Ordinance, as per documents submitted through June 10, 2016.

Donald Eaton of 17 Appledor Road, Bedford, New Hampshire said he thought his application was pretty much self-explanatory. He said he was before this Board in 2010 seeking a variance for four wall signs on the second floor to accommodate future tenancy and he is here again with a specific application for a company which they located at that building called Launch Angels. The signage they are requesting is smaller than the signs which were granted in previous variances.

Chairman Dupre said it looks like Mr. Eaton has been before the Board three times previously for the same signage and asked Mr. Eaton if they just hadn't acted on it. Mr. Eaton said that was correct. Chairman Dupre asked Mr. Eaton if instead of asking for four signs, they are now asking for two. Mr. Eaton said that was correct. Chairman Dupre asked Mr. Eaton if the square footage of the signs they are requesting in this application is less or the same as previously requested. Mr. Eaton said it is less.

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

Chairman Dupre turned the hearing back over to the Board.

Raymond Clement stated he had one comment to make. He said he thought the proposal was in good taste and was appropriate for that size building. He said he was in favor of this application.

Chairman Dupre said he agreed. He said he thought it was perfect and not too large and not too small and does just what it is supposed to do.

Robert Breault made a motion to grant the variance request for this application which was seconded by Raymond Clement. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

3. **ZO-55-2016**

311 Brent Street, Ward 8

Deborah and Douglas Wheeler propose to build a 14'x16' all season room in place of an existing 10'x16' deck in the R-1B zoning district and seek a **variance** from Section **6.03 (B)** Rear Yard Setback, of the Zoning Ordinance, as per documents submitted through June 13, 2016.

Douglas Wheeler of 311 Brent Street appeared along with his wife Deborah. Mr. Wheeler said they are looking to add an all season room so they can have a larger living space.

Chairman Dupre asked Mr. Wheeler if they were just planning on making the addition on the second floor and the first floor would remain open. Mr. Wheeler said the first floor is a walk out basement. Chairman Dupre said he wasn't sure if they were trying to make a two story addition on there. Mr. Wheeler said they were not.

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

Chairman Dupre turned the hearing back over to the Board.

Robert Breault asked for clarification. He asked if the addition would be going in place of the deck at that elevation or below it and asked what their intention was for below it. Mr. Wheeler said it would still be a walk-out below. He said right now they have a patio swing down there so it will stay patio space. Chairman Dupre said he thought Mr. Breault was asking if it was going to be enclosed in any way. Mr. Wheeler said it would not. He said the intent is that the deck would be replaced so the floor level will be at the same level as the living room is.

Raymond Clement made a motion to grant section 6.03 (B) for the rear yard setback from the 30 feet required to 26 feet being provided in variance case #ZO-55-2016 which was seconded by Chairman Dupre. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

4. **ZO-56-2016**

227 Willow Street, Ward 3

Joseph Wichert proposes to maintain a parking lot in the RDV zoning district and seeks a **variance** from Sections **6.04** Lot Coverage; **10.07 (G)** Landscaping; **10.07 (K)1** Parking Bumpers and **10.09 (A)** Parking Setbacks, of the Zoning Ordinance, as per documents submitted through June 15, 2016.

Chairman Dupre questioned whether this application would be considered a subsequent application. Michael Landry said it is fair to say that it is close enough to a prior application that the Board should discuss it to satisfy itself that it is a new and distinct application before they decide to hear it.

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

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Chairman Dupre said the Board saw this application back in April, 2015. He said the owner inherited the property and he was trying to get the property up to snuff. He said the Board approved parts of it but did not approve the parking. Chairman Dupre said Joseph Wichert is before the Board now with a slightly modified parking scheme. He said they are proposing to remove about 700 feet of asphalt and having some trees put in. He said part of this was for the benefit of the abutter to reduce some of the run off. Chairman Dupre said in his opinion this is enough of a change that the Board could review this case. Raymond Clement said he agreed with Chairman Dupre's statements.

Chairman Dupre made a motion to hear Case #ZO-56-2016 which was seconded by Thomas Puthota. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

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

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Joseph Wichert stated he was appearing on behalf of 227 Willow Street, LLC. He said John Barbarosa is one of the members and his sister, Rachel was in attendance this evening. Mr. Wichert said as Chairman Dupre mentioned previously, this property had a prior application and that was done when John Barbarosa went to add a new use to the building which wasn't allowed by Ordinance. As part of going through the process, he applied for the permit and then became aware of the issue with the parking.

Joseph Wichert said just to recap, the business has been there since 2005 and the building has been there for forty or fifty years. He said just to the south of the building where it says "former parcel A tract line", that is where the old boundary was. He said in 2010 his office did a lot line adjustment and they annexed about 7,500 square feet of land from the parcel to the south. That was added to Lot 14 to give it the current configuration. Mr. Wichert said at that point in time, Mr. Barbarosa's father Lou was the owner and he should have gone for a paving permit and then

depending on what staff determined, possibly a site plan approval for that asphalt. That never happened. He said he thinks there was some beginning of an enforcement action in 2010 or 2011 and it lay dormant until Lou Barbarosa passed away in 2014. John Barbarosa then inherited the business and although he was active in the business, he wasn't necessarily active in the ownership end of it, so he was unaware that the proper permits weren't obtained back in 2010 or 2011.

Joseph Wichert said John Barbarosa went to pull a permit to add a use to his business like a good citizen and that's when this came up. Mr. Wichert said Mr. Barbarosa came before the Board and was granted a variance for the use but the Board denied the variance to leave the asphalt as is. He said they looked at it and went back and forth to try to come up with a bunch of different scenarios that would be different. Basically, for anybody that has driven by that area, it is like a storage area that they put the vehicles in and secure. It is a six or eight foot chain link fence that runs around it with the privacy slats on it. He said where they were short was the lot coverage. There was almost 93% where 85% is required and there was no landscape buffer where ten feet was required.

Joseph Wichert said the whole reason that the property was purchased was for storage for the building because if you looked at it, there was nothing there at the old building. The lot line basically was the building. He said what they have tried to do is look at this and try to figure a way that they thought they might have gone forward with. The lot coverage right now is proposed as 90% which is down from 92.8% which is what it is, but it is higher than the 85% that is allowed by Ordinance.

Joseph Wichert said he would like to bring to the attention of the Board is that is really a function of the old lot and like 100% lot coverage which predates the Ordinance. What they did was, on the new parcel that they added they reduced the lot coverage to 82½% which actually would be allowed if it were a stand-alone property and not combined with the other one. In addition, they looked to cut a four foot landscape buffer on the east side and on part of the south side. The reason they didn't cut the four foot uniform on the south side is it is an existing curb cut and they are trying to maintain the curb cut that's there.

Joseph Wichert said at the last Zoning Board Meeting, Mr. Socha, who owns Map 733 Lot 3 spoke in opposition to this proposal. Mr. Wichert said Mr. Socha's concern or his opposition is centered on runoff onto his property. He said he believes it is right where they are showing the four foot dimension arrow on the plan in the northwest corner of 14 Pine Street. He said there is a low spot in there and that is where Mr. Socha is talking about because if you look on the south side, the pavement on the proposed property is higher and there is a small little area between their pavement and the Socha pavement which appears to be dry but it is up on that north end. Mr. Wichert said he and Will Socha spoke a couple of times and it is his understanding that Mr. Socha spoke with Michael Landry and he thinks Mr. Socha is not opposed to the application. He said the addition of the two trees on the interior is basically at Mr. Socha's request and he thinks they moved the southerly one after talking with Mr. Landry as to how they were going to do that.

Joseph Wichert said back in April when it was denied, there was a notation about needing "Site Plan Approval" on the Notice of Decision. He said in January 2016 the Planning Board changed their regulations and when they changed those regulations, under the current rules he doesn't

believe that this site would need Site Plan Approval. Mr. Wichert referred to the plan and said what they are willing to do a little detail and have it approved by staff in order to prove that the improvements will stop the water from flowing onto the Socha property. What he is looking for from the Board this evening is a modification of that denial to not require them to appear before the Planning Board because of the change in the new rules by the City.

Joseph Wichert said they are showing striping on the property because when he and Mike Landry spoke, they either had to remove all the striping or show a conforming layout so that's what they did. He said if any of the Board members have gone inside of it or have driven by it they will notice you can't get in there unless you are directed to or one of the employees takes you, their employees are parking vehicles there. It is a storage area that is secure in case somebody has a vehicle that they don't want to leave either on the street or on their off-site parking area.

Chairman Dupre asked Michael Landry if he could speak about the "site plan" issue. Mr. Landry said to the extent that the Zoning Board made that a requirement, then the Zoning Board would have the authority to eliminate that requirement. Mr. Landry told Joseph Wichert he didn't have the site plan regulations with him and said he didn't think it was an issue that needed to be resolved tonight. He said he thought the site plan talks about paving in excess of 15,000 square feet and he gets the sense that they are triggering it and said it has been discussed before and he said he is open to discussing it again. He said he didn't think the need for site plan review is driven by any ruling or decision made by this Board. Joseph Wichert said that is fine and the only thing he would like to point out is, what the Ordinance states or what subdivision regulations state is it is an increase of impervious area greater than 15,000 square feet. It doesn't say accumulative 15,000 square feet. The reason there hasn't been a 15,000 square foot increase is the increase of the new asphalt was about 6,800 square feet of which when trimmed back they are at 6,227 square feet. Michael Landry said if that is the case, then they can talk about it. He said he is not making the decision right now one way or another. Chairman Dupre said he just wanted clarification because the Board didn't have to rule on that piece of it. Michael Landry asked Mr. Wichert if he believes that was a previous condition from the Board. Mr. Wichert said when he had the discussion with Pamela Goucher over his believing that they shouldn't have to go before the Planning Board, the concern was that there was a Notice of Decision that said they did. He is not looking for this Board to necessarily make that decision this evening. If it turns out that under the rules they have to go then they will go. He said they would ask that any approval not stipulate they have to go if the rules don't say that.

