



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

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MANCHESTER ZONING BOARD OF ADJUSTMENT VIRTUAL PUBLIC HEARING / BUSINESS MEETING MINUTES Thursday, August 13, 2020 – 6:00 p.m.

Board Members Present: Chairman Robert Breault, Vice Chairman Jose Lovell, Michael Simoneau, Joe Prieto

Alternates Present: Alderman Keith Hirschmann, Anne Ketterer, Guy Guerra

Excused: Alderman Jim Roy

City Staff Present: Michael Landry, Deputy Director of Building Regulations
Jonathan Golden, Senior Planner
Sheila McCarran, Administrative Assistant II

Note: PUBLIC COMMENTS may be submitted at any time up to the close of the public hearing for each case by email sent to ZBA@manchesternh.gov or a voice message called into (603) 792-6736. All comments must include your name and address and the case number.

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

II. PUBLIC HEARING:

(Current Items)

Chairman Breault announced that Board Member Alderman Jim Roy was not present this evening and Alternate Guy Guerra would be a voting Member this evening.

Michael Landry announced that last month we had a case for property located on Straw Road, Tax Map 890, Lot 3D and the applicant has withdrawn that application. Again that application was for six duplex units and the application has been withdrawn. He said anyone listening for Straw Road this evening that case will no longer be heard.

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1. **ZBA2020-055**
50 Joshua Drive, R-1B Zoning District, Ward 8

Phuong V. Le proposes to create one new front yard parking space within 4' of the property line and building and maintain a 10' x 10' shed in the rear yard 2' from the side lot line where 4' is required and seeks a variance from sections **10.09(B)** Parking Setbacks and **8.29(A)3** Accessory Structures and Uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through June 24, 2020.

Michael Landry said before we get started, he asked Chairman Breault if Mr. Le could be heard. He said he knew he was having trouble earlier and he had a friend call, but it seems like he is still having trouble. Chairman Breault said he was. Mr. Landry said with that, he would suggest that the Board proceed as far as they can and if there are any questions for the applicant, he would call him and report back.

Chairman Breault turned the hearing over to the Board.

Guy Guerra said one of his questions is if there was going to be an additional curb cut. He said he was looking at the photo of the property and he just wasn't sure if there was going to be an additional curb cut. Chairman Breault said if the Board were to grant him an expansion of his driveway, he would be allowed 24'. He said having viewed the site, there are many other abutters and neighbors in his immediate neighborhood that have at least 24' curb cuts. He said he didn't think that it would be unreasonable that he would expect that if we grant him this variance.

Chairman Breault turned the hearing over to the public and asked staff if there was any correspondence either in favor of or in opposition to this application. Michael Landry said there was no public comment on this application. Chairman Breault turned the hearing back over to the Board.

Vice Chairman Lovell said he didn't see dimensions on the parking spaces. He asked if we knew what those dimensions are and whether or not they are in the right of way. Michael Landry said they are not in the right of way and they are full size, compliant parking spaces. They would be called under Parking Layout for being smaller and the property line is shown and the parking spaces are within it but they are within the 4'. He said if you look at the GIS, you can snap a rough line from the edge of the property line to the travel way which gives them what looks to be another almost 10'. He has another 10' of yard or right of way so the property line does not coincide with the travel way. There is another 10' of buffer there. Vice Chairman thanked Mr. Landry and said he couldn't tell if that was the edge of the street or the property line.

Chairman Breault said on the drawing that Jonathan Golden put on the screen, you will notice in the bottom right corner that he is considering his parking spaces being 8½'x18½' so those are full size spaces and they seem to fit. He said that kind of defines what he is looking

for a curb cut as well, roughly 17' or 18' which is within the Ordinance.

Vice Chairman Lovell said he had a couple more questions. He said as for the shed, he wanted to ask the applicant if he had spoken with the neighbor about the location of the shed and if the shed was movable. He asked if we had to call the applicant up to get those answers. Mr. Landry said yes, that is the best way at this point. He asked Chairman Breault if he would like him to do that. Chairman Breault said yes, please do.

Chairman Breault asked if there were any more questions from the Board while Mr. Landry was making that call. There were no further questions from the Board.

Chairman Breault announced that Board Member Joe Prieto appeared to be off line and he was going to ask Anne Ketterer to vote in his absence.

Vice Chairman Lovell said while we are waiting he thought he would make a comment about the parking. He said he thinks it seems reasonable and there is really only space for two cars there and just one driveway space doesn't really seem to be enough. He said he just wanted to find out a little bit more about the shed if we could. Chairman Breault said the applicant really has nowhere else to go being on a corner. There is no room on Hoyt Street to provide parking and you can't get any closer to the corner without there being another violation on other non-conforming issues. That is about the only place you can go.

Michael Landry said he called Mr. Le's number and it went straight to voice mail and he left a message. He said he didn't think we could really wait so if that is an issue that we need to hear from the applicant, he thinks the Board should consider tabling the matter. He said he would leave it up to the Board.

Michael Simoneau said he was just going to add that he actually drove by this lot and you can see the hardship with respect to the corner lot. He said he thinks it is in the spirit of the Ordinance and the two driveways will give them ample parking. He said it is also common to the area and he is in support of this if the Board decides to move forward. Chairman Breault said he thought it was unreasonable to postpone this and prolong this. He said the abutters all had the opportunity to view this case as they were notified and nobody came forward, so he thinks the Board should make a motion and continue.

