



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

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

Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director Planning & Zoning

Michael J. Landry, PE, Esq.
Deputy Director Building Regulations

MANCHESTER ZONING BOARD OF ADJUSTMENT PUBLIC HEARING / LIMITED BUSINESS MEETING MINUTES September 8, 2016 – 6:00 p.m. City Hall, Third Floor – Aldermanic Chambers

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

Alternates Present: Anne Dalton, Robert Breault, Jose Lovell

Board Members Absent: Thomas Puthota

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

I. **The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff. The Chairman then noted Mr. Puthota's absence and assigned Mr. Lovell as a voting Board Member for this hearing.**

II. **PUBLIC HEARING:**

1. **ZO-78-2016**
311 Brent Street
R-1B Zoning District, Ward 8

Deborah & Douglas Wheeler propose to build a 14'x19-1/2' all season room in place of an existing 10'x19-1/2' open deck and seeks a **variance** from Section **6.03(B)** Rear Yard Setback, of the Zoning Ordinance, as per documents submitted through August 3, 2016.

Robert Marhefka said he resides in Nashua, New Hampshire and his company is located in Merrimack, New Hampshire. Mr. Marhefka said he would like to thank the Board for helping with Front Street, The Seasons Ticket Restaurant. He said it is finished and it came out awesome. Mr. Marhefka said Mr. and Mrs. Wheeler were previously granted a variance but lost their contractor and in turn, hired Mr. Marhefka. He said he had an engineer go in and draw up a design and they found a three and a half foot discrepancy to meet the living space inside the dining room area where it will meet with the living room. They are asking for that extra three feet so that both rooms can flow fluently right through.

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

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

Chairman Hendershot turned the hearing back over to the Board.

Raymond Clement said he was looking at the drawing submitted to the Board and said Mr. Marhefka said they were adding three feet but the drawing says four feet and that is going to be on the southwest side. Mr. Marhefka said it would be three and a half feet and he thought it was the southwest side to the right. He said the fourteen feet was going to stay the same so they aren't going any closer to the pond, they are just going wider over that distance on the deck on that side. Chairman Hendershot asked Mr. Marhefka if he realized that it does say four feet on the plan and he is saying three and a half. He asked Mr. Marhefka which measurement is correct. Mr. Marhefka said the total distance is nineteen and a half feet now. Chairman Hendershot said then the Board doesn't care how many feet they are adding just as long as it is nineteen and a half feet. Mr. Marhefka said that was correct.

Vice Chairman Dupre said as in the previous variance, the spirit of the Ordinance is satisfied here.

Vice Chairman Dupre made a motion to grant the following variance count for case #ZO-78-2016, section 6.03(B) Rear Yard Setback which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

Upon a unanimous decision the variance was granted.

2. **ZO-79-2016**

61 Faith Lane

R-1B Zoning District, Ward 8

Donna Haddad proposes to maintain shed within required street yard setback and maintain front yard parking and seeks a **variance** from Sections **8.29 (A)1** Accessory Structures and Uses and **10.09 (B)** Parking Setbacks, of the Zoning Ordinance, as per documents submitted through August 8, 2016.

Donna Haddad of 61 Faith Lane said the shed was there when they moved in. She said they didn't know it wasn't in the correct spot and they are planning on moving it. She said the second thing is the driveway. She said they want to expand the driveway to make a two car wide driveway. She said as the picture submitted shows, they just want to make it eighteen feet wide

back to the street and go thirteen feet next to the garage so they can have a place to put their trash.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre said he was kind of concerned about voting on a case like this given there is no certified plot plan because looking around, there is a lot of gray areas as to where Mrs. Haddad's property ends and her neighbor's begins. He said he would hate for her to pave their property. He said he didn't know how the rest of the Board felt but he said he gets a little concerned given the proximity to the lot line and he doesn't want this to create some sort of issue for Mrs. Haddad down the road.

Chairman Hendershot asked Mrs. Haddad if the fence that is between the two properties was basically the property line. Mrs. Haddad said it was within a foot. Chairman Hendershot questioned the double driveway turn around on the plan. Mrs. Haddad said it was going to be three feet from her property line. Chairman Hendershot said obviously at some point, the two neighbors got together and paved both sides of this. Mrs. Haddad said at some point, someone paved over as shown in the satellite photos she obtained on the City of Manchester web site. She said they show that going back to at least 2003 it has been a double wide driveway. Chairman Hendershot said he was talking about how it also kind of continues and looks like both houses share the same driveway. Mrs. Haddad said it kind of does. She said she would actually like to have her driveway separate with gravel in between their driveway and hers. Chairman Hendershot said that was another issue. He said he wasn't normally in favor of the whole certified plot plan thing but he said he would agree with Vice Chairman Dupre on this one. He said he didn't know how the rest of the Board felt.

Chairman Hendershot said the Board could make that a condition if they wanted. He asked the Board Members if they wanted to talk about this three foot gravel buffer. Vice Chairman Dupre said he thought that would be putting the cart before the horse. He said he thought a plot plan would help the Board get a better sense of things.

Vice Chairman Dupre made a motion to table case #ZO-79-2016 to the October 13, 2016 meeting to give the applicant an opportunity to obtain a certified plot plan which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

Upon a unanimous decision the variance was tabled to the October 13, 2016 ZBA Meeting.

Chairman Hendershot explained to Mrs. Haddad that she needed to hire a land surveyor and if she could not obtain a certified plot plan in time for the October meeting, her case would be put on the agenda for the November ZBA meeting.

Michael Landry noted for the record that ZBA case #ZO-79-2016, property located at 61 Faith Lane will be heard at the next public hearing which will occur on October 13, 2016 at 6:00 pm at City Hall and no further notice will be sent to abutters who may have an interest in the case.

3. **ZO-80-2016**
809 Brent Street
R-1B Zoning District, Ward 8

Lawrence Whittaker proposes to build a 28'x36' two-stall garage, having a 4.8' side yard setback where 10' is required, extend pavement resulting in a driveway width of 25.5' and maintain a 9'x12' shed in rear yard 2.6' from the side lot line and 3.8' from the rear lot line where 4' is required and seeks a **variance** from Sections **6.03 (C)** Side Yard Setback, **8.29 (A)3** Accessory Structures and Uses (2 counts) and **10.08 (C)** Driveways Width, of the Zoning Ordinance, as per documents submitted through August 9, 2016.

Lawrence Whittaker was not in attendance. After a brief discussion, the Board decided to table case #ZO-80-2016 to the end of this meeting and if Mr. Whittaker was still not in attendance, the Board would decide whether to table this case. Chairman Hendershot asked if there were any abutters to this case in attendance. There were no abutters in attendance.

An announcement was made that case #ZO-80-2016 would be heard on October 13, 2016 at 6:00 pm at City Hall.

Case #ZO-80-2016 was tabled to the October 13, 2016 ZBA Meeting as applicant was not in attendance.

4. **ZO-81-2016**
312 Manchester Street
R-3 Zoning District, Ward 4

Andrew Sullivan, Esq. (Agent) proposes to maintain the conversion from a 5 to 7 dwelling units on a 10,026 SF lot where 11,000 SF is required and establish/maintain parking and seeks a **variance** from Sections **6.01** Minimum Buildable Lot Area, **10.06 (A)** Parking Layout (2 counts) **10.07 (D)** Parking Maneuvering (2 counts) **10.07 (G)** Landscaping, **10.07 (K)1** Parking Bumpers, **10.08 (C)** Driveways Width, **10.09 (B)** Parking Setbacks, **10.09 (B)1** Parking in Side Yard Setback and **10.09 (B)2** Parking in Front Yard Setback, of the Zoning Ordinance, as per documents submitted through August 10, 2016.

Attorney Andrew Sullivan appeared along with Corey Hill, one of the owners of the property and Joseph Wichert, the surveyor of the property. Attorney Sullivan said he wanted to briefly go over the background of the property. He said this is in an old part of town and the building is one hundred thirty years old. Attorney Sullivan said he provided a chart in his package and there are a number of nearby properties with many, many units with far less square footage. He said if you looked at the aerial overlay, you can see many of the properties have limited parking as well as the proposed property. He said one particular property at 291 Manchester Street has eighteen units with only eight thousand square feet and they are looking for seven units with ten thousand square feet. He said the floor plan is also provided in one of the exhibits and there are seven

units existing now, three apartments and four studios. It comes out to twenty one rooms, eight bedrooms and seven bathrooms. It has a hundred foot by a hundred foot lot. Attorney Sullivan said the last variance which he doesn't even think was a variance but some sort of accommodation in 1968 allowed an upgrade from four to five units in an R-3 zone. He said that provided for two parking spots off of Londonderry Lane in the alleyway. Somewhere over the years those two parking spots migrated to Manchester Street in the front. He said that is shown on the plan and the proposed plan enlarges those two areas. The reason they want to keep those two parking spots up front is because it preserves the green area. He said if you took a drive by, there is a fence in the rear and there are little concrete pavers and a little picnic table. He said it is a nice little area for the residents of that building.

Attorney Sullivan said the existing parking is not fully utilized. He said one woman has been there for fifteen years with no car. Attorney Sullivan said there are four studios and Corey Hill will talk about what he has observed with the parking, but basically the parking that is currently there is not even utilized so he thinks their request is more than reasonable.

Corey Hill said he wanted to touch briefly about the tenants in this building. He said this is a new acquisition. He said they are long term tenants with the shortest tenure being three years and up to fifteen years. He said they like the building and the tenants aren't going anywhere. He said in getting information back from these tenants, they have gotten five of the seven applications back and two have vehicles. He said if they were to assume the other two have vehicles, which he believes they do, there are four vehicles total that are being parked at this particular property. There are no visitors and they are four studio units as Attorney Sullivan previously mentioned and the other units are multi-roomed and the woman who resides in one of those has been there for fifteen years and lives by herself. He said he drove by there on Labor Day morning and said there is a lot of construction going on at Manchester Street with the new gas lines and even with that being said, there were four empty spots there, five of which were taken, four from the tenants and the fifth was their vehicle which is a plow truck that stays on site but doesn't have to stay on site.

Joseph Wichert said what they tried to do on the exhibit is to take the existing conditions which to some degree has some level of grandfathering and they tried to just put them in a way that would make sense so they could apply and get relief. He said on the west side of the building, there are seven angled in parking spots. He said they are at the proper width at eight and a half but they are short on the length. He said they are allowing for a ten foot wide aisle where twelve and a half is normally required. Mr. Wichert said on the two spots that come in off of Manchester Street are presently marked for two spaces but when they were going through the zoning review in the process, because they have over five spaces they don't have any ADA compliant spaces. This was one of the comments that they were waiting for on the zoning review so they called for extending that parking area, adding about a hundred and fifty five square feet of new asphalt. What that will do is allow the back of the new asphalt to be about twenty and a half feet off of the right of way line for Manchester Street. That puts the normal eight and a half by eighteen and a half stall two feet off of the right of way where four feet is normally required and it puts the eight by twenty compliant stall half a foot off of the right of way where four feet is required. Mr. Wichert said they also allowed for the eight foot panel to the west side of the

handicap spot so should the variance be approved what would end up happening is they would have a grand total of nine spaces where the Ordinance would require eleven. They would have one complying ADA spot with the panel and as Attorney Sullivan mentioned, the reason they are trying this is that northeast corner of the property is currently in a nice state and they would prefer to keep it that way as opposed to making more asphalt.

Attorney Sullivan said he would like to make one observation. He said that large garage in the back on Londonderry Lane is for storage. There is no car access into that as it has been storage for decades.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked if the striping shown on the plan was the current striping that exists on the property now. Joseph Wichert said it was pretty close. Vice Chairman Dupre questioned the one on the street which is kind of perpendicular to the street. Joseph Wichert said last time he thought they went diagonal. He said they went one extra spot closer to the garage because they were trying to push one extra spot out of there and it worked. Vice Chairman Dupre said this is closer to Manchester Street where it looked like there was a car perpendicular to the street followed by a couple of cars that were just kind of in there at an angle but no real rhyme or reason to it. Vice Chairman Dupre said this was just yesterday or the day before. Joseph Wichert said he had a photo if Vice Chairman Dupre was interested in looking at it. Vice Chairman Dupre asked if the photo showed the striping. Vice Chairman Dupre said in the photo the cars are all next to the building. He referred to the photo and pointed out to Mr. Wichert how the cars were parked when he went by. He said it was very strange. Vice Chairman Dupre asked if they were planning on re-striping or re-paving or both. Joseph Wichert said they were going to re-stripe, not re-pave because the paving was in adequate shape. Mr. Dupre asked if the handicap spot was going to be paved. Mr. Wichert said that would be new pavement. The one hundred fifty-five square feet would be new asphalt.