Chairman Dupre confirmed with the Board Members that they all understood what Mr. Wichert was saying.

Chairman Dupre addressed Joseph Wichert and said the applicant is looking to get a pass on the parking bumpers. He said he could understand when they have the cars stacked over there on the east side, but why couldn't they put parking bumpers on the west side. Mr. Wichert said there is an eight foot chain link fence there.

Thomas Puthota asked Joseph Wichert if they had to comply with the 85% coverage, how many spaces are they likely to lose. Mr. Wichert said he didn't factor it on spaces, he thinks it is somewhere around 650 to 680 square feet of asphalt. Because the building pre-dates the Ordinance it doesn't have a parking schedule requirement. If they lost four spaces, he thinks

they would still be considered compliant because they are grandfathered. The parking spaces in number on this exhibit, is strictly for a layout and not necessarily for zoning compliance.

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

Chairman Dupre turned the hearing back over to the Board.

Michael Landry said he would just like to talk a little bit about his phone conversation with Will Socha that day. He said Will said he is in favor of the project and said the site is kept very neat and clean and his tenants had no complaints. The one thing he did say was that he appreciated the four foot removal of asphalt along this property to give the water an opportunity to start being absorbed into the ground. However, Mr. Socha just wanted to make sure that the swale was going to be constructed. Mr. Landry asked Joseph Wichert to describe what he had in mind for the swale. Mr. Wichert said they haven't sized it out yet because they aren't sure which way they are going but he said they could draw up an exhibit as part of the permit to cut it. He said they are looking a twelve to eighteen inch swale to the middle. He said if you look at the spot elevations that are on there, it is relatively flat and it tends to pitch to the north, some to the west and some to the east. He thinks the problem they have now is that the asphalt is basically within a foot of the lot line and goes surface flow over the asphalt and then drops off and sort of ponds on the Socha property. He believes that with a four foot swale area what will happen is that water will stay there and the lip will prevent it from going over onto the Socha property.

Chairman Dupre said he appreciated the applicant coming back and trying to resolve something that he kind of inherited, figuratively and literally. He said this property is what it is and is in the industrial area and he didn't think there would be any single-family housing there any time soon.

Chairman Dupre made a motion to grant variance case #ZO-56-2016 in its entirety, section(s) 6.04 Lot Coverage, 10.07 (G) Landscaping, 10.07 (K) Parking Bumpers and 10.09 (A) Parking Setbacks, which was seconded by Raymond Clement. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

5. **ZO-57-2016**

312 Mystic Street, Ward 9

Daniel Muller, Jr., Esq. (Agent) proposes to modify the snow storage easement shown on the plan for prior case ZO-167-2015 as a result of Planning Board comments in the R-1B zoning district and seeks a **variance** from Section **6.02 (B)** Minimum Lot Frontage for New Lot 8A, of the Zoning Ordinance, as per documents submitted through June 17, 2016.

Attorney Daniel Muller of Cronin, Bisson, Zalinsky said he was appearing on behalf of Armand Lacombe and Sandra and Mark Lacombe, the trustee owners of the property who were in attendance this evening. Attorney Muller also introduced Joseph Wichert and said he is the surveyor on this property. He said as the Board knows, they were before the Board for a variance

to allow the creation of this lot. The plan that was presented to the Board showed a particular snow easement. After the variances were granted for this case and the next case, the applicant went to the Planning Board and got approval for the creation of the lot, however, as part of that process, after considering input from abutters, it was determined that they changed the configuration of the snow easement. He said they are not looking for modification of the prior easement including the conditions therein, they are simply looking for confirmation of that prior easement in light of the change to the snow easement made by the Planning Board. Attorney Muller said the Board members should have a letter from the Planning Board in their file indicating their approval of the change and their reasons for it.

Chairman Dupre advised the Board members who were not in attendance for the original case last year, that the Board originally approved this as attorney Muller said last year, to have hammerheads to basically push the snow and turn left and right. He said the Planning Board didn't like that idea and said Ray Clement could speak to that as he is a Planning Board member. Raymond Clement said he didn't like the idea as it was going to add twenty thousand dollars to each lot and they proposed to bring it up to highway standards to make a turn with the truck. He said his point was that they have been backing up from this street for years on both Rose Avenue and Slade Avenue when they were plowing. He said he would think they would continue the same thing regardless of what they did because it is a lot easier to plow the street that way. He said they have been given an access or an easement onto the property so they can push the snow into the property lot and back out and he said he is fine with that. Chairman Dupre said it would be beneficial to the neighbors to not have a pile of snow right in the street there.

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

Chairman Dupre invited those in opposition to this application to come forward.

Thomas Netishen of 25 Slade Avenue said he is in opposition to this request. He said he was in attendance at the original hearing last year and was also in opposition then. He said the current proposal is not in the interest to the residents of Slade Avenue and Rose Avenue. He feels a more conventional way to pursue the project would be to come in through a private drive through Mystic Street where the applicant owns two properties as shown on the map. This would eliminate any current problems with the proposal as well as any frontage issues as they are under the minimum frontage. With the current proposal, he said he sees an access issue with the proposed homes that are going to be built on the property. He doesn't exactly know where those are going to go but with a giant pile of snow basically at the end of the street it is going to be in front of the home and there are going to be vehicles in the driveway. He said he can see where there would be access issues with emergency vehicles possibly in the winter time. He said all this is due to the unconventional landlocked lots with minimum frontage.

Thomas Netishen said if the Board does agree to pass this proposal, he is requesting that that deck and driveway location be moved to the eastern side of the property. He is proposing this condition to align with the twenty foot setback on the property. Chairman Dupre advised Mr. Netishen that the Board was discussing Lot 8A which he believes has access on Rose Avenue. Mr. Netishen said he thought they were being heard as the same case and he would come back up

and speak about that then.

Alderman Barbara Shaw said she is the Alderman for Ward 9. She said she was here to speak in favor of the residents. She said this was a very difficult situation for her because she represents both the sellers and the residents. She has known the sellers since childhood and it is a difficult situation. She said she thinks this is all about compromise and we have to think about what is going to be in the best interest of the people who are opposing as well as people who are selling. She said she is speaking once for both case 5 and 6 because they are similar situations. She just wants her opinion stated that when you have situations like this, it is important that both parties are aware of the concerns of the others and she thinks safety is an issue here also. She thinks the change of the lot in the middle is aesthetically different for the residents as well as the access. She is a very staunch supporter of good access for properties that are developed within the Ward 9 area in between other houses and in back of the houses and so forth and so on. She said she tends to side with the residents. She feels they have a good argument but feels there should be a compromise and that a conclusion in the best interest of both parties could be developed.

Jessica Clukey of 33 Rose Avenue said her property directly abuts Lot 8A. She said she appreciates the revisions made as part of the revisions were a result of her concerns expressed at the Planning Board with regard to her lot line specifically and the tree line on that lot line where there are several large trees that would be impacted as a result of the extension of the road and the snow easement they are putting there. They have modified the plan to help alleviate that which she appreciates. She still has continued concerns about the proposal and how that is going to impact her property specifically. Ms. Clukey asked the Board if she could share with them a photo of what the end of the road actually looks like. The reason she would like to share this photo is because she thinks it is really important as it is not necessarily expressed on the plan, but the narrowness at the end of that road is a concern. She said what you can see from the photo is in fact how difficult she thinks it is going to be to have access for vehicles such as plows and/or emergency vehicles that need to go down that road. In addition, it shows how close that comes to the property line on her lot in terms of how that is going to impact her. Personally, she thinks that is going to be detrimental to some of the aesthetics of her property as well. She has a rock wall that sits very close to there as well as the tree line which is the biggest concern, the damage to those roots and how that may impact the health of those trees and essentially, potentially risk her home as well as the other homes on the road with the new home being built.

Chairman Dupre turned the hearing back over to the Board.

Joseph Wichert said he would answer some of the concerns as he attended the Planning Board meeting. He said there was a lot of discussion at the Planning Board meeting, so he said he would start at the Clukey property. He said one of the items he is asked to do is to go out and locate the tree canopy. That was a direct result of the concerns that Ms. Clukey mentioned at the meeting. He said if you look at the canopy, the rule of thumb is that the roots of the trees go as far out as the canopy. The problem is that the trees they are looking at, some of them are actually located on the Lacombe property and others are located on the Clukey property and they don't necessarily have an easement to protect those tree roots. Should Mr. Lacombe want to go out and put a shed in that area, there really is nothing to prevent that. The sequencing of this is

when they applied for the variance, they actually only did a one thumb turn around that ran east/west on the end of each street. He said they listened to the neighbor opposition there and a lot of the opposition that came out of that first ZBA Meeting was that it is not practical, the trucks would have to three point turn to turn around and do everything else. He said they went back to DPW and asked them if they had an issue with this, is there something they could do to make it better. When they went and met with them, they actually put a second leg into it to try to reduce the number of turns that the trucks would have to take to turn around. Mr. Wichert said when they went to the Planning Board, there was a concern that the turnarounds were too big and would cause more damage than just a driveway like Mr. Clement mentioned just coming off the end of it. The applicant agreed to come back to the Zoning Board to try to modify this in an attempt to try to alleviate some of the abutters concerns and try to be neighborly.