Michael Landry said he got a call back from the applicant and he said he did speak with his neighbor and the neighbor said he was ok with the shed. He is looking at the plan, if there is any concern that it is the neighbor to the north, his rear lot line, that dimension there is 4'. That is conforming. The real issue is in the side yard where it is less than 4'. He also said the shed is a pretty well-built shed and wouldn't be easy to move it. It is not a small plastic shed or something like that.

Vice Chairman Lovell said he is glad that the Board addressed that. He said the shed was right up against the house basically with the house being on or over the property lines so he didn't want to brush past it without at least addressing it. He said he thinks this case is

reasonable and it meets the five criteria.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-055, 10.09(B) Parking Setbacks and 8.29(A)3 Accessory Structures and Uses which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the variance was granted.

2. **ZBA2020-064**
50 Chalet Way, R-1B Zoning District, Ward 2

Ross Boisvert proposes to establish a restaurant use and function facility, both serving alcohol, at the existing ski area lodge with interior and exterior seating and game areas and seeks a variance from sections **5.10(G)2** Restaurant of Greater than 5,000 Square Feet Serving Alcoholic Beverages and **5.10(G)3** Function Center of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through June 30, 2020.

Ross Boisvert said he thinks the documentation was presented to the Board. He said they have been planning this for four years. They have done weddings and functions and everything in compliance with their management agreement with the City of Manchester. He said dealing with weddings and functions, it becomes pretty competitive with other venues around the area. After a lot of thought and looking into operating an indoor-outdoor restaurant during the summertime, this is what they have come up with. It is going to be more consistent, it is going to allow many, many people to enjoy the facility and it gets people outside during a pandemic like what we are dealing with right now and enjoy outdoor dining. He said they have large grassy areas that they have set up. They have corn hole and horseshoes and different yard games.

Mr. Boisvert said this whole project has been modeled off of a ski area down south of us, Nashoba Valley. They have a very, very successful venue. He said they have a smaller version of what Nashoba Valley is doing and they will have music on Friday and Saturday evenings and the music that they will be providing will be somebody playing the guitar or somebody playing the piano and singing. It will be just more background music than anything else. It is not going to be any sort of rock bands or any loud types of music. It is going to be very easy listening and enjoyable. They are just doing this to provide a venue for all of our neighbors and the people of Manchester.

Chairman Breault turned the hearing over to the Board.

Michael Simoneau asked Mr. Boisvert if there was anything being done to the top of the mountain. He said he knows one of the abutters expressed concern with the top of

McIntyre. Mr. Boisvert said nothing as of right now. He said there are possible plans in the future for the fall. He said they had many requests for them to run the chairlifts up to the top so people can unload and then walk through the path to Western Tower and hopefully utilize that in the future, but nothing as of right now. Mr. Simoneau said he knew there are trails up there. He said he has been on them himself and asked if there was going to be any snack bar or liquor sales or anything like that on top of the mountain. Mr. Boisvert said no. Mr. Simoneau said he thinks that will satisfy one of the abutters there.

Vice Chairman Lovell said one of his questions was going to be about the reduced noise level and what exactly that meant, and he thanked Mr. Boisvert for that explanation. He said it also says they are going to have not just bands but DJs, so would the DJs be restricted to a certain type of easy listening music and would the bands have amplified speakers. Mr. Boisvert said they decided not to use DJs. That is something that is not going to happen. They have decided that they are just going to be doing easy listening music. There are not going to be any DJs. In the winter time when they do what is called their "One Great Rate" where people can do skiing, tubing or snowboarding for one price. He said they have had music outside and they have had DJs, but it is not super loud and it is wintertime and everybody's windows are closed during that time. He said they won't be having a DJ there in the summer. He said it is really not conducive to what they really want. It is just like he said, it is going to be somebody playing the piano, playing the guitar and singing. It will be background music and if a couple wants to get up and slow dance, they can certainly do that. It is not going to be any sort of night club activity. It is just very, very low key.

Vice Chairman Lovell asked if the noisy activity be restricted to any particular area on the mountain. Mr. Boisvert said it is all going to be down the base area. He said they have a small stage set up, that projects from the west to the east, across the lawn area. Vice Chairman Lovell said it would be limited to the stage area. Mr. Boisvert said that was correct.

Guy Guerra asked Mr. Boisvert what the hours of operation were. Mr. Boisvert said currently they are running Wednesday through Friday from 4:00 pm to 9:00 pm, Saturday, 12:00 noon to 9:00 pm and Sunday 12:00 noon to 8:00 pm. Mr. Guerra said then 9:00 pm is going to be the latest that you are going to be open on any given night. Mr. Boisvert said they stop serving at 9:00 pm and people will finish their meals or beverages and they may linger until 9:30 pm and finish like any restaurant would do after you stop serving. Music will stop between 8:30 pm and 9:00 pm.

Chairman Breault turned the hearing over to the public and asked staff if there was any correspondence to this application. Mr. Landry said there were a number of emails and some of them are longer than others and he would do his best to get through them as completely and efficiently as he could.

Mr. Landry said the first is an email from Vanessa Dionisio and it reads:

My name is Vanessa Dionisio and I live with my husband Arthur Dionisio at 57 Kennard

Road, directly behind the McIntyre parking lot. I write to you concerning the public hearing for Ross Boisvert regarding case ZBA2020-064 of which we are completely supportive of Ross's request to establish a restaurant and function facility. We've lived here the last 6 years and find The Hill Bar and Grill is a fantastic entertainment addition to the City and our neighborhood. Frankly, we're thrilled to see this location serve a functional purpose throughout the summer, as it does in the winter months. While there is no shortage of restaurants in Manchester, there are very few that offer such a beautiful view and entertainment that the entire family can enjoy. Please consider granting Ross's request to make The Hill a permanent fixture here, as I know we would be incredibly sad to see it go.