Matt Routhier said he was curious as to why there is a gap in the COCs that were submitted as far as unit counts go. Attorney Sullivan said he didn't have an explanation for that. He said he would bet if you followed that through many, many properties you would have similar gaps. He said obviously, a unit was added sometime along and again, according to the notes from research by City staff it was originally five units but the COC shows six. With many of the lots in this area, the COC shows what is there or what is compliant. He said he didn't know if he agreed with the City's analysis, which is that the COC goes to whether the units as they exist comply with housing code, not whether they are legal units, but what they are, are they safe and habitable. Attorney Sullivan said he never heard that explanation but it sounds reasonable.

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

Chairman Hendershot turned the hearing back over to the Board.

Vice Chairman Dupre said he did have a concern as does Matt Routhier about this increase in

units on COCs. He said they have gone from five to six to seven and there is no COC for seven units and the paperwork submitted is from 2007 and the same property owners have owned it since 2007. Attorney Sullivan said not the most current property owner but otherwise that is correct. Vice Chairman Dupre asked Attorney Sullivan when the property changed hands. Attorney Sullivan said it just changed hands in August. He said he re-submitted to Mike Landry the new owner of the deed and the authorization. He said NFN, if you look at the footnote on the first page of the application, NFN was going to buy it and they already purchased it and he re-submitted it and he asked if it was part of the Board's package. Michael Landry said it should be. Vice-Chairman Dupre said maybe he just overlooked it. Attorney Sullivan said the current owner just bought it last month. Attorney Sullivan said the current owner is NFN, LLC and they bought it August 16th. He said he amended the application on Mike Landry's request with a copy of the deed and a copy of their authorization, etc. Michael Landry said he did receive the updated deed and authorization from the new owner.

Chairman Hendershot said he didn't know if this would be under the Board's purview or the purview of the Planning Board. He asked if the Board were to grant the variance would that guarantee they would put in the handicap space. Michael Landry said whatever action the Board takes, if it is a favorable action, it is based on the applicants' representations which are contained in the drawing he is showing that he is adding pavement to make that handicap space fully compliant with ADA because this Board has no authority to grant relief to the ADA. That is why they are adding pavement. Chairman Hendershot said that wasn't his question as he understands that. He said his question was, if the Board grants the variance, he is required to put a handicap space there because he represented that in his plan. Michael Landry said that is right. Attorney Sullivan said he agreed with that.

Vice Chairman Dupre said as a follow up, the fact that they would now have a handicap spot, does that require the applicant to make this building handicap accessible. Attorney Sullivan said not to his understanding. Vice Chairman Dupre asked if they would need to put a ramp in or do different things interior wise. Attorney Sullivan said no, they would not have to do that. Michael Landry said he concurred.

Matt Routhier said he is assuming that spot will be striped so there are no additional cars trying to park there. Attorney Sullivan said they will have the typical diagonal stripes. Joseph Wichert said they had to in order to make it fit the existing curb cut kind of protrudes into the aisle but it will be marked, so no parking.

Raymond Clement made a motion to grant the following variance counts for case #ZO-81-2016, sections 6.01 Minimum Buildable Lot Area, 10.06 (A) Parking Layout (2 counts) 10.07 (D) Parking Maneuvering (2 counts) 10.07 (G) Landscaping, 10.07 (K)1 Parking Bumpers, 10.08 (C) Driveways Width, 10.09 (B) Parking Setbacks, 10.09 (B)1 Parking in Side Yard Setback and 10.09 (B)2 Parking in Front Yard Setback which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Clement, Routhier, Lovell

Nays: Dupre

Upon a split decision the variance was granted.

5. **ZO-82-2016**
496 Merrimack Street
R-2 Zoning District, Ward 4

Mark Jon Russell proposes to build a shed in the rear yard with a 3' rear yard setback where 4' is required, pave walkways in front and side yard, re-pave driveway for two parking spaces, and construct a new handicap ramp off the front porch and seeks a **variance** from Sections **6.04** Lot Coverage, **8.29 (A)3** Accessory Structures and uses and **10.09 (B)** Parking Setbacks, of the Zoning Ordinance, as per documents submitted through August 15, 2016.

Mark Jon Russell was not in attendance. The Board decided to postpone case #ZO-82-2016 to the end of this meeting and if Mr. Russell was still not in attendance, the Board would decide whether to table this case. Chairman Hendershot asked if there were any abutters to this case in attendance. There were no abutters in attendance.

An announcement was made that case #ZO-82-2016 would be heard on October 13, 2016 at 6:00 pm at City Hall.

Case #ZO-82-2016 was tabled to the October 13, 2016 ZBA Meeting as applicant was not in attendance.

6. **ZO-83-2016**
714-716 Maple Street
R-2 Zoning District, Ward 2

Ronald Pellerin (Agent) proposes to construct three additional dormers to the third floor which will create 754 SF of living space with a 5.7' side yard setback where 10' is required, where the proposed building height of three stories exceeds the allowable 2.5 stories and having a floor area ratio of 0.57 where 0.5 is allowed and seeks a **variance** from Sections **6.03 (C)** Side Yard Setback, **6.05** Height in Stories and **6.06** Floor Area Ratio, of the Zoning Ordinance, as per documents submitted through August 25, 2016.

Jason Merck of 716 Maple Street said he was the home owner and said Ronald Pellerin could not attend the meeting this evening. He said he has owned this two-family home since 2003. He said this is the only house he has ever owned and he is 36 years old. He said when he bought the house he was married and had no children. He thought buying a multi-family home was a good idea. He said he now has two children and only one bathroom and two bedrooms. The house was in pretty bad shape when he bought it and he fixed up most of it by himself so he is

emotionally attached to it so he decided to invest in a third floor and keep his tenant on the first floor to supplement his mortgage and basically make a third bedroom with an additional bathroom for himself and his wife and the children would sleep downstairs in the existing two bedrooms. He said he would like to basically dig themselves in and stay there for the long haul.

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

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

John Braddock of 711 Maple Street said he is an abutter to Mr. Merck. Mr. Braddock said he thought this proposal would be an enhancement to the property and a benefit to the neighborhood.

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

Chairman Hendershot turned the hearing back over to the Board.

Matt Routhier said he assumes that current space up there is just attic space right now. Jason Merck said it is attic space and he always thought that maybe sixty or seventy years ago they used it for something because it was finished around 70 years ago. He said he has always used it for storage. Mr. Routhier said it looks like on the plans that when he adds these dormers, the roof line will not really change as far as the peak. He asked Mr. Merck if this was correct. Mr. Merck said the peak will remain the same. Chairman Hendershot said that was actually less than the maximum height, it is just the three stories.

Raymond Clement said he is kind of familiar with this area as he has relatives who live nearby. He said Mr. Merck has done a good job over the years improving the property so he thinks this would be a good improvement.

Matt Routhier said his only other comment would be that based on this proposal, he doesn't see how it is going to generally change the neighborhood or have a negative effect on the abutters. Chairman Hendershot said he agreed.

Matt Routhier made a motion to grant the following variance counts for case #ZO-83-2016, sections 6.03 (C) Side Yard Setback, 6.05 Height in Stories and 6.06 Floor Area Ratio which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

Upon a unanimous decision the variance was granted.

7. **ZO-84-2016**
795 Grove Street
RDV Zoning District, Ward 5

Christopher Swiniarski, Esq. (Agent) proposes to subdivide parcel into two lots, Lot 1 a conforming buildable lot and Lot 1A having a lot area of 3,554 SF where 10,000 SF is required and less than required 100 foot depth for required 100 foot lot frontage, build a 16'x31' building on Lot 1A for a small cell telecommunications facility in accordance with a variance granted on February 11, 2016 (Case ZO-10-2016) and seeks a **variance** from Sections **6.01** Minimum Buildable Area and **6.02** Minimum Lot Width, of the Zoning Ordinance, as per documents submitted through August 16, 2016.

Attorney Christopher Swiniarski said he is an attorney for Verizon Wireless and his address is at the law firm of McLane Middleton at 900 Elm Street in Manchester. He said as stated, they are seeking variances for area and lot depth at 795 Grove Street to subdivide the property into two lots. This exact proposal was part of a variance application back in 2014 as stated where several variances were granted including in that variance decision, which he thought was an omnibus approval for, and he will quote "relief granted for lot size for subsequent subdivision." Attorney Swiniarski said he thinks most of this matter has been heard already and decided upon already but he said he would go into some of the details very quickly as well.

Attorney Swiniarski said what they have here is a lot that is triangular in shape and is fairly large. He said they are trying to build a 499 square foot building which will serve as sort of the central hub or head end for 5G telecommunication service in Manchester. That service is basically going to provide very, very fast and efficient wireless service via small pole top antennas that will be placed all over the City in various areas of demand. This is sort of the central brain of that. It is just a very simple brick building. There is really nothing fancy to it. The reason they wanted to divide this away from the existing property is that they don't really need the entire property so to put this small building on one lot and leave the rest vacant really creates a sense of a blighted property. It is really not attractive to the neighborhood and they certainly don't need the extra land for their purposes so they would just assume let the current owner keep that land as a conforming lot to develop in the future.

Attorney Swiniarski said certainly what they are proposing would be an improvement to what is there now which is literally just a vacant, semi-overgrown lot surrounded by a chain link fence. In the past it was actually used by the City for scrap material storage. He said it is generally not really an attractive property now and is something they are going to make look a lot better and in turn provide a service that is in super high demand by the residents of the City of Manchester.

Attorney Swiniarski said if the Board wanted, he could quickly go through the criteria just so they

would have that in the record although it is stated in the written materials. Chairman Hendershot said that would not be necessary. Attorney Swiniarski said that is what they have. They are just trying to get all variances necessary so they can move forward and obtain subdivision approval. He said they do already have site plan approval.

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

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

Vice Chairman Dupre made a motion to grant the following variance counts for case #ZO-84-2016, sections 6.01 Minimum Buildable Area and 6.02 Minimum Lot Width which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

Upon a unanimous decision the variance was granted.

8. **ZO-85-2016**

247 Whitney Avenue

R-1A Zoning District, Ward 1

Kimberly Griswold proposes to create 2 front yard parking spaces, maintain decks with rear setbacks of 23 and 25 feet where 30 feet is required, maintain pool in rear yard closer than 4 feet from the principal structure and maintain retaining wall over 4 feet in height and closer than 10 feet from the property line and seeks a **variance** from Sections **6.03 (B)** Rear Yard Setback, **8.27 (D)** Fences Walls, **8.29 (A)3** Accessory Structures and Uses and **10.09 (B)** Parking Setbacks, of the Zoning Ordinance, as per documents submitted through August 25, 2016.

Kimberly Griswold of 247 Whitney Avenue said she really didn't have much to add to the package that she submitted. She said she just wanted to be in attendance to answer questions. She said she had a letter that was signed by all of her abutters and there were two that were unavailable as they were on vacation. She said she has since talked with them and they have no issues.

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

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

Raymond Clement made a motion to grant the following variance counts for case #ZO-85-2016, sections 6.03 (B) Rear Yard Setback, 8.27 (D) Fences Walls, 8.29 (A)3 Accessory Structures and Uses and 10.09 (B) Parking Setbacks which was seconded by Vice Chairman Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

Upon a unanimous decision the variance was granted.

9. **ZO-86-2016**

700 Lake Avenue

R-2 Zoning District, Ward 5

David Fenstermacher (Agent) proposes to construct a 14,823 SF pharmacy with a drive-thru and clinic with one exam room, front yard and business parking in a residential district, signage as shown on plans, 8 foot high fencing for screening and dumpster enclosure within front or street yards, exterior lighting fixtures at height in excess of 10 feet within 50 feet limited activity buffer and seeks a variance from Sections **5.10 (F)4** Convenience Retail Uses Greater than 8,000 SF, **5.10 (G)6** With Drive-Thru Service, **5.10 (H-2)1** Offices of Health Care Practitioners and Outpatient Health Care, **6.08 (B)2** Screening Buffers, **8.27 (B)** Walls, **9.08 (B)** and **(C)** Signs, **10.02 (F)** Business Parking in Residential District and **10.09 (B)** Parking Setbacks, of the Zoning Ordinance, as per documents submitted through August 18, 2016.