Mr. Wichert said if you look on the Rose Avenue Extension, he is sure that whatever you put in there, construction is going to do something to those roots, there is no way it can't. He said the current proposal tries to reduce that. It was also brought up about the smallness of the road. He said part of that is the function of the stone landscape walls that are actually in the right of way and typically, DPW doesn't allow them in the right of way. If those weren't there, it would give them a little bit more maneuver room to do. He thinks they can still make it work as it sits.

Joseph Wichert said Mr. Netishen mentioned coming in off of Mystic Street. He said for the Board Members who have been there, that would have been a flag lot. If they looked at the scenario of what they had, flag lots aren't one of the options that we typically look to go to because they aren't generally well received by either the Zoning Board or the Planning Board. There was talk about the snow banks being in front of the houses. It is true, but they are going to be further away from the houses than what exists now because right now what ends up happening is there is a fence all along the northerly Lacombe lot line that goes at the end of Rose Avenue and the end of Slade Avenue. If there is a bad winter with snow, that bank is going to build up and keep pushing to the north into there. The intent of the snow storage easement is rather than having the snow beyond the asphalt they are allowing 15 feet on the end of the asphalt to give DPW room to bank the snow so it won't be on the asphalt. It is going to pull it further away from the neighbors.

Mr. Wichert said in regard to the driveway locations, the driveway locations they have were based off the discussions they had with DPW. He said Mr. Netishen is asking for them to flip the driveway to the east side. He said they believe this plan will end up in less damage and hopefully less impact to the neighbors. The intent being if the Zoning Board were to deny this, they would go back to the one that was previously approved and go to the Planning Board and build a turnaround. He said they felt this was a good solution that they are trying. Alderman Shaw mentioned the access issue and Mr. Wichert thinks the accesses to the properties are viable and they are no worse than what exists on the lots at the end of the street.

Attorney Daniel Muller said the only other thing he would like to add is there was the concern about the snow piling up and access to the houses on this. He said that is something that can be taken care of with the easement. He said they recently did a snow storage easement for another property where this Board granted a variance and that is something that can be taken care of

through that process.

Chairman Dupre said Jessica Clukey of 33 Rose Avenue has fifteen feet on the end of that road and asked Joseph Wichert if he had seventeen feet. He thinks they are equal, each being roughly seventeen feet. Chairman Dupre said then they each have equal amount of space there. Mr. Wichert said Ms. Clukey has additional frontage on Rose Avenue going to the north. Chairman Dupre said he remembers this case a couple of months ago and said he hemmed and hawed back and forth through the whole thing and there were a lot of concerns that the neighbors and Alderman Shaw brought up were concerns that he had. He said he is thinking of what the alternatives are, it is a flag lot. You would have to come off of Mystic Street which is not an ideal situation. Coming off of Rose Avenue for one house doesn't become a flag lot, it becomes very similar to 33 Rose Avenue, two houses sharing the end of the street. The snow storage easement the way it is set up now is better than what the Board proposed. The hammerhead was a nice idea but snow is going to be piled up in the back of 30 Rose Avenue. Now it is just being pushed directly into this new property, this Lot 8A. Chairman Dupre said it is not perfect but he thinks it is a good solution.

Chairman Dupre said the Board is here to vote on a minimum lot frontage, section 6.02 (B). He asked if any of the other Board Members had any other feelings one way or the other that they would like to share. There were no further comments.

Raymond Clement made a motion to approve variance case #ZO-57-2016, section 6.02 (B) Minimum Lot Frontage for new Lot 8A.

Michael Landry suggested modifying the motion to capture the previous conditions on prior case ZO-167-2015 for clarity. He said he feels they would stand on their own but he would feel better if they were included in any action the Board takes tonight. Chairman Dupre agreed with Michael Landry.

Chairman Dupre made a motion to grant variance case #ZO-57-2016, section 6.02 (B) Minimum Lot Frontage for new Lot 8A which will be tied in conjunction with case #ZO-167-2015 and the conditions thereof which was seconded by Raymond Clement. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

6. **ZO-58-2016**
336 Mystic Street, Ward 9

Daniel Muller, Jr., Esq. (Agent) proposes to modify the snow storage easement shown on the plan for prior case ZO-168-2015 as a result of Planning Board comments and maintain an accessory structure on New Lot 7A and seeks a **variance** from Sections **6.02** Minimum Lot Frontage for New

Lot 7A; **5.10 (A)** Shed as a Principal Use and **6.03 (B)** Rear Yard Setback, of the Zoning Ordinance, as per documents submitted through June 17, 2016.

Attorney Daniel Muller said the first part of this case is similar to the last case. He said they got the variance last year and the snow storage easement was changed and they are simply coming back for confirmation with respect to that after the Planning Board upon hearing the abutters altered that. Again, they aren't looking to change the conditions of the prior approval which included increased setbacks to the north and east lot lines. The only other new thing in this application is that the original proposal called for the removal of a shed on the property. The owners would like to keep it there so that it one day can become an accessory structure when a house is built on that lot. Obviously, as it stands right now it is deemed a principal structure because it doesn't serve anything. As Mr. Landry indicated, in terms of location, once a principal structure does go on, this will actually comply with the accessory structure setbacks. What they are looking for is a temporary right to maintain this until a principal structure is built on the property.

Chairman Dupre asked Attorney Muller if the shed had electricity. Attorney Muller said it does. Chairman Dupre asked what it was wired to. Attorney Muller said it is his understanding it is wired to Lot 7. Joseph Wichert said it could be disconnected. Chairman Dupre said he was kind of concerned about something potentially being in separate ownership.

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

Chairman Dupre invited those in opposition to this application to come forward.

Alderman Barbara Shaw, Alderman for Ward 9 said she had two questions that might help to understand the previous decision and the decision that will be made on the present case. First she asked why the Mystic entrance a flag lot. She said she didn't understand what that means. Secondly, why does Plan B have to revert back to Plan A, why not a Plan C.

Thomas Netishen of 25 Slade Avenue said he was mentioning the proposed driveway location. He said from his understanding, they don't really know where it is going go as the builders are obviously going to put the driveway in. His concern is the location and proximity to his house which is the living room windows on that side of the house. He said he had a photo to show the Board. He said what they did with the hammerhead and snow removal is better and he agrees with that and he appreciates the explanation of where the snow is going to go as that clears up that issue. He is wondering why the driveway was put against his side as it is a large enough lot and they could put the driveway on the other side in his opinion. Mr. Netishen said he is asking the Board to ask the applicant if that could be accomplished on the eastern side of the property or if not directly against the eastern side at least acknowledge a twenty foot setback where you can't build a building or can't put a driveway. He said he is really asking this because there is not a lot of land on his side of the property. Mr. Netishen then passed his photo out to the Board Members. He said the photo was on his side of the property looking at the fence out to the end of Slade Avenue and you can see the windows on the left hand side. He said with the driveway

there, he is concerned about car door noise and headlights because of the proximity of the proposed driveway. He said from his understanding it can be four feet from their property so that is less than ten feet from the edge of the windows on his house. He said he noticed on the map there is a twenty foot setback on his property against proposed Lot 7A and a thirty foot setback on the Lacombe's property that there is an issue and if they could shift that around and move the driveway he would really appreciate that.

Attorney Muller said with respect to the flag lot, he would explain what that is. A flag lot looks like a flag. It has a very skinny portion that comes off one street and the majority of the lot is in the back. He said his understanding is most jurisdictions don't like them because they entail long driveways which among other things require a distance for emergency vehicles to get up. They are generally frowned upon in most jurisdictions including Manchester.

Attorney Muller said the other issue here, as brought up previously was why this was a Plan B and not a Plan C. Obviously this property has been looked at a number of times in terms of options. He said they came to the Board last time with what they thought was a good option to avoid the flag lot and as was indicated they went to the Planning Board. The Planning Board as part of its subdivision approval process preferred that the snow storage easement be a different configuration after listening to the abutters. This sort of represents a compromise where people think this is the better solution overall and that is why they are back with this particular plan. In terms of why there is no Plan C with the flag lot again, those types of lots are not preferred in the City or elsewhere. Attorney Muller said in terms of some of the other comments, he would let Joseph Wichert talk to the Board as he was at the Planning Board Meeting and has also spoken to the DPW on this matter.

Joseph Wichert said he actually thinks this is Plan C. He thinks Plan A was the one that had just the east/west turnaround. Plan B is the turnaround with the thumb and Plan C is the snow storage area. He said they have been trying to listen to what people are saying and they are actually trying to minimize any impact on the neighbors as best as they can.