Vanessa and Artie Dionisio

Mr. Landry said the next one is from Ken Berry and it reads:

My name is Ken Berry. I have resided at 33 Laurmand Way since 2007, abutting the McIntyre Ski Area. I'm perhaps the ski area's closest neighbor, being the blue/gray house seen from the tubing trail.

In short, I think that this is a fair and reasonable request.

I've always envisioned myself as being in a partnership with McIntyre. Sure, there is some noise associated with the operation of a ski area. Most noise needs to occur overnight, but in return the property is minimally developed providing me with a setting unlike anywhere else in the City. My best chance at maintaining this setting is for their business to succeed.

There's always a concern when a neighbor makes such a request, but the ski area has already had music at various functions during my time here. In my opinion, the volume level has been reasonable and it doesn't go late into the evening. I'm confident they will continue to be respectful neighbors.

Ken Berry

Mr. Landry said the next correspondence is from Gayle Sarro and she writes:

Hi, this is in regards to the meeting concerning a request from Ross Boisvert (applicant) to establish a restaurant at 50 Chalet Way.

Our resident, 41 McIntyre Court abuts the ski area and we fully support Ross's restaurant.

We ourselves have been to The Hill and quite enjoyed the social distancing it maintains, the safety cautions they have taken, the food, the live music, in other words, the whole package.

It is joyful in these stressful times to hear soft music coming up the mountain and hearing people's laughter.

We sincerely hope that the City of Manchester votes to let this establishment continue as they have been for the most considerate of neighbors.

**Sincerely yours,
Michael and Gayle Sarro**

Mr. Landry said the next was from Laura Plum and she writes:

I am an abutter to the Hill and McIntyre Ski Area. My residence is 32 Laurmand Way. Overall I've always felt that the ski area is a pretty good neighbor to have. Yes, there's noise. Snow gets made at night because of the temperature. Then you have a big pile of snow that needs to be spread around before they open, so ski areas are busy places overnight. In exchange for putting up with the noise, I like that the property maintains limited development which I think gives our neighborhood a setting unlike anything else in the City.

I think it was 2008 when the operations of the ski area went private. Since then, I have had this fear that now the business actually needs to be sustainable whereas prior, the City had been running the area at a loss. I hate to think about what would happen to that property if the ski area doesn't survive. At the very least, I think we would see an increase in vandalism and drug activity. In a worst case scenario, a homeless camp. None of which is my desire.

Because of this fear, I have always envisioned myself as being in a partnership with the ski area. What is it that they need in order to be sustainable vs. the inconvenience and annoyance that I can tolerate. I think the Spring Fling is a good example. If they did that frequently, I would be out of my mind. One weekend a year, I can deal with it. Even embrace it.

I think this request is consistent with what other ski areas do in the summer. Perhaps I'm more tolerant of the associated noise. My husband and I had dinner at The Hill on Saturday night and frankly, it was very enjoyable. Outdoor seating, very pleasant music and GREAT food. This is exactly what Manchester needs. I envision the fall, spring and summer to be very pleasant there. I fully support this move.

***Thank you,
Laura J. Plum***

Mr. Landry said Andrea Hoben of 190 Oak Hill Avenue writes:

My only opposition would be if there are plans for the top of McIntyre Ski area. If all these restaurant plans only concern the base and the base lodge, I have no objections to it. If for any reason he has plans to expand dining or build anything at the top of the McIntyre Ski Area then I would object. The area affects western observatory and there are a lot of trails that basically lead back to my property. That is why I am getting the notice because I am

an abutter. Again, if it is simply the base of the ski area I am fine with that but if in any way it affects the top of the ski area, the top of the chair lift, than I would be in objection to it.

Michael Landry said the next letter is in opposition to this application. He read it into record:

Our names are Del Aube and Suzan Hock. We have been residents since June 2018. When we purchased the property we knew that the property abutted McIntyre Ski Area. We understood that we would likely hear snow guns for the better part of the winter, day and night, not to mention the machinery grooming the hill, etc. We have a beautiful sunroom that abuts the part of the slope where kids use for tubing offered at McIntyre. We do enjoy hearing the kids having fun, the laughter and quite frankly, it's nice to see the kids (and adults) enjoy themselves. We have had a few incidents where we've reached out to Ross because staff members were screaming or yelling at patrons to slide down, etc. You would think with windows shut and being winter we wouldn't hear, but we do. Ross was responsive and asked his staff to stop yelling. We were grateful. There have been nights when the grooming machine grooms the hill up to midnight with a huge spotlight on. To our knowledge, McIntyre shuts down around 9:00 pm. Despite the grooming until midnight on some nights, the machine is back out there at 4:30 am. There is a lot more "noise" relating to this small hill that one could ever have imagined. The constant beeping of machine backing up is, to say the least, very annoying and can clearly be heard through much of the night.

Fast forward to March 2019, we received a flyer in the mail informing us that there would be some sort of palooza happening during an upcoming weekend, which would entail four wheelers and motorcycles racing up the hill and that the event would be NOISY. The first year, we left for the weekend. This year we were spared this inconvenience due to Covid. In our opinion, this event should not even be permitted. It has nothing to do with skiing, snowboarding or tubing. It's a loud disruptive event that shows a disregard for the neighborhood.