Nicholas Lazos said he is an attorney here in Manchester, New Hampshire and his office is located at 66 Hanover Street. Attorney Lazos said he was representing the developer for this proposed CVS Store and also in attendance with him was Mark Bettenhausen who is the representative of the developer who is an approved developer for CVS Health. Attorney Lazos also introduced David Fenstermacher who is an engineer with VHB Engineering in Bedford, New Hampshire. Attorney Lazos said since they are requesting some variances for the signage, they also have Richard Westergren who is in attendance to answer any questions about the signage and to also describe the signage if necessary. Attorney Lazos said Mr. Bettenhausen would now give a quick summary of the background of why they are looking at this location for the store. He said Mr. Bettenhausen would be followed by Mr. Fenstermacher who will give some details of the project and the existing property and what they are proposing to do on this site. Attorney Lazos said he would then go over some of the technical requirements and also bring the Board up to date on the discussions they have been having with some of the neighbors and some of the changes they are proposing to reflect their concerns.

Mark Bettenhausen said he works for T. M. Crowley and Associates and they are the Project Manager for CVS. He said his office is located at 14 Break Neck Hill Road, Lincoln, Rhode Island. Mr. Bettenhausen said as a developer for CVS, what they have been tasked to do is to find a new

location for their existing store on Mammoth Road. He said CVS really did hone in on this site at the corner of Lake and Mammoth. It is a signalized intersection still close to the hospital just south of Hanover Street in the middle of the residential population. Their existing store on Mammoth Road is connected to the Marjam Lumber yard and CVS has truly outgrown that location. He said it is a little bit more rundown that they would like and the store and stock room are undersized. There are a lot of boxes and totes outside as they physically do not have enough space inside their store to store these things before they can be picked up. When Marjam has deliveries, their trucks pull right in and it does block the drive-thru so a couple of times a day, the CVS Pharmacy drive-thru has to shut down. He said the pharmacy drive thru is on the wrong side of the store. You pass through dumpsters to get into it and it is just not what the CVS brand is going for today. Mr. Bettenhausen said CVS wants to keep this new facility in the neighborhood and upgrade in the neighborhood so they have chosen this site and are under contract with the land owners to build a CVS here. As such, they are before the Board today with their project.

Chairman Hendershot turned the hearing over to the Board.

Vice Chairman Dupre asked Mr. Bettenhausen how big the existing CVS store on Mammoth Road was. Mr. Bettenhausen said it is 10,000 square feet. Vice Chairman Dupre asked how big the lot was that the current CVS is sitting on. Mr. Bettenhausen said that is tough to say because behind the fence is the large lumber yard, but in front of where just the CVS is the lumber yard has a pull up and a little bit of a showroom that is about 1.5 acres in front of the fence. Vice Chairman Dupre said he was not following what Mr. Bettenhausen was saying. He asked Mr. Bettenhausen if CVS owned the property with Marjam. Mr. Bettenhausen said Marjam is CVS's landlord. CVS leases from Marjam. Vice Chairman Dupre asked Mr. Bettenhausen how long CVS has been in their current location. Mr. Bettenhausen said CVS has been there for twenty five plus years. Vice Chairman Dupre asked Mr. Bettenhausen the size of the lot that Marjam leases to CVS. Mr. Bettenhausen said the building is 10,000 square feet. Mr. Dupre said he knows that but there is parking around the building. Mr. Bettenhausen said if Mr. Dupre is asking how many parking spaces there are, there are non-exclusive spaces there. Mr. Dupre said he is just trying to get a sense of how big their property is. Mr. Bettenhausen said there are around fifty parking spaces that are shared between CVS and the lumber yard.

Chairman Hendershot said he just wanted to verify that the new proposed CVS is a 24/7 store. Mr. Bettenhausen said yes, it will be exactly the same hours as the existing store.

Raymond Clement asked Mr. Bettenhausen if the proposed store was their normal size store or is this going to be a little larger. Mr. Bettenhausen said this is actually going to be smaller than their normal sized store. He said this is a 12,900 square foot box with a mezzanine above for a stock room. A normal size store on a large lot is about 14,000 square feet. Mr. Clement said then it will be a little smaller than the normal size.

Matt Routhier said Mr. Bettenhausen said the proposed store hours would be the same, but what exactly are those store hours. Mr. Bettenhausen said the front store is twenty four hours and the pharmacy hours are Monday through Friday open until midnight and on the weekends, the pharmacy closes at 8:00 pm.

Jose Lovell said he didn't see a lighting plan and he asked if someone could describe what the lighting is going to be like along the residential roads. David Fenstermacher of VHB Engineering said he would try to explain things as best he could for both the Board and the public. At the request of Chairman Hendershot, Mr. Fenstermacher arranged the overhead board for the Board to see. He said for orientation purposes, they are on the corner of Mammoth Road and Lake Avenue and the properties they are talking about are the two-story, approximately 23,000 square foot office building and the two houses behind it. That would comprise the new 1.7 acre lot. He said today for access, there are the two driveways for the two existing lots and the office building actually has access on all three roads. Chairman Hendershot said the question was concerning lighting. Mr. Fenstermacher said the intent for the lighting is to have approximately twenty foot high poles, LED full cutoff fixtures which would be along the edge and will be directing light right toward the front parking lot. He said they would have the same LED lights on the side but on a wall mount so they wouldn't have to be as high and they would be focusing down. The intent of the design is to meet the standards to have no spill past the property line. The poles would be in the front area and the wall packs would be in the back for the loading area and the drive-thru. Mr. Fenstermacher then re-arranged the overhead board for public viewing and explained the same to the public.

Raymond Clement said he knew this wasn't in the Board's purview but the question would come up if the variance was approved by the ZBA and then went in front of the Planning Board. He asked if they were going to have a 24 hour window service for the pharmacy. Attorney Lazos said the pharmacy would close on the hours previously mentioned which would be at midnight on weekdays and at 8:00 pm on Saturday and Sunday. Mr. Clement said the midnight closing is part of his question. He said the voice box at that hour of night travels a lot so that might interfere with the people in the area trying to sleep. Mark Bettenhausen said it is not a typical drive-thru. He said you are at a window and the voice does come through a small speaker, but the decibel level is extremely low. He said the decibel level of the speaker is actually lower than an idling car engine and you would not hear from past the car. He said the main reason is because you are only getting your prescriptions through the pharmacy and so there is legal and HIPPA violations where this is confidential information that cannot be spread. It is really not going to spill over past the car. Raymond Clement advised Mr. Bettenhausen that that question will come up before the Planning Board.

Raymond Clement said he had one more question. He asked what kind of buffer they were planning on having between the back properties on the north side of this property and on the west side of that lane where there are a lot of homes that could be exposed to a lot of traffic, headlights and items of that nature. David Fenstermacher referred to the plan on the overhead board and said there is a minimum 35 foot landscape buffer that is really at that pinch point. He said what they are looking to do is keep as many of those mature trees that are there today. He thinks they are keeping about nine of them and then supplementing those with some new trees which is one of the variance requests they are asking for is to show an eight foot stockade fence in the back. Additionally, based on some of the feedback from the neighbors, they are looking to even add some earth berm and getting the fence on top of that to bring it up even higher. Referring to the plan, Mr. Fenstermacher said the existing houses are probably fifteen feet off

and they are pulling that another twenty feet away from that property line. He said on the second spot over on Tarrytown Road, they are planning on doing the same thing, keeping the mature trees and supplementing it with some new trees. He said one of the things they were talking about again tonight was pulling that stockade fence down all the way to help with headlights and to prevent people from cutting through residential areas to cut through the parking lot. They want people to stay on the main road and get to the front door. He said they want to supplement the landscaping with fencing and berming. David Fenstermacher then turned the overhead board to face the public and explained the same to them.

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

James Burke of 27 Tiffany Lane said he is part of Manchester Cal Ripkin and said they are speaking in favor as neutrally as they can. He said they are not opposed to the project as far as being an abutter. He thinks they are looking forward to, if this does get passed, what type of restrictions or constrictions they would have at their facility. Right now at the current landscape that they have, they do have parking privileges there on weekends and things like that and when they host tournaments for their 400 kids and games that they have over the course of the summer, they are looking at not losing those parking spaces. He said he is kind of talking in favor but wants to remain neutral. That would be their main concern and obviously, they want to be good neighbors to their current neighbors as well. He said they try to help out their neighbors as much as possible. That would be their biggest concern and he said they did get a commitment from the developer to be able to talk with the store manager in regards to their concerns. Chairman Hendershot said he just wanted to make it clear that Mr. Burke is an abutter but not a resident abutter. He said Mr. Burke is an abutter for the ball field and does not live in the neighborhood. Mr. Burke said that is correct.

Jeff Stavenger of 30 Rosecliff Lane said similar to Mr. Burke, he is also a volunteer and Board Member at Manchester Cal Ripkin. He said he would like to state that they understand the concerns of the neighbors as they have come to speak with them a little bit. He said as an organization, they don't see any negative implications on their operations for youth baseball. Reiterating what Mr. Burke said as well, he has played at that complex years and years ago and said they have utilized that parking area for overflow for a very long time. He said they have been assured that they are willing to work with Cal Ripkin once they are up and will allow them to continue to use that lot as well. Mr. Stavenger said they do understand that the neighbors are concerned and he is not a resident abutter. He said they are trying to be good neighbors in both aspects so they wish them well.

Chairman Hendershot then invited those in opposition to this proposal to come forward.

Sarah Duval said she and her husband own the property at 400 Tarrytown Road which is directly across the street from 700 Lake Avenue. She said she was very disappointed when she first heard about the planned CVS across the street from her home and she cannot and will not sit idly by as the seventh largest company in the world attempts to ruin her neighborhood. She said there is a place for commerce and there is a place for residence and her neighborhood which is zoned

residential is a place for residence. It is not the right area for this commercial development. One of the arguments that has been made by the development team is that the existing lot is not suitable for single or multi-family homes because it is situated between major roadways. She said she finds this argument to be absolutely ludicrous given that her home for example, sits directly across the street from 700 Lake Avenue and they enjoy a very nice life in this neighborhood. Mrs. Duval said she assures you that her neighborhood is quite suitable for residents.

Mrs. Duval said the applicants also argue that they are providing a significant service to the neighborhood. She will argue this point by stating she doesn't know how significant the service is when there will still be a Rite-Aid Pharmacy that will continue to exist on Mammoth Road, a Hannaford Pharmacy around the corner on Hanover Street and a Walgreen Pharmacy just down the street on Valley Street. With this much competition still there, there certainly is not a risk of a monopoly by any one pharmacy chain and the residents in her area are certainly not hurting for a pharmacy or convenience store option.

Mrs. Duval said a week ago, she and several of her abutting property owners attending a meeting with the representatives from the developer and the attorney for CVS who sits before the Board this evening. One of the arguments that they tried to make is that they would be planting trees along the perimeter which would help with light pollution. She said we need to keep in mind that this is New England and there are only a certain number of months when trees and vegetation are in full bloom. Therefore there would be a significant amount of time when trees would be bare, therefore allowing light and noise to filter throughout the neighborhood.

Sarah Duval said she also finds it concerning as a property owner, that CVS states that this property would not drive down the existing property values. However, in the recent aforementioned abutters meeting, when the question was posed to the representative of the developer as to how this might affect property values, he would not answer the question. He admitted to having conducted other neighborhood planning meetings in the past and it was asked of him whether or not this question had ever been posed in those other meetings. He skirted the question and said he would get back to them with an answer. She said to her knowledge, an answer has not yet been provided and she finds it very suspicious that somebody in his position would not be able to answer such a basic question. Therefore, this leaves her to believe that perhaps the answer is one that he knows the property owners would not want to hear.

Sarah Duval said she and her husband have a seven year old son who attends nearby Hallsville School. When he was born, they could have chosen to have moved to an even more residential area but they chose to stay. She said they chose to remain property owners and residents of Tarrytown Road and the reason they chose to stay is because they love their neighborhood. She said they find that they are largely surrounded by people who care about their properties, their neighborhood and the City of Manchester. The business that sits there now fits just fine in their neighborhood. The type of business that is conducted there is such that there is no activity or limited activity on weekends or evenings when the residents of the neighborhood are primarily home, thereby not disrupting the quiet neighborhood feel. If CVS is allowed now, she fears that

it could be the start of a more commercial development creeping into their neighborhood. Where does it end? Manchester should want to attract young working families to our City, not just on the outskirts in the small cul-de-sac neighborhoods, but throughout the City. Young working families who take pride in their home ownership and work to keep their properties and thereby their neighborhoods looking clean and attractive. Allowing the desecration of working class neighborhoods such as theirs will not only repel new families but it will start driving out the good ones, the very people that you should want to attract and keep.