Mr. Wichert said Mr. Netishen mentioned a couple of things. The twenty foot setback off of his property would typically be ten feet so that is twenty feet strictly by stipulation of this Board. That was done solely to increase the distance to the Netishen residence. Putting the driveway on the east side he thinks would be cumbersome because of the configuration. What would happen is if you were heading south on Slade Avenue, you would have to turn ninety degrees left and then ninety degrees right to get into the property. The two things that are happening is typically when you run into a situation where you are at the end of the road DPW will generally give you some guidance as to where they would like the driveways to be so there are no problems with road maintenance. He said he understands Mr. Netishen's concern but he is not so sure they can really do the east side practically. He thinks if DPW was willing, he thinks they could go talk to them and try to shift the driveway further away from the Netishen residence. He said it looks like they have about eight or nine feet and maybe they could cut that down to four or five and could sort of angle it off a little bit more so it wouldn't be as close. The only thing he would like to mention is what they are showing is proposed driveway locations, they are just generic guides. They are not necessarily going to come out that far at that configuration. All that is going to be

driven by the house. The Lacombes do not have a plan to build on these. Their intent is to sell the property so a lot of it would depend on where the houses are and things like that. He said they are willing to try to keep that driveway as far away as they can from the Netishen property. The only other thing he would like to bring up is typically, you could park four feet off of a lot line but where the building envelope is going to be twenty feet from there, way they envision the house, he doesn't necessarily see the parking area being four feet off of that lot line.

Mr. Wichert said the only other thing mentioned was if they could flip the twenty feet and the thirty feet and that would basically mean he would have to come back for another variance because that would be taking his rear to the front and the front to the rear. He said they couldn't do that. He said the Lacombe's have been very patient in trying to work this out so he thinks they can talk to DPW and do whatever they can to try to maximize that distance from the curb cut for Lot 7A.

Chairman Dupre turned the hearing back over to the Board.

Chairman Dupre said he appreciates them working with the neighbors and he hopes the landowners continue to work with the neighborhood to hear what their concerns are going forward.

Chairman Dupre said he had a strong reservation about maintaining the shed as principal use and not removing it. It seems all well and good right now, you know, you disconnect the power and you've got a shed sitting there but at some point that lot may get sold off or something may happen and then the shed falls into disrepair and then you are stuck with who is going to fix the shed or who is going to take the shed out. He said he doesn't see a hardship that says we need to keep the shed for X, Y and Z. It is that you just want to keep the shed. Chairman Dupre asked if the shed could be moved onto Lot 7. Attorney Muller said the intent was that the shed would be useful for whoever developed Lot 7A. Mr. Lacombe said let's say we are going to buy a new shed and put it on the other lot and hold on to this shed to keep his snowblower and tractor in during the transition. Chairman Dupre said he could appreciate that because winters do get pretty bad. He said his concern is that the property is sold and the developer doesn't develop anywhere and the shed becomes their problem, the shed falls in disrepair and then you are looking out your back window with a shed that is collapsed. It could be in great shape, it could be fine. Someone could get hurt in the shed and then who owns the shed, what's the responsibility of it. Chairman Dupre said he didn't know how the rest of the Board felt but he didn't see any need to keep the shed.

Raymond Clement said he is not concerned about that shed. He said they might not sell that property for another two, three or four years, who knows. He doesn't think it is going to interfere with anything. Whoever buys that property will determine at that point what they are going to do with the shed. To him, it is not a concern at all right now.

Attorney Muller addressed Chairman Dupre and said to deal with this issue he spoke with his clients. He said they are willing to agree to a time limitation of two years or it gets removed. He said this would address the concern about long term maintenance. Chairman Dupre said how

about two years or when he gets another storage shed on his property for his snowblower and other equipment because Mr. Lacombe is asking to keep it for his equipment. Attorney Muller said that would be fine. Chairman Dupre said the shed would remain for two years or until he gets a new shed for his snowblowing equipment. He asked if the rest of the Board found the shed to be a problem. Robert Breault said he thought it was a workable solution. Raymond Clement and Thomas Puthota agreed.

Michael Landry said he had a question for either Joseph Wichert or Attorney Muller. He asked if they saw any problem with prohibiting parking in that twenty foot setback along the northern lot line. Joseph Wichert said he did not see a problem. He said, "do I want to do it? No." He said the reason he is saying that, and he is not trying to be sarcastic, it is just if they went back to the original setback of ten feet, you can have a driveway on that side of the house and in this day and age, somebody may have a driveway that is two car wide and if you had a twenty foot wide driveway and you set the house inside that building envelope, that driveway could protrude over that setback and still be fifteen feet away from the neighbor. Michael Landry said Joseph Wichert was the only one that ever thought that a ten foot setback would apply. He said he always considered, you know you get your frontage on Slade Avenue and that is where your frontage really is. He said he always thought the twenty foot setback really belonged across the entire width of the lot. Joseph Wichert said he saw Michael Landry's point. Michael Landry said he is concerned about someone saying, "Ok, well I can park within four feet of the lot line and now you are eight feet from Thomas's home." He said he thinks that is tight and if the condition is not put there that could possibly happen. It is unlikely, but he is concerned. Joseph Wichert asked if they could go with ten feet and that would give them fourteen feet, ten of which is going to be on their property. Michael Landry said again, for Mr. Netishen there, it is not likely going to happen and it needs to be driven by the design and the layout of the house, but he thinks it is worth discussing.

Chairman Dupre asked if they had any idea of the house they are talking about putting there. Joseph Wichert said he didn't because he didn't know who is building it or what they are building. He said he could see like a split type of house maybe with an attached garage. Chairman Dupre said when he looks at this he can see the neighbors concern. The way it looks, when you pull into the property, you have to go to the right to get into the garage. He asked if they could make it a straight shot in. He said the front of the house faces north and with the picture submitted to the Board, the garage actually winds up being on the right hand side. He asked if they could make it on the left hand side and that way it would be a straight shot in which keeps it off of the neighbor's property. Joseph Wichert said if he did a left load garage, he would have to come off the base of the push where they are going to bank the snow. Chairman Dupre asked if that was necessary. He asked if they were that close. Mr. Wichert said no, but if you come in the other way, if we keep the curb cut and go under the assumption that this curb cut is more or less within five feet of where it's going to be, hopefully, as he shifted it to the south. To have that be a left load garage, you would come in on the driveway and have to turn left and then right to get into your garage. You would have an "S" driveway in your front lawn. Typically, we try to get as much grass as we can on a City lot. Chairman Dupre said he didn't realize this. Joseph Wichert said he is fine with if we said ten feet because if you look at the houses going up Slade Avenue those are smaller lots so if they agreed to ten feet, he thinks they would be good with that and

then they could keep the asphalt just in that southerly ten feet of however they are phrasing that, the south half of the front or whatever. He said he thinks that is a reasonable compromise. You aren't going to see just based on where the building envelope is, and he is trying to envision it in his head whether or not if you had a two car wide driveway within the front. He is just trying to avoid somebody trying to build something that works to code and then after it is in find out that it is somehow in violation of a condition or stipulation.

Chairman Dupre said he knows what Mr. Wichert is trying to accomplish and asked where their reference points were. Michael Landry said ten feet from the north lot line. Joseph Wichert said they could put on the subdivision plan a "no driveway parking allowed within the northerly ten feet". He said just so we are clear, if he comes down ten feet, they aren't talking a curb cut. Michael Landry said you are allowed to drive onto your property. Mr. Wichert said he just wanted to make sure. Mr. Landry said that is a fair question. Mr. Wichert said he thinks they can put some kind of condition on this that will note it on the plan so it hopefully gets picked up on the issue of the building permit.

Chairman Dupre made a motion to grant variance case #ZO-58-2016, looking for relief from section(s) 6.02 Minimum Lot Frontage on Lot 7A, 5.10 (A) Shed as a Principal Use and 6.03 (B) Rear Yard Setback which will be tied in conjunction with case #ZO-168-2015 and the conditions thereof and the electrical on the shed will be disconnected and shed will have to be removed within two years or after a new shed is purchased and placed on Lot 7 and no driveway parking will be within ten feet of the northern lot line which was seconded by Robert Breault. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

7. **ZO-59-2016**

100 Highland Park Avenue, Ward 5

Bernard Taurasi proposes to maintain 2 sheds and storage of a trailer within 20' of the required street yard setback and maintain an addition to the garage resulting in the occupying of more than 25% of the rear yard area in the R-1B zoning district and seeks a **variance** from Sections **8.29 (A) Accessory Structures & Uses** (3 counts) and **8.29 (A)3 Accessory Structures & Uses** (1 count) of the Zoning Ordinance, as per documents submitted through June 22, 2016.

Attorney Mike Chen said he was assisting Bernard Taurasi who is the property owner of 100 Highland Park Avenue. Attorney Chen said what has been submitted to this Board is essentially that Mr. Taurasi is looking to maintain the addition off of the now 1,213 square foot garage in the northwest corner of his property as part of the most recent plot plan that has been submitted to this Board. The addition to the garage was built in 2000 so it has been there for about sixteen years. Additionally, Mr. Taurasi is looking to maintain the two sheds that are located in the southern westerly portion of Mr. Taurasi's property. The 281 square foot shed is a foot shy of

meeting the twenty foot setback requirements and the 244 square foot shed obviously does not. On the south side of Mr. Taurasi's lot are actually very dense, approximately twenty foot high evergreens that hide these two sheds. The western portion of the lot is bordered by a fence as well as the northern portion of the lot also is bordered by a fence as well. The fence is approximately six feet high shielding the abutting lots from site of the garage and the sheds are also hidden from street view as this is a corner lot. As part of the application that was submitted, they would ask for a variance both of the setback requirements as well as the total development of the lot.

Chairman Dupre turned the hearing over to the Board.