To our knowledge, 50 Chalet Way is in an R-1B zone. We do not see anything in the R-1B description that relates or permits any type of business such as a restaurant with or without music.

Mr. Landry said they go on to define the definition of the R-1B zoning district which he is sure the Board is familiar with. He continued reading:

Since the purchase of our home on Laurmand Way, we had a beautiful \$15,000 deck built off of the sunroom. The deck was built in May 2020. The back of our yard overlooks the sledding part of McIntyre. During the spring/summer months, when the leaves are on the trees, this buffer provides us with complete privacy and quite frankly, it's nice and quiet. We appreciate being able to enjoy our deck and the yard. The first time we heard music back in July, we were in the sunroom. We made an assumption that it was a neighbor hosting a gathering. However, the following night we heard it again. It just seemed too

unusual that someone would be hosting a party two nights in a row. We investigated it a little further and realized it was coming from McIntyre. One evening, getting off the highway, we notices a sign on the corner of Mammoth Road and Bridge Street advertising live music at McIntyre Wednesday through Sunday. We looked on the website and discovered advertising for this venue had been going on since July 1. I've included the screen shot off his website. We don't understand why the City hasn't shut this down since McIntyre hasn't received approval for this venue.

We would like to enjoy our home and our backyard. The months where the weather allows us to enjoy the outdoors is short and quite frankly, we feel we can't sit outside without having to listen to the bass thumping of music playing. If we can hear the music from our back deck on Laurmand Way, we can only imagine how loud the music must be for the residents off of Bruce, Sagamore, Smyth and Kennard!

We can't stress enough how much we oppose this and urge the Board to meet its civic responsibility and deny this request.

Del Aube and Suzan Hock

Mr. Landry said Mike Sarro from 41 McIntyre Court sent in a second email and then Janet Horvath of the City of Manchester Parks and Recreation Department writes:

I'm speaking on behalf of the Parks Division. We want to let the ZBA know that we support the concept for a restaurant and function facility at McIntyre Ski Area located at 50 Chalet Way in Manchester. This variance would allow a revenue stream for the ski area during the summer.

Any questions, please let me know.

***Janet Horvath
Recreation and Enterprise Manager***

Mr. Landry said there was no further correspondence. Chairman Breault turned the hearing back over to the Board.

Guy Guerra said he had a question. He said we are here for a variance to allow a restaurant to operate and it sounds like it has already been operating.

Vice Chairman Lovell said he wanted to go back to his previous question about amplification of music. He said he didn't recall the answer to that and he knows it was going to be restricted to things like piano and violins or whatever. He asked if that was going to be on a PA system at all. Mr. Boisvert said the people who have been playing did have amplifiers for their voice and guitar and piano. Again, it has not been loud. You can maintain a conversation with your party that you are with. It is not loud at any level. It is only operating currently on Friday and Saturday and again the volume has been very low. He said he is the

one that is going up to them and saying bring it down lower because he wants everybody that is outside to be able to have a conversation with the party that is sitting with them. Vice Chairman Lovell said he appreciated that and said it probably sounds like he has a negative opinion in this case, but he doesn't. He said he thinks it is a great idea. He is just trying to take in mind the abutters. Mr. Boisvert said the reference to the snowmobiles and that event that they had, not this past winter but the winter before, will no longer be taking place. That was his least favorite event just because of the noise level and the clientele that it brought in. That event is not happening any longer in usually the third or fourth week in March.

Guy Guerra addressed Mr. Boisvert and said he has in fact been operating this for how long. Mr. Boisvert said when he found out that they needed to go in front of this Board, they were already in the motion of planning to open up on July 1st. He said they called several different Aldermen and some of the names escape him right now and he is not sure if it was the variance committee or zoning or which, but they kind of got the do business as planned for now until this meeting happened. Guy Guerra said that still doesn't answer his question. He asked Mr. Boisvert if they opened on July 1st. Mr. Boisvert said yes, July 1st is when they opened.

Michael Simoneau said he just wanted to add to Vice Chairman Lovell's question with respect to sound level. He said he has been there on two separate occasions and the music to him, was more of a background music. It was low and they were able to have a good conversation with the other couple and he didn't see that to be an issue. He said he just wanted to add that to Jose's concern with respect to the sound level. He said also, just a quick note, his children learned how to ski at McIntyre. It is a great location and a landmark in his book. He said he likes what they have done and on both occasions that he has been there, it was very clean, the waiters and waitresses were very polite and it was a nice environment. He just wanted to add that.

Chairman Breault announced that Joe Prieto lost his connection and Anne Ketterer would be a voting Member on this case.

Vice Chairman Lovell said he thinks this is great. He said he would like to make a motion to grant this variance but he would like to add a restriction on the hours.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-064, 5.10(G)2 Restaurant of Greater than 5,000 Square Feet Serving Alcoholic Beverages and 5.10(G)3 Function Center with the stipulation that the hours of operation limited to no later than 9:00 pm Monday through Saturday and no later than 8:00 pm on Sundays which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Ketterer

Nays: Guerra

Upon a split vote, the variance was granted.

3. **ZBA2020-059**
805 Belmont Street, R-2 Zoning District, Ward 2

Wallace Pineault proposes to construct a 14'x20' shed in the side yard with a 9' setback from the side lot line where 10' is required and expand existing driveway resulting in two parking spaces 0' from the front lot line and the proposed shed and seeks a variance from sections **8.29(A)2** Accessory Structures and Uses and **10.09(B)** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 2, 2020.