Sarah Duval said she recently spoke with a realtor who is also a former Manchester Alderman and he was quite surprised to hear about this plan and he said to her "it seems a stretch to put that there, a professional office is far less impactful than retail. It seems like too much of a negative impact in the area. The intersection at Hanover and Mammoth is already stressed with traffic." She said she agrees. Mrs. Duval said in conclusion, Madam and Gentlemen, she is respectfully asking if they truly care about cleaning up Manchester, about seeing it succeed in prosper into the future by turning out bright young minds then don't allow this project to move forward. Don't open that can of worms. Don't start destroying our residential neighborhoods in favor of lining developer's pockets.

Karen Crowder of 675 Lake Avenue said her residence is diagonal across from where the CVS would be. She said she has lived there for approximately two years now and said she rents from Socha Properties in a three story duplex. She said she loves the environment there and said she moved specifically to that neighborhood because her grandson and her son both go to McLaughlin Middle School. She said it is a quiet area and is not well lit at night. She said if a child is at the playground which is about fifty yards from her home, you can hear them. She said she can't imagine having a store open 24 hours in this residence where there are beautiful homes. She said these are all of her neighbors and she is strictly opposed to this, not just for the fact that the Cal Ripkin playground and baseball park are there but also because up the street is the Greek Church which everybody in the City enjoys. She said this proposal is just going to bring in more traffic there and also at the Elliot Hospital which is about three blocks away. She said the ambulances come right down her street and at the corner where CVS is, for whatever reason, they turn their sirens and their lights off right at that corner and it is quiet all the way to the hospital. She said maybe they do that out of respect of the neighborhood, but having that area lit up like a Walmart is going to be absolutely insane.

Ms. Crowder said she didn't know about this proposal until yesterday and one of these ladies brought her a flyer. She said the property owner, Socha Properties, has no idea this is going on. She was not contacted by anybody. She said Socha Properties owns property right there, she owns this whole building, that whole lot that she lives on is owned by a private company and the lawyers and other gentlemen here didn't even contact her. She said she lives fifty yards right across and she is going to be looking out her bedroom window on the second floor and she is going to see lights. She is opposed to this proposal.

Lori Jensen said she resides at 719 Hanover Street and she is actually one house removed from being an abutter. She said she is used to the traffic and ambulances and lights. She said she just found out about this on Monday and she has grave concerns about what it will do to the traffic.

She said when she goes to work in the morning she tries to make a left onto Lake Avenue from Tarrytown which is fairly simple, but you cannot make a left then, onto Mammoth even with a green light because the traffic is always backed up in those intersections. Even if that was fixed, she said she still cannot conceive tractor trailer trucks trying to enter or exit from either side of those without crossing the lane traffic. She said she also worries about the kids who are going to want to run across the street from the baseball game to buy a candy bar. She said she wouldn't go into the lighting that was already mentioned, but the other thing that was not mentioned was to have to listen every night in the winter to the back-up sound of a plow clearing the parking lot. Ms. Jensen said this will attract robberies and people getting their needles and using them in the park across the street. She said she has a fifteen year old who walks to and from school and likes to skate. She worries about what might come into the neighborhood that isn't there right now.

Ralph Zagarella of 425 Mammoth Road said he is directly across from 700 Lake Avenue. He said his driveway is just about matched straight across. He said he couldn't make the neighborhood meeting but he was sent this little postage stamp map that he couldn't read even with his glasses so he is just finding out a lot of things tonight.

Mr. Zagarella said his concerns are like the lady before him mentioned, the traffic. He said if you are trying to come from Lake Avenue to turn left onto Mammoth Road, there is a sign there that says don't block the traffic or there is a \$1,000 or \$2,000 fine and yet he sees two and three cars piled up there every single rush hour day. He said the police do not stay there to take any notice of what's happening there and it's a bottleneck. He said he tries to back out of his driveway and he is between both lights and sometimes he has to wait for two or three cycles of those lights before he can get out of his driveway, depending on which way he is going. There has been occasion that he has had to go around the block because traffic is so bad there.

Mr. Zagarella said he has lived there for fifteen years and the building across from there has always been a medical building. He said he knew it was up for sale and he understood that it was going to become a condominium. He doesn't know where that rumor started, but that is what he heard and he had no problem with that. He said he has a conflict here because there are two ugly houses that have been ransacked with open windows and he doesn't know why the City hasn't torn them down, but that would be a good thing to get rid of those. He said that is a beautiful building there and it would make great condominiums. To see that building destroyed and to hear construction every single day until the store is completed would be very bothersome especially because he has two little dogs and they are yappers who bark at anybody walking by the driveway. He said that would drive him nuts if they did that.

Mr. Zagarella said when kids are playing baseball there the cars usually line up all the way down Mammoth Road. He said for CVS to have a driveway exiting onto Lake Avenue and going down Tarrytown Road, which are the two places that they park cars would cause an extra burden onto the traffic that is already there. He said it is very quiet there at night around 7:00 pm, after rush hour and it looks like the proposed driveway would be directly across from him and move up to where those abandoned houses are. Chairman Hendershot said the Board has the plan and they know what it looks like. Mr. Zagarella said the only good thing he can see coming out of this is those two buildings gone. The traffic and noise are his main concern. The site itself contains a

good building and CVS can take their business and move into the East Side Plaza where Building 19 used to be. That is a giant building. He doesn't see why they couldn't operate out of there. There is already parking, lighting and everything else and it is within feet of where they want to build to begin with.

Nancy Welsh of Kenney Street asked how many variances CVS requires for this project. Chairman Hendershot said there is at least ten. She said ten variances are pretty much out of the scope and spirit of this neighborhood and why there is a Zoning Ordinance. Her concern is there is a lot of blight already in the area. She said there is an abandoned medical building in the plaza about a block from this proposed project. There is space there. There is a closed bank and a burned down building closer to where the CVS is with less neighbors around. Ms. Welsh asked what would happen to the abandoned CVS. There are a lot of buildings in the area that are blighted. She said that is her concern and requesting ten variances seems extreme. She said they just tonight proposed a ten foot fence along Tarrytown Road and if that is the side lot line then there is a variance for that too. She asked if that was included in the ten that they already applied for because there is a six foot height limit on the side lot line. She said when she is talking about her lot a block away there is a six foot limit on her side lot line so an eight foot fence is another variance and it seems way out of the scope of this neighborhood.

Jocelyn Daigle of 429 Tarrytown Road said she came together with the developers for this project last Thursday. She said she went into the meeting rather open minded. Some of her concerns which she stated were what the façade of the building would look like. She asked the Board if they have actually seen what the building would look like. Chairman Hendershot said the Board has all the plans. Ms. Daigle said she thought walking into this meeting because of the R-2 zone that she would see something with awnings and flower boxes to more fit in with the spirit of the neighborhood. She said she is concerned with a few things, one of them being the current CVS property is under a land lease. She asked if this is going to be a land lease or is this land being sold outright. If it is not going to be sold outright and it is a land lease, she knows CVS does a spectrum of fifteen to twenty-five or twenty years. She said she knows that currently they have outgrown their property on the Marjam property she wondered if they would outgrow the proposed location within that period of time and then what will happen to that building thereafter. She said they already have two abandoned buildings and it would be great to get rid of those but she is thinking down the line for the next generation to come, are we going to have an empty CVS building there.

Ms. Daigle said there is a question of safety there. Lake Avenue which is one of the busier streets already has signs to try to slow speeders down just past the Lake Avenue entrance. They are kitschy little signs that say "smile, you're on camera" and "thank you, meet our judges" in a way to persuade our speeders to slow down within the corner of this current building proposal. She said where her building sits she understands that tonight there was mention of a berm and she said she didn't know if the berm is going to exist and then an eight foot stockade fence. She said if there is an eight foot stockade fence and the lights they are requesting are twenty foot LED lights, there are all these concerns as they are newly questioning what LED light does to human beings.

Ms. Daigle said she went down and took a look at the application and she is incredibly confused as to some of the points that were made to meet the criteria for a variance. The variance would not be contrary to the public interest in what ways. It says "the purpose of the Zoning Ordinance is to provide and promote the public safety, convenience, comfort and aesthetics." She said she didn't know who in this room would want to look at a CVS Pharmacy and say that it is an aesthetic addition to the neighborhood. The definition of aesthetics is being concerned with beauty and appreciation of beauty. She said she didn't think CVS's are beautiful and she would be very surprised if you could find someone that thought it was beautiful unless they were blinded by dollar signs.

Ms. Daigle said throughout the application it states the Master Plan for the City of Manchester. She said one of the nice things about this is she started to read through the Master Plan which she had not done and she was really thoroughly impressed with the fact that the Master Plan really takes into consideration the growth, economically as well as aesthetically into the City. She said she was looking at how they've tried to apply the CVS to the Master Plan and thought that the definitions were very loosely used. When you do look at the Master Plan it speaks of green spaces and corridors to the City that are beautified. One of the variances that they are going for is for a twenty four foot illuminated sign that will be right on the corner and she doesn't know anybody that thinks that a twenty four foot illuminated CVS sign is aesthetically pleasing by any means.

Ms. Daigle said they are saying this property can't be re-developed. There is an elderly building right across the park from her. She said she thought that if there would ever be re-developed it would be something along those lines, a residential condominium type of thing. She said they are also saying that this building fits the neighborhood because it is adjacent to the Elliot campus. From this building to the Elliot campus there are residences, there are homes, there are two-families and single families. This property is located or trying to be located in an R-2 district right across the street where the yapping dogs live is R-1. Chairman Hendershot said the Board knows that this is in a residential neighborhood.

Ms. Daigle said the thought that the value to their properties is not going to decrease seems fairly humorous to her. She said she has had concerns about what it will do to her property value. She said her property is going to be looking directly at a stockade fence and when the winter months come she will be looking directly at LED lights and until 12:00 at night they are going to be hearing a drive-up window. She said she understands that there are certain decibels and she also understands that in the City of Manchester there is an aging population that is hard of hearing. This all needs to be taken into consideration with these neighbors that are abutting the property.

Ms. Daigle said when she left the meeting last Thursday night, she was very open minded but then started to realize that she grew up in Manchester and she loves this City but the fact is she doesn't think this does anything in regards to beautifying or increasing the property values anywhere within this area. She said there are certain zones, which the Board is very well aware of, that are commercially zoned.

Pauline Demers of 605 Lake Avenue said she is a couple of streets down from the proposed new

CVS store. She said she has been in her house for 44 years and has seen a lot of changes in this neighborhood. She said she has shopped at the CVS on Mammoth Road however she doesn't think having them move on the corner of Lake Avenue, Mammoth Road and Tarrytown Road is going to justify anything other than congestion of traffic and probably more crime in the neighborhood with the pharmacy being there. She said she can't say too much more because the Chairman said do not repeat what everybody else said, but she truly agrees with all these people. She said she walks that neighborhood a lot and she feels safe. She doesn't want to walk around a neighborhood where there are people driving out of the drive-up windows, picking up their prescriptions. She said she does not think that this is a good location for it. There are other abandoned buildings in the vicinity where they are and she thinks they can find a happier place than what they are looking at now.

Ryan Talavera of 599 Lake Avenue said everything has really been covered. He said he is strictly opposed to this. It is a residential area and there are so many variances being sought for a reason and it is not acceptable for this area. It is going to affect their property values. He asked the Board to oppose this as well and not grant these variances.

Dianne Jenkins Robinson said she and her husband Kevin live at 707 Hanover Street. She said she owns the property at 418 Tarrytown Road and have owned it for forty years. She said it is directly across the street from where this proposed building is to be located. She said she would let her husband, Kevin, speak.