Chairman Dupre referred to the evergreens mentioned previously and asked whose property those were on. Attorney Chen said they were on Mr. Taurasi's lot and were planted before he bought the property in 1996. Chairman Dupre asked when the additions were made. Attorney Chen said the addition to the garage was in 2000 and the sheds were in 2003. Chairman Dupre said he sees the note in the packet the Board was given that one of the sheds was under construction in 2005 and he asked if one of the sheds was built in 2003 and the other in 2005. Attorney Chen said as you see, there are actually a few sheds on the property, two of which have been since removed since the original application. The two sheds in question, the 281 square foot shed and the 244 square foot shed were built in 2003. Chairman Dupre asked what the shed under construction in 2005 related to. Attorney Chen said if you look at the plot plan that was submitted that shed that was under construction would actually be located inside the 1,213 square foot garage.

Chairman Dupre said Attorney Chen mentioned a fence and he asked how old the fence was. Mr. Taurasi said the fences are owned by his two abutters. Chairman Dupre asked Mr. Taurasi when the fences were erected by his abutters. Mr. Taurasi said one was put in around ten or fifteen years ago and the other around a year ago.

Chairman Dupre invited those in favor of this application to come forward.

Kevin Madden of 105 Highland Park Avenue said he has no issues what so ever with the structures that are on his property. He said as previously mentioned, with the fences and the trees he doesn't think anybody can see them. He said being a neighbor looking across the street he has no issues at all with the structures on his property.

Chairman Dupre then invited those in opposition to this application to come forward.

Janice Hobbs of 108 Highland Park Avenue said she is a direct abutter to Mr. Bernard Taurasi's property. She said she has looked over the application that Mr. Taurasi submitted and the fence that is on the north side that Mr. Taurasi said was put up a year ago was put up in 2013. It was put up to keep the snow off of her property. It has been sixteen years since she has known Mr. Taurasi. She said in the year 2000, she wrote him a letter which she said she submitted to the Board and on the first two pages after the contents are two letters. One is the most current letter which she wrote. The other one is one that was sent in 2001 or 2002 and that letter makes reference to the first time she met Mr. Taurasi. She said her 86 year old father lived in the house. When Mr. Taurasi had to clear his driveway he has so many cars and other things on his property

that there was no place to put the snow so he snowblew it over into her yard at 108 Highland Park Avenue and her father could not get out the door. She said she went over with her husband to ask Mr. Taurasi not to put the snow over there and he told her "well where am I supposed to put it, now get off my property." Over the years it has been difficult. The addition he talks about on his garage is not that main addition. In the back of the packet she submitted there are three pictures. She said you will see that there are two additions on the back of the garage. There is a picture where the garage is mustard colored and it is behind a fence. They were put on in the 2000 and 2001. The huge addition on the side of the garage wasn't put on until later.

Janice Hobbs said as far as the evergreen trees, Mr. Taurasi put those in. She said he approached her one day and said he was thinking of putting in a swimming pool for his son and asked her if she had any objection. Mrs. Hobbs said she said she did not, something like that wouldn't bother her. She said the next thing she knew, the evergreen trees were being brought in and planted around and she assumed it was because of the pool to satisfy a four foot fence or whatever. She said over the years, many things have happened and in the packet she submitted to the Board is also a court case from January 13, 2016. Chairman Dupre said he saw the court case and asked Ms. Hobbs to stick to the land use issues. Mrs. Hobbs said the court case is land issue as it was damage to her fence. She said Mr. Taurasi has encroached on her property by expanding his driveway. She said even in the pictures he submitted you can see where the driveway has been expanded.

Janice Hobbs said she spoke earlier in the day to Jim Tierney in violations at the Planning Department and there is a letter which was in the original file at City Hall with the violations but she didn't notice if there was anything in there on the sidewalk that was filled in by Mr. Taurasi or the curb cut that he made for himself where he took out a chunk of grass. She said there is a picture also in her packet which shows where the sidewalk used to be. The property used to have a sidewalk going all the way up Highland Park Avenue and around Oakland Avenue. It was filled in over the years a little bit at a time and you can see on one of the pictures that shows the curb cut he put in for himself, he took out a chunk of grass at the end of his driveway and a picture with it points to a piece of treated lumber put across in front where the sidewalk used to be. She said the Zoning Board has nothing to do with sidewalks and she knows that is the Highway Department but Jim Tierney did tell her that this affects the pervious surfaces of the property because she has a certified plot plan that says that the lot is 47% covered. She said if you add in the City sidewalk that is buried underneath the filling, 125 feet of it and you take the curb cut, that adds another 692.5 feet. She said on the plot plan, the lot is covered 4,731 square feet. She said if you add in the sidewalk that was filled in and the curb cut that is in those pictures the lot is covered 57%. She said even with her fence up, she is wondering where the snow is going to go in the winter. She said the last couple of winters there is no place to put the snow. The driveway has been expanded so when it does snow, it gets plowed against her fence. She said she currently has an agreement that he is not going to do that anymore but it usually gets put out in the street or in front of the Taurasi house or on her front lawn where the sidewalk used to be.

Mrs. Hobbs referred to the plot plan she submitted to the Board and said she filled in all the buildings on Mr. Taurasi's property. There are fifteen infractions. All these things done without

permits or permission. She said Mr. Taurasi parks at the end of the driveway and can park three cars across and parks right in where the City sidewalk used to be.

Janice Hobbs said also, as the Chairman noted, there was a shed under construction in 2005. She said there have been buildings under construction all these years. There are buildings all over the place there and things change on the property all the time. You will see as shown in the picture, a plastic building and a Quonset hut and they come and they go so if you look at the property now and there is an empty space, there could be things on it tomorrow. She said she is just very concerned about it where there has been no relief for all this time. Mrs. Hobbs said this is about all she has to say.

Frank Hobbs of 108 Highland Park Avenue and said he is a direct abutter of Mr. Taurasi. He said his wife Janice did a great job presenting their case as they both have the same views. He said Mr. Taurasi has created many eyesores over the past sixteen years. Mr. Hobbs said he has been in construction himself for years and Mr. Taurasi builds these things so they look like they were there. He doesn't finish painting them, he doesn't finish trim, he doesn't make them blend in with the neighborhood. East Manchester, in all of his years has been a sought after place to live. People in the neighborhood take very good care of their property. They mow their grass. It is a place that you would be proud to live in.

Mr. Hobbs said he is a retired iron worker and he has built houses in Manchester and surrounding towns and in his estimation, Mr. Taurasi has created for the past sixteen years, next to his property, many eyesores. He has devalued his own property and every property in the neighborhood in his opinion. Mr. Taurasi has proven through his actions that he has no intention of doing things in an appropriate and legal manner. There are things that should come to light like safety. He has electricity in these buildings and there are no wires going to them. Mr. Hobbs said he doesn't know what Mr. Taurasi has and he's sure the Building Department doesn't know what he's got, whether he has underground wires or what have you. There are a lot of things that should be inspected with all of these buildings that he has over there. Mr. Hobbs said for these reasons and the ones his wife previously stated, he is 100% against any variance or permit that might be issued to Mr. Taurasi until all existing infractions which the Hobb's count to be about fifteen with curb cuts and adding asphalt to within a foot of their fence. Mr. Hobbs said that Mr. Taurasi says on his plot plan that it is four feet and it is not four feet, it is about a foot.

Mr. Hobbs asked the Board not to give Mr. Taurasi any variances or permits until all existing infractions and illegal paving are taken care of. He feels these additions in his mind should be removed and Mr. Taurasi should start fresh. The pavement that he has added should be removed and he should adhere to setbacks and adhere to building codes and adhere to the way things are done today. Mr. Hobbs said he is sure Mr. Taurasi is aware of all of this, he just chooses to do it on the sly.

Mr. Hobbs said in his opinion, Mr. Taurasi's property prior to his ownership was the best kept property in the neighborhood. That property was beautiful with the prior owner. It is a shame for what he has seen happen to it and he has to look at it every day. Today, he thinks it is the worst kept property in the neighborhood.

Chairman Dupre asked Attorney Chen if he would like to respond to some of the issues that were brought up.

Attorney Mike Chen said his client's response should be narrowly tailored to what they are here for today which is the two sheds as well as the addition. Obviously, they aren't here in front of this Board for any other structures and/or anything else having to do with the property other than the addition to the garage and the two sheds. As was stated before, the addition is in the back northwest corner and as stated in the actual application, the reason for that addition was to make room to put a pool table and for Mr. Taurasi's child who has an inoperable brain tumor and uses this pool table as a means for a way of escaping these health concerns he has and has continued to deal with. Mr. Taurasi's son, who is in the audience today, still lives with Mr. Taurasi. The reason for the addition is to make room for potentially an activity for Mr. Taurasi's special needs child who uses that pool table again to escape from extreme difficulty with health.

The other sheds that are in front of this Board today are used for storing different mementos for his two other children as Mr. Taurasi raised his three children by himself and therefore is very nostalgic and wants to hang onto things for his children and their children. The other shed is used to house a snowblower and other yard keeping equipment. He said they would maintain that the sheds are, as you heard Mr. Taurasi's neighbor speak, not an eyesore and not something that you can see. Attorney Chen said he would again respond to the Hobbs comments that it is his understanding that the Hobbs do not actually live there. They are property owners and actually rent the house to others. So, they are not essentially the people who live there full time. For the reasons stated in the application, their response is obviously that they request the variance be approved.

Chairman Dupre turned the hearing back over to the Board.