Chairman Breault asked if Mr. Pineault was present. Wallace Pineault said he was. The Chairman asked him if he had anything to add to the presentation. Mr. Pineault said just that the parking is already there in existence, it does hold two cars and will be expanded a little bit more towards the house which will give them even more room. Other than that, everything was pretty much said.

Chairman Breault turned the hearing over to the Board.

Chairman Breault addressed Mr. Pineault and said from his drawing, he is looking for a 20' curb cut, just to make sure we are on the same page. Mr. Pineault said he took it basically from the line of his grass right in the front by the stoop or where the porch is. He said that was close to 18'. He said he didn't know what curb Chairman Breault was talking about. He said if it was the curb in the street, then it was definitely 20'.

There were no further questions or comments from the Board and the Chairman turned the hearing over to the public. He asked staff if there was any correspondence regarding this application. Michael Landry said there was no public comment on this case. The Chairman turned the hearing back over to the Board.

Chairman Breault said this is an old established neighborhood and many of the abutter properties have similar parking situations and closer property lines back when this neighborhood was built. The setbacks are prior to the Ordinance and the setbacks were very limited. He said the applicant really doesn't have much other space to put this without impacting his property. He said it does back up to Hillside's athletic fields and he thinks this is a reasonable request.

Michael Simoneau said he concurred with Chairman Breault. He said he thinks this meets the required criteria.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-059, 8.29(A)2 Accessory Structures and Uses and 10.09(B) Parking Setbacks which was seconded by Anne Ketterer.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the variance was granted.

4. **ZBA2020-060**
255 Melrose Street, R-1B Zoning District, Ward 7

Lauren Lessard proposes to establish a commercial kennel at a single family residence without the required 50' limited activity buffer, with lot area of 10,209 SF where 45,000 is required, with lot frontage of 111' where 150' is required, with a side yard setback of 10' where 20' is required, and create one new parking space in the front yard within 4' of the building and the property line and seeks a variance from sections **5.10(B)5** Commercial Kennel, **6.08(B)9** Screening Buffers, **8.09** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage, **6.03(C)** Side Yard Setback, **10.09(B)** Parking Setbacks and **10.02(F)** Business Parking in a Residential District of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 2, 2020.

Lauren Lessard said she basically just wanted to point out that she was being put into the commercial kennel category and she was told it was because it was the only dog related category that she could probably fit into. However, she is essentially just your local dog sitter. She said she watches dogs as a part time job here and there. It is just a supplemental income. She said she was told that she couldn't make money watching dogs and to her, she was a little confused as to the comparison to babysitting, but she has put all of that into the variance application so if there are any questions, she would be happy to answer them.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Ms. Lessard how many dogs she cared for at any given time. Ms. Lessard said it varies. She said some days she has no dogs and she has had up to eight dogs or so. She said it is very calm. She said she grew up in the neighborhood actually, so she likes the peaceful neighborhood as well. She said she is usually working so she doesn't want it to be chaotic or loud so they usually are either calm dogs or quiet dogs and if there is barking, she breaks it up within minutes so it is not usually anything crazy. She said there are usually two to three dogs a day or so. Chairman Breault asked Ms. Lessard if two to three dogs a day was average. Ms. Lessard said yes. The Chairman asked Ms. Lessard if that was in addition to her own pets. Ms. Lessard said she has one dog of her own. Chairman Breault said then that would add another dog to that. Ms. Lessard said yes.

Michael Simoneau said this was one property he did not drive by. He said he is assuming the chain link fence covers that entire area that the dogs run around in. Ms. Lessard said yes, the whole yard is fenced in.

Chairman Breault said Ms. Lessard had letters in support in here and he asked her if all of

these letters were from her immediate neighbors or were there some that are actually customers that are outside the area. Ms. Lessard said two of them are abutting neighbors and they send their dogs to her and the other two are letters from parents of other dogs that don't live in this area but wanted to voice their opinion in support of why they want to send their dog to someone like her in a house versus a larger kennel. She said she has also spoken to all of the abutting neighbors and every one of them are in favor and have no problems with it at all and that includes the ones that don't send her their dogs and the ones who she is watching their dog.

Guy Guerra said he is curious about the 50' limited activity buffer and asked if staff could explain what that is. Michael Landry said that is a requirement in the zoning Ordinance where you have a non-residential use in a residential district and you are required to have a 50' buffer and the buffer is for limited activity. He said if you remember one of the breweries that went in a residential district and there was to be no air conditioning units. Mr. Landry read from the Ordinance. "A limited activity buffer shall be required for parcels located in non-residential districts and abutting the boundary of a residential district. A limited activity is also required for parcels used for non-residential purposes within residential districts. The buffer shall be established at the time as such a new non-residential use is located on the parcel". He said it talks about specifically, there are ten items that are listed such as exterior lighting, illuminated signs, truck docks, exterior speaker systems and it goes on and one of the explicit things is commercial kennels require that 50' limited activity buffer. He said that is 6.08(B) of the Ordinance.

Guy Guerra said he appreciates that but asked Michael Landry what that means in our particular situation. He asked if she had dogs in that area. Michael Landry said the use takes up the whole property line, so technically speaking this buffer would be 50' from the use to the abutting residential property. To the extent that the whole backyard is used for this use, the 50' limited activity buffer starts there. Mr. Guerra said then the answer is yes, you will have dogs in the limited activity buffer. Chairman Breault said that is why Ms. Lessard is seeking relief from it because there is virtually no yard left if that was enforced.