Kevin Robinson of 707 Hanover Street said not to repeat what everybody has already said, Tarrytown Road doesn't actually have sidewalks on either side of the street. He said there are a lot of people who walk the streets, walking their dogs and jogging, etc. Children are walking going back and forth to the park. One of the biggest problems going on in not just this State but certainly in this State and in this City is the drug epidemic. What we are inviting for a CVS is another opportunity for this drug epidemic to come into this area. That hasn't been addressed in respect to the people that live in this neighborhood. He said they try to do a lot of work to keep their neighborhood safe and it is still a very good neighborhood. They try to make sure that they keep it that way. This is something that they are really struggling to do with a CVS coming in. It doesn't add anything to the neighborhood. It will take them down financially and in all kinds of other ways that they really just don't need. He said he would ask CVS to find some other place to go as there are plenty of other places and spaces in Manchester and New Hampshire.

Joseph Wichert of 803 Amherst Street said he just wanted to go over a couple of points. He said a lot of the neighbors brought out many of the good points. He said it would be a hard stretch to say that building something of that size in retail in that area isn't out of character for the neighborhood. What is there now is probably a little bit bigger foot print but it has a much less intense use. That building is probably over forty years old. It was brought up in the presentation that it had curb cuts on all three streets. He said he is pretty confident that most of those, at least one if not two of those curb cuts were only put in when Tarrytown Road went one way to the south. Previously, the main entrance used to be on Tarrytown Road when it was a two way street. If you are going on Lake Avenue and you look at the curb cut off of Lake Avenue it has the big jump up in it and it is kind of like an after fact that they paved for a driveway and then they

had the little curb cut onto Lake Avenue. When it was originally approved, the building had all the traffic kind of funneling out to Tarrytown Road. They swapped Tarrytown Road to one way so they gave it the additional curb cut.

Mr. Wichert said that traffic that goes from the lights at Lake Avenue to the lights at Hanover Street blocks up probably twice a day. Maybe not as long some days, better some days and worse some days. He said it has been a long time since he looked up the traffic book, but if he were a betting man, he would say the number of trips generated by this versus the medical office is somewhere in the range of 2½ to 3 times. What is going to end up happening is if you took that size of the store at CVS on Mammoth Road, which he is a patron of and he goes to, that store has a pretty good traffic impact on the peak days, with last minute shopper items. If that hits on one of those other days, what is going to end up happening is as it sits now, there are cars that block up the intersection of Lake Avenue and Mammoth Road or brought up Hanover Street and Tarrytown Road or Mammoth Road and Hanover Street. That is going to be a huge problem, not necessarily for the Zoning Board but he certainly thinks it should factor into their decision. Mr. Wichert said just recently the Board had the applicant do a little bit of traffic work on the Candia Road project before a decision was made. He said he couldn't remember and he thinks he spends a decent amount of time before the Zoning Board, of a variance being granted for this size of a use in a residential district. He said he could be wrong but said he has been scratching his head since he read the paper and certainly couldn't think of one that's at that level.

Mr. Wichert said the other concern he would have is that block, if you define from Lake Avenue to Mammoth Road to Hanover Street to Tarrytown Road there are only six houses plus the medical building and the paper street sort of served as a buffer. If you take the southerly two houses which were abandoned and an eye sore, no argument there, and take those out and make those as part of the store, you only have those four houses that are going to be left between the CVS and Hanover Street. Those people on Hanover Street, if you travel there, you can watch them struggle to get out of their driveways all the time. It is only a matter of time that those four properties are going to end up being converted over to retail. He said he thought if the Board grants this variance for this change of use now it is going to be hard to stop that. You are going to take an entire block that is residential that will end up being converted to a commercial business use. There is a business use there but it is a low intensity use. It has been there for a long time and has been a good neighbor. He said he doesn't think this is an apples to apples comparison.

Mr. Wichert said the folks from the ballpark were talking about their hope to keep a parking arrangement. He said if he looks at the schedule on here, there are really only five excess parking spots so if there is any kind of written agreement or any kind of lease, and it could be done, you could argue it is complimentary, but right now as it sits today when the office park is closed, which is the weekend which is when the tournaments are, it works. CVS isn't closed during the weekends. He said he thinks that is a problem that the Board needs to consider.

Mr. Wichert said he looked briefly at the Master Plan again. He said it is one of those things that you look at and forget and maybe come back to it every so often. He said he doesn't see any way that you could spin this to say that it somehow complies or fits in with the Master Plan of what

we are looking for. There are other uses and if the argument is that the business of the office park is struggling and they need to change use, there are other less intense uses that they could look at as opposed to retail with a drive-thru pharmacy. He said he understands there is technology in the drive-thru and the speaker box plan, but where he is, when they had the McDonalds on Hanover Street that went through, that was originally approved with no drive-thru. After they were there and everything, it came to "Let's put a drive-thru in". He said on a cold clear night, you can hear it from where he is and he is probably a third of a mile from there. Not often and not on a humid night but there are days you can hear it. Whether the technology is better he just can't see how they are going to put that forty feet from a house and say that a use that is a 24/7 use is somehow is an adequate replacement for something that has business hours and weekends off.

Vinod Katara said he was here representing his brother who he lives with. He said they strongly support their neighborhood and said this is no place for a business in a residential area which is nice and great. He said he agrees with what was previously said regarding the traffic. That is a big issue as this is a main road to the hospital from the highway and he thinks that wouldn't be good.

Dennis Perreault of 131 Portsmouth Avenue said he lives down the street on the right hand side. He said he is not a direct abutter. He said his concern is with the integrity of the Master Plan and the Zoning Ordinance itself and in the way variances are supposed to be granted. He said he has heard nothing about hardship inherent in the property that makes this property not usable for one of the intended purposes under the Ordinance. In fact, it's already had some sort of relief from the Ordinance to have the office complex where it is. It was an operating office complex and it seems it could be many other things. There is nothing, absolutely nothing about these three properties that distinguish them as unique properties from other properties in the City justifying the granting of ten to eleven variances.

Tony Sapienza of 954 Valley Street said he is the Alderman from Ward 5 where this project is being sited. He said he represents these very well spoken constituents. He said he is here tonight because he received many phone calls and he was asked to come here to represent the constituents and to explain to the Board how against this project they are. He thinks this has already been done. There isn't much he can add but he would please ask the Board to consider what these people have said very carefully as he knows the Board always does.

Attorney Nicholas Lazos said he made a running list of the issues that were raised. He said he thinks the first issue that has come up over and over again is the traffic and he would like their engineer to address that. He said they have met with the Planning Staff and have done a scoping meeting and he thinks they have some preliminary determinations of that.

David Fenstermacher said one issue that really came up was the communication between the signal at Lake Avenue and Mammoth Road and the one to the north. He said it is a problem that the City recognizes and the Traffic Engineer recognizes and it would be a concern to CVS as well. What they have in their scope is to take a look at those and to work on new equipment, synchronizing it, getting communication between them to really help the traffic there flow along.

That is one of the pieces that they are committed to improving.

Attorney Lazos said another issue that was raised was this issue of light pollution. He said he didn't know if they could add any more than to emphasize the fact that the Ordinance requires that no lights spill over into adjacent properties. They are going to use the most up to date lighting system to direct lighting downward and away from the neighbors. He said all he can tell the neighbors is that they have no intention of creating that situation.

Attorney Lazos said he could go through the list of the number of issues that have been raised by some of the abutters which they have already addressed with the Alderman and they would like to present to the Board as well. One of the issues raised was the way the building looks. They are committed to having the façade of the building and the look of the building be consistent with a residential look. They are going to add peaks and gables and windows along the building with clapboards. A lot of those concerns are met and they will in fact present that to either the Zoning Board or the Planning Board at the Board's discretion.

Attorney Lazos said with respect to the sign on the corner of Lake Avenue and Mammoth Road, they have also agreed that instead of the pylon sign they would modify their request to the Board to provide for a monument sign at that intersection which would be in the area of six to eight feet high. He said they do want to point out that that sign is also configured so that you see it from the north and the south on Mammoth Road. It doesn't shine onto the neighbors as well. In addition, they have talked to the Little League as they have mentioned. They were concerned about the possibility of people who are parked there being towed and they have absolutely committed that they would never tow anyone who is there. Instead, they would have the store manager call over to the Little League if there are issues with improper parking or blocking and that sort of thing.

Attorney Lazos said they have already mentioned that they are committed to adding a berm within the buffer area on the north side of the property and also extending that berm along the Tarrytown Road side. He said he has heard a number of comments about curb cuts but as you can see, they are eliminating all the Tarrytown Road curb cuts so they are never going to interfere with safety vehicles and that sort of thing. The curb cut on Mammoth Road has been moved north and in fact if you look at the plan you will see that it is configured roughly at the lot line between the two houses across the street intentionally. He said they have also agreed that they would do some additional plantings along the Mammoth Road side including shrubbery or low wall or fence to block any headlights from shining in that direction.

Attorney Lazos said they have mentioned the traffic signal synchronization and also want to point out that notwithstanding some of the comments about the volume of traffic that is going to be generated by this use and he asked David Fenstermacher if he could address the volume of traffic compared to the existing use that they have there.

David Fenstermacher said they went over this methodology with Kristen Clarke the Traffic Engineer with DPW and based on some initial calculations using ITE standard calculations the existing building has a certain amount of traffic flow associated with it. CVS at this size, they are

going from a 23,000 square foot building to a 13,000 square foot building. There is a more intense traffic but what is different is the office is traffic that is destination going to the office and according to ITE and past studies that they've done, a lot of traffic for CVS is bypass traffic. It is traffic that is already in the system and is not being introduced. It is close to no increase during those peak hours taking the destination trips away from the office and comparing them to the destination trips for the CVS plus the pass by traffic that is already in the network.

Attorney Lazos said there were a couple of comments about the fact that there are vacant buildings in the area. He said they were asked this question at the neighborhood meeting that they requested. They want to advise the Board that yes, they have looked at a lot of these buildings. The problem with the Building 19 location that has been mentioned over and over again is that Hannaford actually has a restrictive covenant that would prohibit them from going into that site. He said as you are aware, appearances aren't always the reality and that there are a number of restrictions in their ability to go other places nearby.

Attorney Lazos said there was a comment about the diminution of value of properties. He said they did tell the abutters that they would look into that and address it. He said he has a letter for the Board from the Masiello Group in their Bedford office indicating that based on the removal of these two existing vacant residences and enhanced landscaping and removal of curb cuts, it is their opinion that there will be no diminution in value of the surrounding properties as a result of the project. Attorney Lazos approached the Board with the letter from the Masiello Group.

Attorney Lazos said he won't address the issue of how many variances they have. He said unfortunately, the Zoning Ordinance basically ignores the fact that they are requesting the variance from the R-2 zone but they still have all of the restrictions on the R-2 zone. He said for example, commercial parking in the R-2 zone needs a variance but they already have existing parking on the site. He said it is probably grandfathered but they just didn't argue that fact. He said setbacks, the height of the fences, the number and size of the signs is all based on the fact that they are in an underlying R-2 zone even though their proposed use is commercial.

Attorney Lazos said regarding aesthetics, they have already discussed that. The last thing that everybody seems to be concerned about is safety, crime and that sort of thing. He said he thinks their concern is significantly misplaced. Obviously, there are issues in the neighborhood and all over Manchester. He said he grew up here too. He said he grew up in the glare of the lights of Gill Stadium where his parents still live. He said he knows what it is like being in an area adjacent to a commercial and in his case industrial uses for most of his young life. The issue of crime, he thinks, is misplaced here. He said their goal is to have a safe store which will be well illuminated within its property and the store manager is not going to allow loitering and that sort of thing. He said they are a pharmacy not an illegal drug dealer. They don't have issues with robberies. The controlled drugs are behind lock and key behind counters. He said frankly, if you look at what's there now you have a building that is three quarters empty and has been that way for some time. It's dark and unfortunately the two homes to the north on 417 Tarrytown Road, that building had severe roof damage because of snow and the family that owns it has never been able to restore it. The other property has been boarded up and had vagrants in it that had to be removed. The fact that they are removing those homes and they are replacing them with a

landscaping buffer is a very significant improvement.

Attorney Lazos said he should also mention that CVS itself, when they address the issue of the Little League and the park, has indicated that they are willing to make a \$15,000 contribution to Parks and Recreation. CVS wants to be good neighbors and they want to show this as a sign of good faith. He said he hears the snickers but the reality is they are going to be good neighbors and they are looking forward to being here. He said they can provide services to the Little League and provide check-ups and all kinds of things available for this facility.