Raymond Clement asked if the sidewalk on the Highland Park Avenue side was still in existence underneath as he couldn't tell when he went by the other day because of all the branches and stuff covering it. He asked if it was still usable or still paved. Mr. Taurasi said it wasn't usable when it was there. He said it was put in by the previous owner and it was put in with rough tar, very rocky with roots. It was very dangerous when kids used to ride their bikes across it and quite a few kids kept falling in front of his house. It was a danger to anyone who rode in front of his house. Mr. Clement asked Mr. Taurasi if he ever tried to remove some of the branches that are overhanging there because it is a hindrance as far as if anyone does want to use that sidewalk. Mr. Taurasi said he could remove the branches but the sidewalk isn't there. He said he filled it in so no one would get hurt anymore. Chairman Dupre said he has claimed it as lawn.

Raymond Clement asked Mr. Taurasi if he heard correctly when Mr. Taurasi previously stated that he had removed some sheds. Attorney Chen said that was correct. The original plot plan that was submitted with the application shows a 31 square foot shed and a 17 square foot shed behind the 1,213 square foot garage. Those have since been removed and are reflected on the June 22nd update to the plot plan that was submitted to this Board.

Raymond Clement said it was previously mentioned that a pool was being put in. He asked if that ever happened. Mr. Taurasi said he had one of those blow up pools that you put in and then his cats walked across the top and that ended that. He said he had the pool for one summer. Mr. Clement asked Mr. Taurasi if there was anything in that big open space right now. Mr. Taurasi asked Mr. Clement if he meant in the back yard. Mr. Clement said he meant the side yard up against Oakland Avenue. Mr. Taurasi said there has never been anything up in that area, it has always been open.

Robert Breault asked if the sidewalks are within the City right of way. Michael Landry said they usually are. Mr. Breault said then the sidewalk is not really part of Mr. Taurasi's lot even though he maintains it and fills it in it's really not considered part of the square footage of his lot. Mr. Landry said that is fair to say. Attorney Chen said for clarification, he doesn't believe that the edge of pavement that has been shown on the plot plan is added to the total square footage. That is his understanding per the hundred foot designation showing the coordinates as well as the hundred foot designation running south and also running west, the hundred foot by hundred foot showing a 10,000 square foot lot. He said he doesn't believe that the Highland Park Avenue edge of pavement that is referenced here is part of the lot designation.

Raymond Clement said on the Oakland Avenue side, he sees there is a 179 square foot paved driveway. He asked if that was being used. Mr. Taurasi said he has a utility trailer in that driveway which was put in by the people who owned the house prior to him. There was one big horseshoe around the whole house and that got filled in. Mr. Clement confirmed with Mr. Taurasi that the driveway was still being used at the moment.

Robert Breault asked if these structures weren't built with the benefit of a permit, if the variance is granted, does Mr. Taurasi have to comply with the permit application and inspection. Michael Landry said absolutely. He would need all inspections and if there is electrical they all need a permit and they need to meet today's code. Mr. Breault asked what the outcome would be if the structures are found to not be compliant with current building regulations. Michael Landry said Mr. Taurasi would have to modify it until it meets code. Attorney Chen said that is the purpose of them being here today, to seek a variance for the existing structures that were built in the past and then apply for the building permit and of course if the building permit was denied, they would make modifications until the building permit was approved. If it is ultimately denied and they are unable to bring the structures up to code, the structures would be removed.

Chairman Dupre said Mr. Taurasi hasn't addressed why he expanded the driveway. Attorney Chen said at this point, the paved driveway that has been expanded per statements made earlier by the abutters Mr. and Mrs. Hobbs, is not in front of the Board right now. Chairman Dupre said Attorney Chen was correct and he would leave that one alone.

Raymond Clement said the applicant is on record stating they are going to bring the garage and other structures up to code or they would remove them. Chairman Dupre said they didn't say they were going to remove them, they said they would bring them up to code. Attorney Chen said they did say if they were not able to bring them up to code the structures would be removed. Raymond Clement said they are on record stating that.

Chairman Dupre said he has been doing this for a long time. He said usually he drives around to see properties on the agenda and sometimes the houses are hard to find and sometimes they are very easy to find. This was very easy to find. He said he was shocked with what he saw. The fact that all this building went on with no permits and no consideration for the neighborhood. He addressed Mr. Taurasi and said it is not like this is something you didn't know about. Permits and variances are asked for all the time. He said he knows for a fact that the homeowner has been notified of other variances in the neighborhood for other people who did work on their houses so Mr. Taurasi would have known that there is a process that he needed to go through. It is not something new. He said he appreciates the idea of the pool table and said he can accept that but it seems like this is a house that just kept getting added onto. You have a 1,213 square foot garage. Chairman Dupre said that garage is bigger than his first house. That garage isn't just a garage, it is a garage with a garage and a garage in back. He said there are three garages stacked up there with no consideration for the neighborhood, short term or long term. He said to keep memorabilia a shed is built on the side. Yes, it is only one foot over on the setback but it also has another shed attached to it and then there is another shed attached to that which is actually in the side yard which encroaches heavily. He said he doesn't think any consideration was given for safety and he doesn't understand the overall hardship and why this wasn't addressed over time. It sounds like the applicant was spoken to a couple of times and this isn't something new that just kind of popped up. This has been ongoing for sixteen years. Chairman Dupre said he appreciates somebody coming in admitting there is a wrong but this wrong isn't one wrong where somebody puts a deck on that's a couple feet over what's allowed, this is numerous, numerous items here that just show up and happened. He said he didn't know how the rest of the Board felt but he has a hard time supporting any of this. Maybe the garage, but what is the garage? Mr. Taurasi talks about needing storage and you have a huge garage, you have an addition. He said Mr. Taurasi expanded his driveway and has done stuff with a plan, without a plan, without notifying the City properly and this is unacceptable.

Attorney Mike Chen said he thought Chairman Dupre's statements are not incorrect and he thinks this is something that they appreciate since coming on to assist Mr. Taurasi with this, he said this is something they have been pushing to essentially make "right" on past mistakes. That is the purpose of this. Chairman Dupre said they are not trying to make "right", they are asking for forgiveness. He said they aren't saying "hey, the 244 square foot shed, maybe we will take that down so at least we're within the setbacks" or "maybe we'll pull this garage back a little bit or maybe we'll spruce something up or do something". You are saying it is what it is, accept it.

Attorney Chen said he would disagree that they are saying it is what it is. He thinks the reason for coming forward, if you see in the actual application, the majority of time is spent on the addition to the garage and the back portion. Not so much is given to the sheds. He said he thinks if the Board feels that the sheds need to be removed, he thinks Mr. Taurasi could find a different way, an appropriate way of meeting, as Chairman Dupre prefaced it, meeting all of the requirements to add structures to provide the storage that is adequately needed for Mr. Taurasi. Again, the majority of their time here today is simply looking for a variance for the addition to the garage. That is something that is very important to Mr. Taurasi and his child. Additionally, there is no excuse as to reasons why Mr. Taurasi did not go through the proper channels to begin with

but again, Mr. Taurasi is a single father of three, raising three children as well as being a full time postal worker and has had the same route and has worked at the US Postal Service and is just a few years from retiring. Again, no excuse, but there are only so many hours in a day for Mr. Taurasi to apply and make it to City Hall. As the Chairman correctly stated there is no excuse for this and it was not done in the proper way. He said they are trying to make right the past mistakes and move forward in the correct direction.

Raymond Clement said he didn't know if the Board should vote on this application tonight. He said this was his feeling and maybe the Board could give the applicant more time to bring this into code compliance. He said he doesn't want to shoot this down entirely.

Michael Landry addressed Chairman Dupre and said that would be kind of a catch 22 because for any work to be done, permits would be required and permits would not be issued with outstanding violations. That is kind of why we are here. Chairman Dupre said he appreciated the comment and said this is not something that just kind of popped up on somebody's radar. It has been around for years and the applicant has been made aware more than once, more than twice that what has been done is unacceptable and he continues to do it. This is similar to a case the Board saw a couple of years ago with that house. Raymond Clement said it is kind of like that. He said Mr. Taurasi has received very adequate warning now and he thinks the Board should give him an attempt at bringing it up better into compliance and that might be a big improvement. He said we can't cure every ill here but at least that would be a step in the right direction. Mr. Clement said it is unusual but the Board has done it in the past. Chairman Dupre said the Board has done it for smaller things. This is excessive. Raymond Clement said the house previously mentioned was excessive. Chairman Dupre said that was a single unit and this is something that has been going on for fifteen years. That was something that was going on for a couple of years.

Robert Breault asked Mr. Taurasi how much of the 1,213 square foot garage was original when he purchased the home, before he added the additions. Mr. Taurasi he said he added twelve feet off the side and his workshop off the other side. Mr. Breault said it really looks like there are three components to the garage when you look down the side. He asked Mr. Taurasi if he was saying that there was one component already added to it when he purchased the home. Chairman Dupre clarified and asked Mr. Taurasi if he added two more components just onto the back of the garage and then one off of the side of the garage. Mr. Taurasi said he added one off the back and one off the side of the garage. Chairman Dupre asked Mr. Taurasi what his trailer is used for. Mr. Taurasi said it is a utility trailer from Home Depot for storing stuff.

Chairman Dupre said he would like to make a motion to deny this variance outright for Sections 8.29 (A) Accessory Structures & Uses (3 counts) and 8.29 (A)3 Accessory Structures & Uses (1 count). Chairman Dupre asked if he could get a second for this motion.