Chairman Breault asked Michael Landry if he would read the letters in favor of this application.

Michael Landry said the first letter he had was from Kristyn Nelson of Berkshire Hathaway Verani Realty. She writes:

It is my professional opinion that the value of the surrounding properties will not be diminished due to a small dog business being run out of the subject property; so long as the property is well kept and the noise is controlled and at a minimum. It is common to have neighbors with dogs and I find that this is no different as long as the dogs are being supervised and they follow the guidelines of the noise Ordinance, I do not foresee this request causing any negative impact on the marketability or value of the neighboring properties. For example, the abutting property located at 114 Medford Street went under contract soon after listing, while dogs were being hosted at the subject property next door.

I hope you find this helpful.

***Thank you for your time,
Kristyn Nelson***

Michael Landry said next is a letter from Keri Scott of 255 Melrose Street and he read it into record:

I am writing this letter in support of Lauren's dog sitting/doggie day care services. I have lived in this house/neighborhood for the majority of my life. Not only was I raised in this house but I am raising my own children in the house I grew up in. I cannot recall what year Lauren moved into the house across the street from me, but she has been nothing but a wonderful, friendly neighbor.

Last June, I had to put my 13 year old dog down after a stroke. In September I adopted a dog, Harper. After adopting Harper, I asked Lauren if she would be able to do some doggie day care for her. I am a nurse and work long hours. Lauren agreed to take Harper a couple of times a week for me to help break up her day. This has been a God send for me! Lauren is such a responsible, caring person. She knows which dogs play with who best and is aware of her surroundings and potential "barkers". Needless to say, the only time there might be noise coming from Lauren's yard is during day time hours. Lauren is incredibly mindful about the potential for "noise" and takes action quickly if the dogs are too loud or rambunctious. Most often, she is outside with the dogs playing with them or taking pictures/videos to send the dog's parent.

I am thankful and thrilled that Lauren is my neighbor! My family loves Lauren and her dog, Bella. I would be happy to answer any further questions or concerns via phone, email or in person.

***All my best,
Keri Scott***

Mr. Landry said the next letter was from Meghan Bilz of 243 Melrose Street.

I am writing today to lend my enthusiastic support to Lauren Lessard of 255 Melrose Street. She has been providing care to my dog for nearly a year.

My dog, Penny, has always enjoyed going to a dog daycare as my husband and I both work full time and she is an energetic dog who loves to play with her canine friends. However, she was diagnosed with hip dysplasia and the rough play at the daycare provider was resulting in soreness. She was also overwhelmed by the large number of dogs, some of whom exhibited aggressive behaviors, which also resulted in discomfort and anxiety. Penny had hip surgery in March of 2019. After her surgery, I knew that it would not be feasible to return to a typical center based dog care due to the number of dogs and rough play. Thankfully, my neighbor Lauren offered to take Penny a few days per week. As

she is my direct neighbor who could pick Penny up, this was not only a more convenient option, but also a safer option. With a smaller number of dogs and constant pictures and communication, I knew that Penny was being cared for as if she were Lauren's own dog while still getting necessary social interaction with other dogs. Penny is excited to see her two and four legged friends each time. As a working "dog mom", I could not ask for better day care for our beloved family member. I hope that Lauren is able to continue to provide this critical service. Please contact me should you require more information.

***Sincerely,
Meghan Bilz***

Michael Landry said the next letter was from Karen Kost-Rios and she writes:

I am writing to protest the recent efforts to force Lauren Lessard to close her at home dog sitting business. I have been a client of Lauren's since September 2019 after a long search to find a reliable sitter and safe environment for my dog, Charlie. I have previously used a large dog sitting and boarding company in Manchester for my needs, however I realized I needed to find a better option for my dog as he began to exhibit signs of anxiety/distress (trembling, cowering, unwillingness to go in) at this large daycare with about 50-75 dogs each day. He is typically a very social dog but started to find the large number of dogs as well as the lack of any quiet time too stressful. I needed a smaller setting for him and so I found Lauren.

He has done perfectly well with Lauren and clearly likes the chance to interact with a much smaller group of dogs; there has been no issue with any anxiety for Charlie since being with her.

I need this type of option for my dog's wellbeing and would be extremely disappointed if was taken away. It is not easy to find a person like Lauren who has been easy to work with and clearly cares for the dogs she minds, plus she has a fenced in yard which provides me peace of mind while I'm at work. I know he is safe there.

This type of business – at home pet sitting/boarding – has become an essential option for me and many other people in this area and across the country. I sincerely hope Lauren will be able to continue offering this excellent service in the future and hope you will provide her the ability to do so.

***Sincerely,
Karen Kost-Rios DPM***

Mr. Landry said the last letter is from Debbie Lewis and Tom McNutt from Dunbarton, New Hampshire and it reads:

First and foremost, my husband and I are avid dog lovers. Dogs have always been a part of our family. In the past, we have had several unpleasant experiences with putting our dogs

in large kennels, which is why we sought out a smaller, more “homey” option for our new baby.

In August 2019, we treated ourselves to a beautiful basset hound puppy named Bernice. We are retired but we keep busy with doctor appointments, surgeries and getaways; so we were confronted with the dilemma of who we could trust with her.

We wanted someone who would offer the comforts of home, including meals the way she knows them, playtime, rest periods, and TLC of course... We were looking for a home away from home.