Attorney Lazos said when you take a step back and look at the potential, this building has been there since 1974. Unfortunately it is run down and is almost vacant. The Board of Adjustment back in 1974 made the determination that it was appropriate in the R-2 zone to convert it to a medical office. He said their feeling is that they will be consistent with that use. They will enhance the property and improve it. Basically, their impact will be positive and they will provide a service to the neighborhood. He said as you all know zoning views in the world are changing and neighborhood uses are now desirable and mixed use is desirable. He said they request that the Board gives them their consideration. He said if the Board would like a traffic study, advise them and this case could be tabled to have a traffic study completed but their feeling is that they have a very strong application for essentially a property that is no longer R-2.

Chairman Hendershot turned the hearing over to the Board.

Chairman Hendershot said he didn't think that he has seen a proposal that more violates the five criteria in all his time on this Board. He said it is totally contrary to the public interest and to a marked degree, violates the very objective of the Zoning Ordinance. The size and scope of this property in the middle of a residential neighborhood is just totally out of scale and it is totally not in the public interest. The spirit of the Ordinance is not being observed. It creates more congestion and other dangers including light pollution, traffic, etc. He doesn't think substantial justice is done because there is no way that the loss to CVS is going to be outweighed by the gain to the general public. It is just not going to happen. The loss to the general public will be much greater than any gain to CVS. The value to the surrounding properties will definitely be diminished. He said he really agrees with the comment that only those four houses will remain on the Hanover side street will be probably quickly turned into another commercial endeavor. There is absolutely no hardship for CVS in any way. The size of their current store is irrelevant and there are other places where this is more appropriate. Chairman Hendershot said he is totally against this proposal on all five variance criteria.

Vice Chairman Dupre said the members of the Board do not like to hear people repeat themselves so he will not repeat everything that the Chairman said. He said he has to agree that he thinks he is the longest serving person on this Board and he has never seen something that violates the spirit as bad as this. The existing use is conducive to a residential neighborhood. This isn't an evolution. He said the applicants kind of made this jump that "because it is a medical office we can now put in a CVS." Evolution is like a gas station adding a couple of pumps or a McDonalds adding a drive-thru. He said they are shoehorning in something which they even

consider a small operation. He said they are squeezing their parking buffers, your setbacks and trying to squeeze this into a residential neighborhood. Zoning provides for business districts. He said they are talking about being good neighbors and let people who go to the ball games leave their cars there. He said you aren't going to see the manager running back and forth and then you are going to run into other problems such as people loitering. He said their idea of crime not being an issue, people are going to loiter in their cars and that brings other issues into an area. He said he appreciates the fact that there are two buildings that are in disrepair. That is not really part of this discussion. He said "you have a building that you can't fill, Okay, well that is something else." Putting in a CVS with the use they have outlined, no thank you.

Matt Routhier said he doesn't want to repeat what the other Board Members have already said. He said the Board has denied stuff of a much smaller scale in a residential neighborhood. Having experience being on the other side of the table trying to permit one of these, he knows the traffic it is going to bring and the movements that are going to be in conflict on Mammoth Road which is already an issue. He said he doesn't really foresee timing of lights having much improvement on that simply because people don't follow the rules of the road necessarily and block the intersection. The scale of this is rather large for what would be a neighborhood. In his opinion, twenty foot LEDs don't follow the spirit and intent of the Ordinance. A twenty four foot sign, whether they choose to reduce that sign or not, would make this piece of property stick out quite oddly compared to everything around it. Again, he said he doesn't think it meets any of the criteria in regards to the variances.

Attorney Lazos addressed Chairman Hendershot and said he would like to withdraw this application at this time before a vote is taken.

Chairman Hendershot said before the meeting went on, he asked if anyone was in attendance for 809 Brent Street or 496 Merrimack Street. There was no reply. Chairman Hendershot said he thought they had ample opportunity to show up so he wanted to get that out of the way and table those cases to the next meeting.

Dennis Perreault from the audience said he had some reservations about the ability of an applicant withdrawing their case. Chairman Hendershot said that was irrelevant, if they want to withdraw they can withdraw.

Michael Landry said he knew where the gentleman was going with this and said he would like to address that. He said this application is on record and someone cannot go for the same property for the same application. He said he thinks that is clear. He said as far as he was concerned, they are talking subtle differences and he is sure Attorney Lazos would disagree. The gentleman in the audience identified himself as an attorney. Mr. Landry said he didn't really see an issue. The next time something is applied for we can deal with it then. Mr. Landry asked the Mr. Perreault if he would like it denied with prejudice. Mr. Perreault said he would and said it should be a motion of the Board at this point to withdraw the application. He said he didn't believe that the applicant has the right to withdraw after the opening of a public hearing and complete testimony. Michael Landry said Mr. Perreault raised a very good point and said he has never seen this and the Board has not taken an action and he said he would leave it to the Board, to the

Chairman. He said again, he believes they would be barred from submitting something similar to this as a subsequent application according to the statute. Mr. Perreault asked Mr. Landry what degree of similarity, a different use? Just bar all use variances along this line? Mr. Landry said he would say no.

Chairman Hendershot said he has personally never seen this either and said he thought the Board was clearly opposed to this application and he would have no problem making a motion that any subsequent application that remotely resembles this is not going to be considered under the statute that we have already. Chairman Hendershot said he didn't know how they would word that. Michael Landry suggested just acting on the application and bring it to the logical conclusion where the applicant knew it was going.

Attorney Lazos stated "Please note my formal objection to your taking a vote on a withdrawn application". He said "by the way, I have done this before, before this ZBA. I have been around a long time. Thank you."

Chairman Hendershot asked if there was a motion to deny this application. Raymond Clement said Attorney Lazos withdrew it so there is no application. Chairman Hendershot said there was one and they had the public hearing and the Board heard it. Raymond Clement stated Attorney Lazos withdrew it before the Board took a vote. Mr. Clement said the Board doesn't have an application in front of them anymore. There was a request from the public to speak. Michael Landry stated they weren't going to the public anymore. He said he thought the Board was equipped to handle this and they have heard the objection. He said the Board is acting on this and to be honest, he wasn't sure if Attorney Lazos could withdraw the case. For the record, the cleanest thing is the Board acknowledges his withdrawal and takes an action as it sees fits and move on. He said he kind of thinks it is mute a little bit, but the public hearing was opened and he doesn't have the case law in front of him to say what happens here. It is a tricky one. Mr. Landry said he would have to think if they came in with the same application, we wouldn't accept it. It is the same as a denial. Certainly, they weren't granted any variances so they cannot proceed with this project so whether it is denied or withdrawn, he sees little difference. Someone in the audience thinks there is a difference and he is going to leave it to the Board.

Chairman Hendershot said he liked the point Mr. Landry just made that they do not have a variance and they can't do anything. He said we all know that once you have applied for a variance, you cannot apply for it again. But then again the Board did not vote on it.

Matt Routhier said if the application doesn't change in any substantial amount then the Board will not re-hear it. Matt Routhier suggested continuing on with the meeting.

Chairman Hendershot addressed the public and said "we as a Board did not like the proposal and the City Staff thinks that they cannot re-submit the same proposal again and we will just have to see where this goes. It is kind of an unusual situation that doesn't happen very often. You were heard and the Board agreed with the testimony that they heard but procedurally there is not much we can do. We are closed to the public. Thank you very much."

10. **ZO-87-2016**
269 Hanover Street
R-3 Zoning District, Ward 4

Brian Pratt (Agent) proposes to construct a parking lot for 22 spaces to be utilized by residential tenants of owner's properties nearby and seeks a **variance** from Sections **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width, **10.06 (A)** Parking Layout, **10.07 (G)** Landscaping and **10.07 (K)4** Parking Screening, of the Zoning Ordinance, as per documents submitted through August 19, 2016.

Brian Pratt from CLD Consulting Engineers appeared along with Jeff Kelley from Kindler Development. Brian Pratt said they got comments from Planning Staff and as such, he handed out revised plans to the Board. Chairman Hendershot advised the Board Members that the Board would be using the revised plans.

Brian Pratt said what they are proposing is to construct a 22 space parking lot at 269 Hanover Street. He said this is the property that is right next to the Cumberland Farms. Previously, there was an old Victorian house that was on this property and it was blighted and condemned by the City and the Fire Department had an "X" on the door that said if this house is burning down it would be too dangerous to get in and fight the fire so they were to just let it burn. He said the cost to repair the house to bring it up to livable standards would have been exorbitant so the developers that he is working with purchased the property and are proposing to turn it into a parking lot. The house has been demolished and the existing garage in the back off of Londonderry Lane has also been demolished. Right now it is basically just a gravel lot.

Brian Pratt said the plan is to install a 22 space parking lot that has a one way circulation and angled parking. You would enter from Londonderry Lane, loop around and exit from Londonderry Lane so there is no entrance or exit off of Hanover Street except for some stairs for pedestrians.

Brian Pratt said the reason they are here is for a couple of variances. He said the first one is the size of the lot. It is an R-2 district and is slightly smaller than is allowed for a commercial use being five feet short. He said they are required to have 100 feet and they have 95.05 feet. The next variance is the buildable area because the minimum lot size is 100' x 100' and they have 95' x 100' so it is slightly short from the buildable area as well. The third variance is the landscape buffer around the perimeter. He said they are required to have ten feet by Ordinance and they do have ten feet on the side abutting the residence. They have ten feet on most of the side abutting Cumberland Farms except they needed to reduce that down to about five feet for the handicap space. Along Hanover Street they have five feet and then along the alley they have varying depths from eight feet to no setback on that side. The last variance is the parking space size. Mr. Pratt said they are slightly smaller than the typical parking space size so what they are doing is prohibiting large vehicles from using this lot, encouraging just sedans and small SUVs and what not. He said they will have a sign that says large vehicles prohibited. He said they could make the parking lot work if they shifted the variances to produce the buffer on either side but they prefer to keep the buffer so they would have room for the landscaping and lighting. What

they are doing is excavating down to do kind of like little bioretention swales on either side so there will be shrubs and trees on either side creating a nice buffer. This will be depressed down about eight inches and storm water will kind of sheet off and promote infiltration.

Brian Pratt said basically the parking lot will be used for multiple properties in the area owned by the same development company. He said if you look at the aerial photo exhibit that he submitted, you can see that there are many other parking lots in the area. Parking is a big demand in this area as there is just not enough parking for everything. They want to convert this really blighted dangerous property into a nice safe aesthetically pleasing parking lot with plenty of landscaping. They really went dense on the landscaping as there are a lot more trees than they need per Ordinance and the shrubs will create a nice buffer for headlights and whatnot. He said they think this is a good use of the property and the hardship is that it would have cost an exorbitant amount of money, more than it would have cost to build a new building, to renovate the old building. Mr. Pratt said if the Board looked at the aerial photo, they can see there are plenty other parking lots in the area that have zero buffer. He said they are trying to provide that ten foot buffer pretty much everywhere but there is a couple of spots where they are requesting reductions of it to make sure they don't end up with a parking lot with only twelve or thirteen spaces.

Chairman Hendershot turned the hearing over to the Board.

Chairman Hendershot asked if they are basically using this for the Flats. Jeff Kelley said there are actually four other properties within a one block radius. Chairman Hendershot asked how they would control who parks there. Mr. Kelley said they have not determined that yet. He said there is a constant demand for parking as they have two properties right on Beech Street, 499 and 578 Beech Street, where they recently re-built a farmers porch. Chairman Hendershot said they would then have more people than this parking lot. Mr. Kelley said the Flats is completely unrelated to this. The Flats was designed primarily with a focus on pedestrian traffic with millennials that are going to be walking to downtown and was approved as such. He said this is a parking lot that is going to service multiple properties for them.

Josh Hamel of 51 Riddle Street said the plan with the parking lot is to have assigned night parking and open day parking because of the need for the parking for multiple buildings in that area owned by the same owner.

Raymond Clement said he noticed they have removable curb stops for plowing. He said he just didn't think that would work. He asked why they didn't just eliminate those little curb stops and just paint it there. Jeff Kelley said he has seen parking lots have circulation issues there. He said he could take them out if the Board doesn't like them. He said he was concerned that somebody was going to try to pull through and they would get stuck would end up doing this wacky thing and crashing into everybody. If the Board doesn't want them, he can take them out. Raymond Clement asked if they were planning on removing them every night before it's going to snow. Mr. Kelley said he knew the biggest complaint of plow drivers is internal landscape islands and these curb stops and sign posts. He said it would be up to the plow company if they want to do that or they want to plow around them. He said he did line them up straight so they aren't at a

weird angle so if they do decide to just keep them they can just plow straight and leave that little berm between them. He said the ones he is showing on the plan are the really heavy duty plastic ones. They are a lot easier to remove than the concrete ones. Raymond Clement said he just didn't see that being removed. He said if they can be removed for plowing, someone else will remove them for any purpose what so ever.