Raymond Clement said he would like to ask the applicant one more question. He asked which sheds he could remove there to bring this more into compliance. He asked Mr. Taurasi if it would be the 244 square foot shed. Mr. Taurasi said he thought that was the one. Mr. Clement said Mr. Taurasi had a bunch of small little sheds, 31 square feet and that can't be much of a shed. Chairman Dupre said that shed was gone already. Mr. Taurasi said those are gone. Mr. Clement asked if the 281 square foot shed had a foundation under it or was it on posts and could it be

moved into a compliant area. Mr. Taurasi said he would only have to take a foot off the back side of it and that would be easier for him. Mr. Clement said that would bring it into compliance and Mr. Taurasi agreed. Mr. Clement asked Mr. Taurasi if he could get rid of the 244 square foot shed and he said he could.

Robert Breault asked Mr. Taurasi how he would feel about removing the addition to the rear of his garage on the western property line that is encroaching into the setback. Mr. Taurasi said he thought that would be detrimental to his son with the brain tumor. He said if anybody has any concerns for medical problems, it is the only thing that takes his headaches away.

Chairman Dupre asked what was in the addition on the side of the garage. Mr. Taurasi said that is his workshop for when he plans on retiring. Chairman Dupre confirmed with Mr. Taurasi that the pool table was not in there.

Raymond Clement said if Mr. Taurasi could get rid of that 244 square foot shed and take a foot off of the 281 square foot shed to bring that area into compliance that would take care of half of the violations. He asked Mr. Taurasi if he could trim the branches on the sidewalk and clean that area up a little bit and make it more visible. He said he didn't know what shape the sidewalk was in but again it should be clear for people to get by there. He said he knows it is public property but he thinks Mr. Taurasi could trim those branches and open that area up to make it look a little more livable in that sense. He thinks that is what the neighbors are looking for and as far as the snow removal, Mr. Taurasi still has a tough problem but he still has to be aware of his neighbor's concerns. It is not their problem. It is Mr. Taurasi's problem as to where to put the snow. Mr. Taurasi said he puts it up against his house. Mr. Clement said Mr. Taurasi knew his neighbor's concerns and he should be aware of that when he is doing those types of thing. He said it would make Mr. Taurasi's life a lot easier. Attorney Chen said he believes there is a current agreement with the neighbors as far as that goes.

Raymond Clement made a motion for Bernard Taurasi to remove the 244 square foot shed, move or reconfigure 281 square foot shed so it is located fully beyond the 20 foot street yard setback and clear limbs along Highland Park Avenue which was seconded by Thomas Puthota.

Raymond Clement said he would like to add the stipulation that the garage has to be inspected to make sure the electrical is code compliant. Chairman Dupre asked Mr. Clement about the rest of the structures because there is an addition on the garage plus the deck, plus the shed. Mr. Clement said any addition outside of the home has to be brought up to code. He said he thought that is what was previously agreed upon. Mr. Clement advised Mr. Taurasi that he needed and inspection from the Building Department.

Michael Landry confirmed with Raymond Clement that he was talking about removal and complete demolition of the 244 square foot shed and then bringing the 281 square foot shed into the setback or beyond the setback. Mr. Landry said Mr. Clement has removed two counts of 8.29 (A), leaving only one count remaining and that is the storage of the utility trailer and then the remaining count is 8.29 (A)3 which is lot coverage of accessory structures in the rear yard having lot coverage of greater than 25%. Mr. Landry said we are going to reduce that some. Mr. Clement said they might be reducing it enough to meet compliance. Mr. Landry said he doubted it but he said if the Board was happy with what was left over he thinks they ought to grant relief

for what may be left over. He said he thinks it is not an indeterminate thing. It is very fixed on the plan it is a very simple mathematical calculation so we aren't granting future relief for some arbitrary unknown quantity. We can define it by the plot plan.

Raymond Clement made a motion to grant this application with 8.29 (A) Accessory Structures and Uses (1 count), 8.29 (A)3 Lot Coverage (1 count), remove the 244 square foot shed, move or reconfigure 281 square foot shed so it is located fully beyond the 20 foot street yard setback, all electrical work will be inspected to code compliance and clear limbs along Highland Park Avenue which was seconded by Thomas Puthota. (Motion Carried)

Yeas: Clement, Puthota, Dalton

Nays: Dupre, Breault

Upon a split decision the variance was granted.

8. **ZO-60-2016**

75 Johnson Street, Ward 7

Lonnie McCaffrey proposes to build a deck onto above ground pool resulting in accessory structure(s) occupying 32% of the rear yard, where 25% is allowed, maintain one car garage 1.3' from the side lot line where 2' was granted by variance (10/03/77) and maintain two parking spaces within 4' of lot line and within 4' of a structure in the R-1B zoning district and seeks a **variance** from Sections **8.29 (A)3** Accessory Structures & Uses (2 counts) and **10.09 (B)** Parking Setbacks of the Zoning Ordinance, as per documents submitted through June 22, 2016.

Lonnie McCaffrey of 75 Johnson Street said his application process began when his request for a permit for a pool deck was declined due to the excess of the 25% rear yard square footage. Then, when he was there, Glenn Gagne was really helpful and they added the issues of the parking spaces and figured out that the garage was in non-compliance. That was from 1977 and he was two years old at that time. This house has been in his family that whole time. He said he thinks the builder got a two foot variance and didn't end up meeting that, so that was unintended. The parking space issue he thinks was just from a change of the laws from the time the house was built in the 1950's until now. He said the main thrust of his request will be just for the pool deck.

Mr. McCaffrey said he wouldn't go through his whole application he would just like to highlight the fifth prong of the five part test "Denial of the proposed variance would result in substantial hardship". He said the area where the pool deck is being proposed is this sort of awkward area in the yard that they just don't use. There is a general slope in his yard. Johnson Street comes down so if you are looking at the house from the left to the right his backyard slopes a little bit. He said they couldn't put the deck on the right side of the pool, not that that would matter because it would still be an accessory structure. However, what they are looking to do is by adding that pool deck it is going to make the area flat and usable. He said his wife is a teacher and she is home with the kids all summer and it will be something that is used on a daily basis from June to September. He said he thinks that is really what the spirit of the ordinance talks about in terms of appropriate use of the land. He said would do that without any adverse effect on anybody and would only be requesting approximately 7% variance of 25% square footage. He said he doesn't know that he understands the Zoning Ordinance correctly but he thinks if he was

to extend the deck off the back of his house to the pool it would work without violating everything because it would be attached to the primary structure. In essence, that would ruin his yard because he would have a big deck in the middle of it and he wouldn't be able to use the left and wouldn't be able to use the right. He said that even though this is a variance request, he thinks this is the most appropriate use of the property.

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

Chairman Dupre turned the hearing over to the Board.

Michael Landry addressed Chairman Dupre and said he received a phone call from Alderman Bill Shea of this ward and he said he is in favor of this application. Chairman Dupre said this one is pretty straight forward.

Robert Breault made a motion to grant variance case ZO-60-2016, Sections 8.29 (A)3 Accessory Structures & Uses (2 counts) and 10.09 (B) Parking Setbacks which was seconded by Thomas Puthota. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

9. **ZO-61-2016**
202 Peabody Avenue, Ward 6

Jessica Schick and Scott Van Den Berg propose to build a 12'x16' deck with a 9' side yard where 20' is required and maintain three parking spaces less than 4' from a structure and lot line in the R-1A zoning district and seeks a **variance** from Sections **6.03 (C)** Side Yard Setback and **10.09 (B)** Parking Setbacks (3 counts), of the Zoning Ordinance, as per documents submitted through June 24, 2016.

Scott Van Den Berg of 202 Peabody Avenue appeared along with Jessica Schick, also of 202 Peabody Avenue. Chairman Dupre asked Mr. Van Den Berg and Ms. Schick if they would like to add anything to their application. Mr. Van Den Berg said they did not. Chairman Dupre confirmed with them that the parking was there when they bought the house.

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

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

Thomas Puthota made a motion to grant case #ZO-61-2016 and grant relief from Sections 6.03 (C) Side Yard Setback and 10.09 (B) Parking Setbacks (3 counts) which was seconded by

Raymond Clement. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

10. **ZO-62-2016**
1111 South Willow Street, Ward 9

Thomas Burns (Agent) proposes to locate four dumpsters within required 20' side yard and 30' rear yard setback in the B-2 zoning district and seeks a **variance** from Section **8.29 (B)** Accessory Structures & Uses (4 counts), of the Zoning Ordinance, as per documents submitted through June 27, 2016.

Thomas Burns said he is a Project Engineer with TF Moran and he is here this evening on behalf of the applicant, CEA Bromfield who is the owner and manager of the property at 1111 South Willow Street. Mr. Burns said just briefly following up on the materials in the application package before the Board, this site received a site plan approval as part of an expansion of one of the existing units in the site to accommodate the proposed Aldi store that is coming to Manchester. As part of the site improvements in that approval from August of last year included screening of dumpster pad locations for some of the other tenants that occupy the building. Specifically, a dumpster pad that was proposed behind the units that are occupied by Five Guys and Verizon that was approved during the planning process last year and it was determined during construction of the site improvements that that dumpster pad was going to restrict access to several of the doors that were on the back of the building. There were some load and delivery areas as well as some emergency egress areas. Working with the Planning staff it was recommended that the dumpster pad that you see before you be relocated to the area that is shown on the plan. He said they feel that area is going to allow vehicle access and vehicle circulation through that area without restricting anything. It will maintain safe access and delivery use of those doors in the back of the building and is essentially relocating the dumpsters back to an area where they had been located prior to last year's site plan approval. He said they will be installing a dumpster pad that will be screened in that area and actually by moving it to that location is going to better screen it from abutting parcels just by the nature of that location. That location has more growth and existing landscaping that will screen it and an existing fence along the property line so it ends up being a better fit, if you will, for that use.