We researched endlessly, private names and kennels until we came across Lauren Lessard on Rover. She offered all that we were looking for. She has helped us out endlessly, especially during my surgery and the stay in the hospital. She communicated with us frequently with pictures, videos and texts, easing our minds about the care of our little fur baby. She provides one on one love that you wouldn't find at a large boarding facility. Bernice has made a few friends with some of the other dogs during her stays and now she goes to see them for play dates at Lauren's a couple days a week. It helps to let her burn off some of that puppy energy!

We can leave Bernice at Lauren's and know everything will go well...100%. For an older couple to feel so confident is absolutely priceless. We can't put in words what an important part Lauren plays in our lives and will do anything to help support her in this situation. We would hate to lose this option as a consumer. Not to mention, Bernice would miss Lauren and her friends dearly.

If you have any questions at all, please don't hesitate to call.

***Thank You for your time,
Debbie Lewis and Tom McNutt***

Michael Landry said that is it for the public comment. Chairman Breault closed the public hearing and turned the hearing back over to the Board.

Vice Chairman Lovell he had some comments. He said he thinks it seems like this is really being done the right way. He said Ms. Lessard seems like a real nice person but he does have some reservations about a commercial kennel in this area. He said first off, this may not seem like a commercial kennel to the applicant but because the zoning Ordinance only has commercial kennel, that is literally what it will be if this is passed. He said that variance will go with the property so matter how good of a dog sitter she is or how well she runs this place, the next person can come in and it can be a totally different show. He said that is maybe the most important item in his mind. He said in a residential neighborhood with essentially 0' of the limited activity buffer, he thinks that is just a non-starter in his mind. He said as for the letter from the realtor, she had a couple of stipulations in there about a small dog business not affecting property values, again, it would be a commercial kennel and if

somebody finds out there is a commercial kennel right next door, you can't tell me that is not going to raise some eyebrows. He said he does have those reservations with this case.

Lauren Lessard said she understood Vice Chairman Lovell's reservations but she is just a little confused trying to figure out where she falls into all of this because she agrees and doesn't consider herself a commercial kennel and she didn't request that up front. That is what the reviewer changed it to. She said if you can babysit four children without it being called a daycare, then she doesn't understand the difference why she can't watch four dogs without it being called a doggie daycare. The definition of a commercial kennel in section 466:4 talks about who sells dogs at wholesale price or retail and who transfers ten or more litters per year, who sells or transfers fifty or more puppies per year and she is not doing any of those things so she doesn't know where there might be a different definition of commercial kennel from what she can find. She has nothing to do with this. She said if there is a better thing that she can be applying for she would be happy to switch it over. It is just a matter of not being sure of where she falls.

Chairman Breault said unfortunately, there is only one definition in the Ordinance and it is that of a commercial kennel where you are getting paid to take care of dogs. In essence, Ms. Lessard is earning income, it's a commercial kennel.

Anne Ketterer said she just wanted to note that she appreciates the distinction that the applicant is trying to make however, when she listened to the letters read by Michael Landry, she really is talking about a commercial kennel. She said that is what it is when you make money by watching somebody else's dogs and it sounds like she is really good at it. She said if she wants to do this as a business, there are zones in Manchester that allow that but putting it down in the middle of a residential neighborhood where maybe today it is four dogs plus her own which is five dogs, but the Board would be giving her permission to have many more and she is not ok with that. She said it is not in the best interest of the neighborhood and there are areas in Manchester where you can start this business. It sounds like the applicant is pretty good at it. She said she just worries about the future of the neighborhood if we were to grant this variance. She doesn't believe the Ms. Lessard has a hardship and she doesn't believe that Ms. Lessard believes that she has a hardship. She said she thinks that Ms. Lessard's hardship has to do with the definition. It is like we are lost in semantics and she thinks there has got to be another way around this than granting this variance. She said she is not in favor of it.

Ms. Lessard asked if there was a way to put a limit on how many dogs that she can have. Ms. Ketterer said the issue with that, and of course the Board could add stipulations if they wanted to grant her variance, but then we are jumping through hoops and we are going kind of outside our jurisdiction because really, if you want to have a kennel or you want to have a doggie daycare which falls under the definition of a kennel, you can go rent or lease a space or buy a space that is appropriate for that. Ms. Lessard said her brand is that she is an at home person who just watches a couple of dogs here and there. People want their dog to be able to go to someone's house and just sit on their couch with them and hang out and when they are on vacation, know that they are not just being put into a kennel with multiple other

dogs. She said her dog is 13 years old and she wouldn't want her in a large crowd. She couldn't handle it. This is just something that some people are actually looking for. There are hundreds of people on Rover that are already doing it and it is just not being regulated right because it is not being addressed. She said she doesn't know if there is a way to actually regulate it and she would be happy to go down that route. Ms. Ketterer said she guesses that her point is the route that she needs to go down, she doesn't think it leads her through the Zoning Board. She said she doesn't disagree with Ms. Lessard's point. She said she guesses the issue here is if she were to drop her dog off, he could bark his little face off all day at these other dogs and he would disrupt the neighbors. Ms. Lessard said she is pretty selective about who she does take because of that. Ms. Ketterer said you are but if you sold your property and maybe your property value would increase while the neighbor's would diminish. She said the next person that comes in might not be as respectful. She said that is what her colleague Jose was getting at and she is in agreement with him on that.

Guy Guerra said he thinks Ms. Lessard opened up a door to something here that may make sense if you put some sort of stipulation or limitation to the amount of dogs on there. It may calm down some of the thoughts that we are thinking about going in excess of creating a puppy mill which he believes the statute kind of refers to. He said he thinks working with some sort of limitation, maybe a maximum of six dogs, period, or something along that idea. He thinks that may be the way to go.