Raymond Clement said he knows they don't have any curbing on the outer edges to allow for run-off to enter the infiltration swale. He said he would like to see some granite curbing there with breaks in the granite to allow the water to get out. Otherwise these cars are going to be parking into that infiltration system right from the get go. Mr. Pratt said the applicant is okay with sloped granite and they can do the curb breaks to allow the storm water. Chairman Hendershot said if the Board grants them the variance, will that be something that will be talked about at the Planning Board, about what that wall looks like. Raymond Clement said he thinks the Planning Board would address something like that. Brian Pratt said there is some existing granite. Chairman Hendershot said he would just like to make it look nice because he hates ugly parking lots. Brian Pratt said there is existing granite out there that they were probably going to re-use so it would be like a granite wall. Chairman Hendershot said he knew they would have to go before the Planning Board. Raymond Clement said he didn't know how high that wall is and wondered if they were going to need some type of railing to keep people from going over the edge. Brian Pratt said it was only about a foot and a half, under the thirty inches which would be where the railing would be required, so no railing. Mr. Clement said he is a little older than some of the young guys there and if he takes a flip at night off a thirty inch wall, he might break something. Mr. Pratt said it is only about eighteen inches.

Jose Lovell asked if Mr. Pratt could just summarize what is new in the packets he handed out. Mr. Pratt said he thinks the only change is in the lighting plan. He said originally they submitted a plan with two light poles that were twenty feet in height and he missed the fact that there is a limited activity buffer because it is a residential zone and they are limited to ten foot poles. He said they added two additional poles so there are four light poles around the perimeter and those are all ten feet in height and are LED, shielded and downcast. He said he wasn't sure if the Board was going to have the full set printed or not or just the single page so that is why he brought the whole packet. It is better to have too much than not enough.

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

Chris Trosin said he owns CCCV Realty Trust and 272-274 Manchester Street which is directly across the alleyway from Londonderry Lane so literally right across so he is basically an abutter. He said he was okay with the building being torn down because there were a lot of vagrants in there and it is blighted. He had no issue with it. The one thing that concerns him is the traffic pattern going into Londonderry Lane. There is no exit off of Hanover Street so all that traffic is going to be coming in and out right across the street from his alleyway. He said he is concerned about the traffic pattern and also the lights for this tenants that are there. That is an issue for him and he doesn't know how that works. Brian Pratt said they will be on the Planning Board agenda and they did submit to be in the October meetings, so October 6th should be the public

hearing and lighting and traffic concerns can be brought up with the Planning Board and they will be prepared to address that. He said the lighting is LED fixtures and are only ten feet tall, are downcast and the light spillage doesn't spill over. He said he would be happy to give Mr. Trosin a copy of the plan. Chairman Hendershot said if Mr. Trosin had those types of concerns, he would have to go before the Planning Board and they will discuss all that there. Mr. Trosin said he got a letter in the mail last week and he had to come in from the seacoast. Chairman Hendershot said he understood that, but that is more of a Planning Board deal so when they go before the Planning Board that would be a good meeting to go to. Brian Pratt said if Mr. Trosin would like to stick around he would be happy to chat with him after the meeting as well.

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

Raymond Clement made a motion to grant the following variance counts for case #ZO-87-2016, sections 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width, 10.06 (A) Parking Layout, 10.07 (G) Landscaping and 10.07 (K)4 Parking Screening which was seconded by Vice Chairman Dupre. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier

Nays: Lovell

Upon a split decision the variance was granted.

11. **ZO-88-2016**
1852 Lake Shore Road
R-1A Zoning District, Ward 6

Joseph Wichert (Agent) proposes to subdivide property into 2 lots and maintain a 2-family dwelling on the parent parcel known as Tax Map 485, Lot 13 which will be 21,539 SF in size where 25,000 SF is required, with 137 feet frontage where 200 feet is required and a side yard setback of 21 feet where 40 feet is required. On new lot (Tax Map 485, Lot 13A) the proposed driveway is located within 50 feet of wetlands in the Lake Massabesic Protection Overlay District where not allowed and seeks a **variance** from Sections **7.11 (C)2** Prohibitions Within the Lake Massabesic Protection Overlay District at Lot 13A, **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width and **6.03 (C)** Side Yard setback at Lot 13, of the Zoning Ordinance, as per documents submitted through August 19, 2016.

Joseph Wichert said he was in attendance on behalf of Leclerc Family Revocable Trust of 2000. Along with him was Brian Leclerc who is one of the trustees along with his sister Linda O'Keefe who is unable to attend this evening. Mr. Wichert said Mr. Leclerc passed away in April of this year and this is an attempt to liquidate the estate. He said the subject property is Lot 13 on Tax Map 485. As it is currently configured it has almost 313 feet of frontage and approximately just a hair under two acres of area. The subject property is in the R-1A zoning district which by right for normal single family lots requires 100 feet of frontage, 12,500 square foot of lot area. What they

are proposing is to carve off one lot with the existing house and create one new building lot on the two acres. The reason they need the variances for the existing house is that that house which according to City records was built in 1900 is a two-family and therefore pre-dates the zoning requirements which doubles their frontage to 200 feet, doubles their acreage to 25,000 square feet and doubles their side yard setback to 40 feet. Mr. Wichert said they could have done that and made the lot fully complying, but what it would have done was cause more problems with the new lot. They tried to balance it out and get some zoning relief for the existing house, still try to comply as much as they could to the Ordinance for the other section of the R-1A district and then create a new complying lot that could be built on.

Joseph Wichert said the only reason they need zoning relief for the new lot, Lot 13A is because this property is in the Lake Massabesic Overlay Protection District. Because it is in that district, instead of the standard 25 foot wetland setback, you now need a 50 foot wetland setback and an impervious area buffer. He said if you look at the plan, currently there is a driveway that goes up the hill to the existing two-family and just south of that there is a parking lot that was built. What they are looking to do is to more or less center a proposed driveway for the new lot on that existing curb cut. What this will do is allow them to cut back that asphalt somewhere between eleven and thirteen feet. In that area they are going to actually increase the setback to the wetlands. They are going to break the connection between the driveways and allow a ten foot separation for the driveways. It is sort of a rural area and he thinks rather than having the driveways kind of run up together, this would be more in keeping in character with the neighborhood. Mr. Wichert said they have to get zoning relief in order to put a driveway in pretty much no matter where they did it.

Mr. Wichert said where they were here anyhow, they are looking to create a 1½ acre lot. He said what they have done is on the plan, they are showing the fifty foot existing setback impervious area limitation. He said they have shown a 25 foot proposal and what they are looking to do is make the 25 feet both a setback and a buffer. In the undisturbed buffer, there would be no impervious, no mowing, no driveways or anything else that would normally be allowed for in the wetland setback. They met with the Conservation Commission and they would like to go out and do a site walk and he said he thinks that is scheduled for September 17th. They are working back and forth with the Water Works in order to get their support on the project and he thinks they have come to a point where they have their support. What that is going to do is amend their application so rather than having a 25 foot setback, Water Works was more comfortable with a 30 foot setback. There would be a 30 foot setback and in that setback would also be a buffer, so they can't have any disturbance and has to be maintained as is. Mr. Wichert said the other item that they requested was in the areas where they are going to be less than 50 feet from the wetlands, they have to construct a fence at the 30 foot marker so there can be no further intrusion into the undisturbed buffer. He said he thinks that Michael Landry was cc'd on the e-mail traffic that was going around that afternoon and he thinks where they are at is they looked at minimum 2½ foot tall either picket, or stockade fence and the color, size and material can be selected by the builder.

Joseph Wichert said the only other thing is they also agreed with the stipulation of either no fertilizers or low phosphate fertilizers in that area. He said that would be a condition should the

Board approve this variance and it would be carried through on the plan and in subsequent deeds.

Joseph Wichert said they are looking for zoning relief on the two-family but what they point the Board's attention to is that although it doesn't comply fully with the other requirements it has almost 40% more frontage than what the minimum is and it is 9,000 square feet over what the single family was. During the zoning review they had inaccurately shown the side yard setbacks as 20 feet and Glenn Gagne noted that because it is a two-family that setback should have been 40 feet and that was how the application was noticed. He said they are in agreement with that and that is fine.

Chairman Hendershot turned the hearing over to the Board.

Chairman Hendershot asked Michael Landry how they could table this. Michael Landry said a motion would do it. Chairman Hendershot said the Board doesn't have the Lake Massabesic Protection Overlay District subdivision approval. Michael Landry said it part of the Zoning Ordinance and they are seeking from that part of the Zoning Ordinance from this Board. Chairman Hendershot said he understood that, but Mr. Wichert said he made a deal but there is nothing in writing. He said he doesn't necessarily have a problem with it. Michael Landry informed Chairman Hendershot that he just handed him e-mail correspondence that went between Joseph Wichert and the Watershed Forrester from Water Works whose name is John O'Neil. He said they copied him on that. He said Joseph Wichert's representations are what he believes them to be. He believes them to be true and accurate. He said he also spoke to John O'Neil today, not at the conclusion of where they finally got to, but John was getting comfortable with what Joe was proposing that his setback would also be a buffer. There would be absolutely nothing in there. Chairman Hendershot said he didn't doubt Joe's veracity. He is saying the Board now has an e-mail that they didn't have before. Michael Landry said John O'Neil wasn't going to even show up tonight. He was just going to remain silent so this Board doesn't need Water Works to weigh in on things. He was kind of on the fence and Joe was able to get him to say that he was okay with a 30 foot setback with a 2½ foot fence. Michael Landry addressed Joseph Wichert and said he knows the discussion of fertilizer came up and asked him if that was resolved. Mr. Wichert said they will agree to that because he thinks that is going to be one of the issues the Conservation Commission is going to ask for so they are fine with that.

Mr. Wichert said just a little back story, he said the Overlay District is a relatively new section in the Ordinance, being about five or six years old. He said it excludes any lots that are under 12,500 feet. This lot, because it is an acre and a half has to adhere to it but if you have a lot that is on the back side of this, a smaller lot that doesn't meet Ordinance, they don't. He said this is probably their second one that they have done on this and when they talked to Water Works their approach to this is that it sort of gives them input as to what they like to see that impacts Massabesic. He said they weren't trying to do anything that would have a negative impact on Lake Massabesic, but their belief is that whether you have a 25 foot buffer or there is a 50 foot buffer he doesn't think there is any study that says there is an improvement in water quality on that. In this particular case where you have a roadside ditch on Lake Shore Road which this feeds into and runs north for 1,000 feet, he doesn't think there is going to be a negative impact by the

development of one single family house and improvements. One of the parts of this proposal is they are actually increasing the distance from the edge of wet with the new driveway. If the Board would be so inclined, they could shift that driveway closer to the new lot line. What they were trying to do is balance it out so if you were driving down Lake Shore Road, the driveways wouldn't be right on top of each other. Chairman Hendershot said he got all that.

Chairman Hendershot asked the Board how they felt. Matt Routhier asked if the Board typically waited until they get input from the Conservation Commission although it probably won't change, it makes sense to have them provide their input prior to the decision of the Board. Chairman Hendershot asked Mr. Routhier if he would like to table this case also. Mr. Routhier said yes.

Raymond Clement said he didn't think the Board had to table this case. He said Joseph Wichert has been around long enough and we know he is good on his word. Chairman Hendershot said he doesn't doubt Joe's veracity but then the next guy comes along and says, well, you let Joe do it.

Michael Landry said Joe asked whether the hearing should wait for the Conservation Commission. He met with them but then they wanted to do a site visit and with schedules and the holiday weekend and all this stuff resulted in the fact that they couldn't meet until after the ZBA Meeting. He said Joseph Wichert asked if he should pre-emptively get this tabled until after the Conservation Commission. He spoke with the Director and the answer was no, there was no reason to delay this based on the Conservation Commission. The Conservation Commission is advisory and they will comment at the Planning Board and again it is up to the Board. The Board can do what it wishes.