Chairman Dupre asked Mr. Burns who this dumpster would service. Mr. Burns said the dumpsters that are shown there would be your typical waste dumpsters as well as recyclable dumpsters and those dumpsters are going to be serving Five Guys and Verizon. Chairman Dupre asked if there will be biodegradable waste such as burgers, food, fries and that sort of stuff. Mr. Burns said yes. Chairman Dupre said the reason he asks is because it gets kind of smelly if it's sitting out in the sun for a while. Referring to the plan, Chairman Dupre said looking at the location of that compared to Quirk Motors or whatever that building is behind it, is there any way

the dumpster could be moved. He indicated a location on the plan and asked if it could be moved saying people are "here" and could it be moved "there" so they wouldn't have to smell a stinky dumpster. He said the location he indicated had no buildings around it. Chairman Dupre asked if that was ever considered. He said they have had people come before the Board for dumpsters and they are approved for one spot and then there is a neighbor who says just says it is awful in the middle of summer like it is right now. He asked Mr. Burns if they could move it. Mr. Burns said it would be they could look at but again, it was one of the reasons that it was shown at this location was this was their previous dumpster location prior to site plan approval last year and he thinks while discussing this with Planning, they felt this was kind of the easiest solution was to return the dumpsters back to their previous location. Mr. Burns said he wasn't sure if it was available on the aerial photo, but he said he believes there are dumpsters directly on the other side of the fence. Chairman Dupre said that building doesn't look like it is dealing with food product. It looks like it is dealing with auto type stuff. There would be a different type of waste, per se. Chairman Dupre said he didn't know how the rest of the Board felt about his comment. He said they had a fish market before the Board a couple of years ago and one of the biggest concerns was the odors.

Chairman Dupre spoke with Board members and indicated on the plan where he would like to have the dumpster put. There was concern because of newly constructed landscape in that area. Chairman Dupre clarified that he didn't want the tree to be taken out, he just wanted the dumpster to be put next to it so it would actually be closer to John Devine Drive and would be a little easier for the trucks to get in and out without having to navigate all the way to the back lot to pick up some dumpsters. He wondered if they were going to back out but said he didn't know if they would have enough turning radius there to accomplish this. He said you are talking about growth and everything else, he said he is thinking a couple of years down the line.

Laura Cohen of 5 Fir Street, Cambridge, Massachusetts said she is the applicant for this proposal. She said she just wanted to comment that this Five Guys has been operating for seven plus years and this has been the same location for the dumpsters and there have never been any complaints. She said if anything, by adding the dumpster cages they are adding eight foot cages and protecting it even more. Chairman Dupre said protection is one thing and smell is another. He said they are protecting it from people throwing extra stuff in there, he is worried about what's already in there. Ms. Cohen said they will further enclose it with privacy slots but they have never had any complaints about smells to any extent and they are both very professional. Chairman Dupre stated that they are now adding a food store, too. Ms. Cohen said they aren't adding it, this is an existing Five Guys. Chairman Dupre asked what business they were adding. Mr. Burns said Aldi's is going in where Michaels was formerly located but that has a separate dumpster location which was approved last year. Chairman Dupre said he misunderstood. He said he was just seeing more and more food going into these dumpsters. Ms. Cohen said this is the exact same dumpster number, sizes and location. They are just building dumpster cages with a concrete pad and eight foot cages and privacy slots that will blend in with the fence. Thomas Burns said again, that is part of the intent of locating them there was this is the location where Five Guys dumpsters were previously located. Last year when they came through for the site plan approval for Aldi's and they were doing improvements, they had proposed the dumpsters be relocated against the building. That was something that was worked on with planning staff. Ms.

Cohen said it is also a preferable location for Five Guys than Verizon because their employees walk out of the side door and bring the trash over to the dumpster.

Thomas Burns said the abutter is actually an auto body shop. Chairman Dupre said that area is always being developed and changed.

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

Chairman Dupre said Mr. Burns and Ms. Cohen made a valid argument and he is fine with that if that is where it was before and there were no complaints.

Raymond Clement made a motion to grant case #ZO-62-2016 and grant relief from Section 8.29 (B) Accessory Structures and Uses (4 counts) which was seconded by Thomas Puthota. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

11. **ZO-63-2016**
52 Titus Avenue, Ward 9

Keith and Cheryl Newell propose to use Lot 20 as a buildable lot with 68.20' of frontage where 75' is required and not consolidate with adjacent lot in same ownership at 52 Titus Avenue in the R-1B zoning district and seeks a **variance** from Sections **6.02** Minimum Lot Frontage and Width (2 counts) and **11.03 (D)** Non-Conforming Lots, of the Zoning Ordinance, as per documents submitted through June 29, 2016.

Keith and Cheryl Newell of 52 Titus Avenue appeared before the Board. Keith Newell said when they bought the property in 1996 the lot was deemed buildable by City standards. He said those standards have since changed. Mr. Newell said none of the abutting properties are residential. There is just a parking lot behind and access to the parking lot on the side.

Chairman Dupre said this is one of those merged lots. Michael Landry said the consolidation and the subdivision which created this new lot in 1996 and at the time it was fully conforming because back then the lot frontage required was 65 feet and he thinks in 2001 it was increased to 75 feet.

Chairman Dupre invited those in favor of this application to come forward.

Alderman Barbara Shaw, Alderman of Ward 9 said she was in attendance in support of Keith and Cheryl Newell. She said she grew up on Titus Avenue and she knows this property and she knows

it is not infringing on any residents and it will not cause any problems with any abutters. She said she doesn't think the owner of the parking lot is going to complain at all.

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

Chairman Dupre turned the hearing back over to the Board.

Chairman Dupre said every year the Board sees a couple of these. He said he has absolutely no problem with it. He said it is something the Newell's bought and expected to have a buildable lot and they didn't because the City decided to change.

Raymond Clement made a motion to grant case #ZO-63-2016 and grant relief from Sections 6.02 Minimum Lot Frontage and Width (2 counts) and 11.03 (D) Non-Conforming Lots, which was seconded by Robert Breault. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

Michael Landry reminded Mr. and Mrs. Newell that they will probably want to get a building permit or get rid of this lot in the next two years because this variance will expire in two years.

12. **ZO-64-2016**

554 Front Street, Ward 12

George Prodanis proposes to build an 8'x34' deck over a one-story portion of restaurant and install French doors from lounge area to utilize deck for three tables with three seats each (seat total for restaurant not to exceed 82) in the R-1A zoning district and seeks a **variance** from Section **11.04 (F)** Expansion or Changes to a Non-Conforming Use Created by Variance, of the Zoning Ordinance, as per documents submitted through June 29, 2016.

Michael Landry advised the Board that the reason for the count is that we are in the R-1A zone and the entire business there was created by variance and so the expansion of that would fall under the section 11.04. That is why we are here.

Chairman Dupre asked if this was still an apartment building. Michael Landry said he didn't know what else was in there. Robert Marhefka said it is just a restaurant.

Robert D. Marhefka said he was the contractor for Mr. Prodanis. He said most people are familiar with the Seasons Ticket Pub on Front Street. He said they had a lot of favorable feedback from people liking the remodeling that they are doing. He said they got a permit for the first stage and tried to pull a permit to have both done at the same time but the City wouldn't allow them to put the deck on top without a variance because it is going to acquire putting an access door to get to the deck. He said they went ahead with the first permit and asked to approach the

Board with photos of what was done in the last week. He said they started the job on the fifth and showed the progress of the work done.

Chairman Dupre said he had a question about one of the plans submitted to the Board. He said Mr. Marhefka crossed off a couple of things on the side. Mr. Marhefka said those were plans for the future. He said they have future designs for the whole renovation for the entire property but because of financial restraints and things like that they aren't talking about those renovations tonight.

Robert Breault said he thought these renovations would increase the value of all the abutting properties.

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

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

Raymond Clement made a motion to grant case #ZO-64-2016 and grant relief from Section 11.04 (F) Expansion or Changes to a Non-Conforming Use Created by Variance, which was seconded by Chairman Michael Dupre. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

Upon a unanimous decision the variance was granted.

13. **ZO-65-2016**
106 Waverly Street, Ward 6

Fred Andruchuk proposes to maintain 8'x8' shed 0' from the principal structure where 4' is required in the R-1B zoning district and seeks a **variance** from Section **8.29 (A)3** Accessory Structures and Uses, of the Zoning Ordinance, as per documents submitted through June 30, 2016.

Case #ZO-65-2016 was withdrawn by the applicant on 7-8-16.

Chairman Dupre made a motion to close the July 14, 2016 public hearing of the Manchester Zoning Board of Adjustment, which was seconded by Raymond Clement. (Motion Carried)

1 ADMINISTRATIVE MATTERS:

- Review and approval of the Zoning Board of Adjustment Minutes of June 9, 2016.

Ray Clement made a motion to approve the Minutes of June 9, 2016 without amendment which was seconded by Robert Breault. (Motion Carried)

Yeas: Dupre, Clement, Puthota, Breault, Dalton

Nays: None

- Any other business items from the Zoning Board staff or Board Members.

Chairman Michael Dupre made a motion to adjourn the ZBA Meeting of July 14, 2016 which was seconded by Raymond Clement. (Motion Carried)

Attest: _____

Michael Dupre, Vice Chairman
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: August 10, 2016 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.**