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

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

Brad Johnson said he actually lives in New Boston but he was in attendance with his mother, Patricia Johnson who is the abutter just south of the property. He said they are not necessarily objecting to this whole deal, but they just have some concerns, mainly about the impact of what a house will do to the topography. He said his mother's house has been there since 1957 and in that time, the neighbors on both the north and south side have raised the elevation. The neighbors prior to the Leclercs are the ones who did the increase in elevation. The Leclercs did not do that. The neighbor to the south has increased the elevation and his mother is basically sitting 400 yards from Lake Massabesic and a lower lying area abutting this wetland that was previously discussed tonight. His mother has had to install a waterproofing system in her basement and a French drain around her basement to stop the constant flooding. He said they spoke with Mr. Wichert and Mr. Leclerc before about what is going to be done to the lot with this new house and Mr. Wichert doesn't know if they are going to be cutting in or if they are going to be bringing in fill to create a plateau for the new house. He said they would just like the Board to consider the impact of this lot on his mother's lot and the fact that she has a lot of problems with

water in her basement. He said they don't want anything to happen that is going to make it even worse.

Chairman Hendershot turned the hearing back over to the Board.

Vice Chairman Dupre asked Joseph Wichert if he had any ideas for the house to be built on the new lot or is he just looking to do the subdivision at this point. Joseph Wichert said they do not because Mr. Leclerc was saying the possibility might be for him, but there is no buyer identified. The main part is probably to sell the house faster than it is to sell the lot. Vice Chairman Dupre asked Mr. Wichert if he had any idea where he wanted to put the house. Mr. Wichert said they talked about it and he thinks if you were standing on Lake Shore Road looking in at the property, sort of to the left of the existing house, maybe right where they have the label that says the lot area. Somewhere in that area. He said obviously, they don't want it directly parallel with the road because they would be looking straight into the back of the existing house. Mr. Wichert said Brian Leclerc probably has some better ideas.

Brian Leclerc said their vision is really to have a small colonial with maybe a two-stall garage facing the lake. Right now when the leaves aren't on the trees, it is a fantastic view. He said you can see the geese coming in and the planes coming off and at night you hear everything. Mr. Leclerc referred to the plan and said if you are looking at the existing house just to have it right there so that we aren't tucked behind the house. Vice Chairman said his question was more related to where the house was going to be in relation to Patricia Johnson's house. Mr. Wichert referred to the GIS map and said the Johnson house is sort of tight to the road and they don't have the new lot lines in there but probably where the two out buildings are, somewhere in there. He said what would probably end up happening is the current surface flow is down to the southwest, maybe a little bit to the east. Obviously, where the driveway is, that is probably going to pitch to the road. Some of that will pitch to the south where the existing grade is but he thinks what would happen is there are two threads of the stream, as shown on the GIS, and he thinks they will be in the more northerly one. That carries through and goes into the cross culvert and then goes north on Lake Shore Road.

Chairman Hendershot asked if there was any interest in dividing this up and voting on all the variances except 7.11 (C)2 and tabling 7.11 (C)2 to make it easier when they come back. Raymond Clement said he thought what he heard previously is that the Conservation Commission is an advisory board and he was of the understanding that the Board could proceed with an action. Mr. Clement asked Mr. Wichert if that was correct. Mr. Wichert agreed and said he thought that the difference with this and a normal wetlands reduction is if we are less than twenty five feet, he knows historically the Board has asked for Conservation input but they are actually going to be thirty feet. He said they are in that gray area where they are less because of the overlay. The Conservation Commission wanted to go out before they would weigh in with an opinion, but they did ask and they spoke to Michael Landry and he thinks he spoke to Staff and that's why they went forward. He said he thought with the support of Water Works they can deal with the conservation issues at the Planning Board level.

Raymond Clement made a motion to grant the following variance counts for case #ZO-88-2016, sections 7.11 (C)2 Prohibitions Within the Lake Massabesic Protection Overlay District at Lot 13A, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width and 6.03 (C) Side Yard setback at Lot 13 which was seconded by Matt Routhier. (Motion Carried)

***Yeas: Hendershot, Dupre, Clement, Routhier, Lovell
Nays: none***

Upon a unanimous decision the variance was granted.

12. **ZO-89-2016**
235 Hanover Street
CBD Zoning District, Ward 3

Scott Aubertin (Agent) proposes to erect a projecting sign 20 feet in height where projecting signs larger than 8 feet in height are prohibited and seeks a variance from Section **9.07 (F)** Signs, of the Zoning Ordinance, as per documents submitted through August 22, 2016.

Scott Aubertin of 107 Hollis Street said they are proposing a twenty foot tall vertical banner sign for this building. He said they have met some challenges in trying to sign the building because of the architecture of the building. There is not a lot of real estate between windows and architectural detail to do signage that will have the impact that they want it to have there. He said they have positioned the sign at a 45 degree angle off the corner toward the intersection so they get good visibility from all areas. The real purpose is to generate real interest in this building. It is a very progressive use for this building and they want to make sure it is visible and is exciting to the demographic that they are targeting the property toward.

Josh Hamel of 51 Riddle Street said like Scott Aubertin said, it is a progressive use of the building. He said they have basically built 32 apartments and 5 office spaces with a café space. With the Asian market that was recently built next door, this whole corner of this neighborhood has been changed. With the finishing of this building it is going to kind of put this last little piece on that. Chairman Hendershot said he knows they did a great job but what is the reason for the sign. Mr. Hamel said the sign they have always kind of imagined there being a draw toward because a lot of this is walkable, there is not a lot of parking for this space. A lot of the tenants that are moving in don't have vehicles. He said walkable, bikeable Manchester is what they are really promoting. Having kind of a visual landmark down on that street as they have always imagined it creating a draw down to the café space down there because it is open to the public and drawing people down towards the park. The Hanover corridor is what they have been talking about a lot and he feels that a sign that is very visible from a distance will help that draw.

Scott Aubertin said they really felt that they designed it appropriately sizewise for the building where that is going to be the sign for the whole property and aesthetically so it has a really contemporary look and works well with the building. Chairman Hendershot asked if this was going to be like a canvas banner sign. Mr. Aubertin said it is going to be a fabric banner. He said

they have done this very successfully on Not So Plain Jane's, the YMCA, SNHU and a number of different locations.

Vice Chairman Dupre asked Mr. Aubertin to talk about the hardship prong to this. How do you justify having a sixty square foot sign at an intersection that has a funeral parlor on one corner which has a very small monument sign and a church on the other corner that has a monument sign and a park that has a little placard, he thinks, for Bronstein. He said it is not like they are trying to stick out. He said the Board approved a banner for a sign for the highway which was eighty square feet. He asked why they need sixty feet. Mr. Aubertin said sixty square feet sounds like a lot of square footage but it is basically a very narrow vertical sign. What they are seeking a variance for is actually the height of the sign in that district. It is only allowed to be eight feet. Vice Chairman Dupre asked how tall the building was. Mr. Hamel said it is approximately fifty feet. Vice Chairman Dupre said basically, almost half the height of the building is going to be this banner. Mr. Aubertin said you can see from the illustration, at least to him, it doesn't look overpowering to the building where they have it positioned on there. Vice Chairman Dupre said he just questions the need for it being that big because then somebody else is going to say "well, I need to get a big sign." Chairman Hendershot said it really doesn't have anything to do with whether it is proportional to the building, it has to do with signage in the downtown area. That is why we don't have billboards and all these other big signs. Vice Chairman Dupre said he just wanted to hear about the hardship and said he doesn't really know if he got the answer.

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

Chairman Hendershot turned the hearing back over to the Board.

Chairman Hendershot said he didn't particularly like the size of the sign. He said he would be open to a smaller sign, larger than eight feet, but he is having a problem with twenty feet.

Raymond Clement said he agreed with Chairman Hendershot. He said he thought a smaller sign would still be appropriate for that building and it will still be noticeable. He said he thought that the proposed sign would be kind of overwhelming for the area. He said a smaller sign, maybe in the same design with the forty five degree angle but maybe instead of twenty feet, go down to ten feet or eight feet or something like that. He said he thinks it would still be very, very visible. Chairman Hendershot said he liked the forty-five degree angle part. Raymond Clement said he also likes that. Chairman Hendershot said eight feet may be a little small for the building. He would think about twelve feet. He said he doesn't like big projecting signs anyway.

Vice Chairman Dupre asked if this was going to be illuminated in any way. Mr. Aubertin said it would not be illuminated. Mr. Aubertin said something to keep in mind is that the square footage on these signs is normally, he believes in this district, calculated at ten percent of the square footage of the building. Chairman Hendershot said that was when it is on the building. Mr. Aubertin said the limitation for the eight feet, he thinks, is for a projection sign specifically. He said they are well within the ten percent but they are exceeding the height and making it long

and narrow. Chairman Hendershot said there is a big difference between a projecting sign and a sign on the building and that is why there is two different sign Ordinances, because it is a big difference. Scott Aubertin said he is not sure then how the square footage of a projecting sign is calculated. Chairman Hendershot said if it is stuck to the side of the building that is one thing. Josh Hamel said herein lies the problem, they don't have the real estate on the building. Chairman Hendershot said he understands that. Mr. Hamel said he thinks this is for them, the vision of this building and part of the branding of the building itself. He said he has worked with Mr. Aubertin to kind of finalize this branding and this is the last piece.

Vice Chairman Dupre said given it is only three feet wide, fifteen feet is a little more proportional than eight or ten feet unless the rest of the Board thought twelve feet was appropriate. Raymond Clement said he would go for fifteen feet also. He said he thought they did a great job on that building and he said they appreciated that. He said that sign the way they are presenting it now is a bit overwhelming. Chairman Hendershot agreed. Scott Aubertin said he thought fifteen feet would probably be adequate for what they are trying to achieve. He said he thinks going any smaller than that wouldn't really be worth putting it on that corner as he thinks it wouldn't be visible enough. Chairman Hendershot said Mr. Aubertin wants fifteen feet and he wants twelve feet. Scott Aubertin said if they scaled that proportionately it is going to be narrower as well. They aren't going to make it shorter and keep it the same width, they would scale it down. They would go to fifteen feet to whatever width would work out there.

Jose Lovell said he thinks the fifteen feet they are proposing now is a little bit more reasonable.

Jose Lovell made a motion to grant the following variance count for case #ZO-89-2016, section 9.07 (F) Signs with the stipulation that sign is to be limited to fifteen feet in height which was seconded by Raymond Clement. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: none

Upon a unanimous decision the variance was granted.

13. **ZO-90-2016**
286 Prospect Street
R-2 Zoning District, Ward 2

Glen Brehio (Agent) proposes to build a 386 SF deck with a 3.9' side yard setback where 10' is required and seeks a **variance** from Section **6.03 (C)** Side Yard Setback, of the Zoning Ordinance, as per documents submitted through August 23, 2016.

Glen Brehio of TAAG Home Improvement, 38 Taylor Road, Hopkinton, New Hampshire said they are just looking for a variance to put a small deck on the back side of the house. The deck is pretty much going to be in line with house. Chairman Hendershot confirmed with Mr. Brehio that the deck would not be sticking out any further than the house.

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

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

Chairman Hendershot turned the hearing back over to the Board.

Vice Chairman Dupre made a motion to grant the following variance count for case #ZO-90-2016, section 6.03 (C) Side Yard Setback which was seconded by Matt Routhier. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: none

Upon a unanimous decision the variance was granted.

Chairman Hendershot asked if there was anyone present in the audience for 496 Merrimack Street or 809 Brent Street. There was no reply. Michael Landry said he would like to make an announcement regarding these two cases. He said he would like it read into record that “the Board will hear 496 Merrimack Street which is case #ZO-82-2016, as well as case #ZO-80-2016, 809 Brent Street. Both of these cases will be heard at the next public hearing on October, 13, 2016 at 6:00 pm here at City Hall.”

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

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: none

Vice Chairman Dupre made a motion to open the business meeting which was seconded by Chairman Hendershot. (Motion Carried)

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: none

III. BUSINESS MEETING:

1. ADMINISTRATIVE MATTERS:

1. Review and approval of the Zoning Board of Adjustment Minutes of August 10, 2016.

Raymond Clement made a motion to approve the minutes of August 10, 2016 with Amendment which was seconded by Chairman Hendershot.

Yeas: Hendershot, Dupre, Clement, Routhier, Lovell

Nays: None

2. Any other business items from the ZBA staff or Board Members.

Michael Landry said he was handing out a letter from Quirk stating how much they appreciate working with the Board and apologizing for missing the last hearing. Mr. Landry said there was a medical emergency with a child.

<p>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.</p>