Vice Chairman Lovell said he wanted to comment on what Guy Guerra just said. He said he really wants to go down that road also, but he just feels like going down that road, now the next person can do that and maybe they don't have their operation running as smoothly as this applicant does. He said he is fearful of going down that road until maybe the Zoning Ordinance is changed and there is something different than a commercial kennel. He said that is not something that this Board could do here today.

Ms. Lessard asked if a stipulation could be made that only six dogs are allowed with the current owner. Vice Chairman Lovell said he thinks we've tried that before. He asked Mike Landry if that was a possibility. Mr. Landry said he is sure he probably said something generally to that effect in the past and he thinks he discussed it after the fact with the Solicitor. He said it is unsettled but he thinks if the Board does it thoughtfully and do it very clearly, maybe it could hold up in court and a limit is certainly something that would hold up. He said if the Board wanted to tailor any grant of a variance as closely as they could to the way she operates, that much the better. Again, that is not an easy task but certainly, he thinks the Board could limit the number of dogs and say that the variance does not run with the land and that it is personal to this applicant. He said he is not saying that that is a slam dunk or a sure thing, it is subject to challenge, but he thinks if someone wants to look at the record and compare it against the next operator who wasn't following the same thing, he thinks it could be made clear that the way that the future bad operator is not consistent with what is going on the record tonight. He said he would leave it to the Board and he thinks typically the variance is runs with the land, but if the Board takes the position that they want to add a stipulation that this is going to be personal to the applicant, he can't guarantee anything, but this is untested waters.

Vice Chairman Lovell said in response to what Mr. Landry said, that does offer the potential of alleviating some of his concerns. He doesn't think it is something he would be comfortable doing here today, but he doesn't just want to shut this down if there is a possible solution that makes everybody win. He said he wonders if we should table this and have some time to talk about it and see if we can't tailor this in a thoughtful, meaningful way like Michael Landry said to make this work.

Chairman Breault said he would be in favor of asking the Solicitor for advice if that is the way we are thinking of limiting the number of dogs to this applicant. He said definitely, it carrying with the property in his mind is a problem because the next owner could be housing large dogs that are aggressive in nature. Vice Chairman Lovell said or breeding 50 dogs at a time. Chairman Breault said he wouldn't want that in this neighborhood and he wouldn't want that in any neighborhood. In his mind, that's a problem. He said he thinks tabling to get some advice on the matter would be advisable.

Vice Chairman Lovell said one more comment is he wants to tread very lightly on this case and because the Board tables it now doesn't mean they are going to be able to do this in a way that they can approve it with stipulations, but he is willing to give it a try.

Ms. Lessard said she just wanted to point out that Manchester has no limit of how many dogs you can own, so as much as that as she can understand the concern of anyone just coming in taking over and having all kinds of dogs, anyone can do that. Even if this variance doesn't get approved and even if they don't have a doggie daycare, they can still own ten dogs and they can be loud and rambunctious. It is more to her that as long as the noise Ordinance is being followed and all the other rules are being respected and the spirit of the neighborhood doesn't change, because she fully supports that. She said she thinks if the limit of the amount of dogs goes with the variance, she understands and respects that, but the fairness of this, just to let everyone know, there is no limit of how many dogs you can own.

Chairman Breault said his interpretation of what the Board is trying to say is prior to granting a variance, limiting dogs or limiting it to her and not a future owner may be something outside the Board's jurisdiction and they want to make sure that it is going to hold true and not be questionable down the road. He said he would be in favor of tabling this case to get some advice from the City Solicitor.

Guy Guerra asked if there was any way of doing a temporary stay so that she has the ability to take care of her current customers that are working with her now. Michael Landry said he didn't believe that was necessary. Mr. Guerra said he was wondering what she is going to do tomorrow if the Board doesn't get any action on this today. Mr. Landry said he thinks she should maintain the status quo while still trying to come into compliance and do her best. He said if she is working with us, we will work with her. Chairman Breault said he thinks that is a reasonable expectation, too. He said we don't need to be an obstructionist to what she is doing.

Joe Prieto said he agrees with Mr. Guerra's position to limit the amount of dogs in there but he understands the Board's concern.

Joe Prieto made a motion to table case ZBA2020-060, to the September 10, 2020 ZBA hearing in order for the Board to get an opinion from the Solicitor's Office which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was tabled.

Chairman Breault advised Ms. Lessard that the Board was going to table this application to the next meeting so that they could get an opinion back from the City Solicitor to see which way we can take this. He said as Michael Landry stated, they are not going to stop Ms. Lessard from doing what she is doing until that occurs.

Michael Landry said he would like to make an announcement regarding case ZBA2020-060, the property at 255 Melrose Street. He said that case will be continued until the next public hearing which will be September 10, 2020 at 6:00 pm. He said it will be held in the same remote forum and no further abutter notices will be sent out.

5. **ZBA2020-061**
101 Woodland Avenue, R-1B Zoning District, Ward 6

Francis Brown proposes to construct a 24' x 24' detached garage in the rear yard resulting in 31.5% lot coverage of the rear yard by accessory structures or uses, maintain a shed in the rear yard with a side yard setback of 2.5' where 4' is required and maintain a 5'x12' one story addition and a 4'x6' deck in the rear yard with a 3' side yard setback where 10' is required and seeks a variance from sections **8.29(A)3** Accessory Structures and Uses (2 counts) and **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 7, 2020.

Francis Brown said they bought this house last July and the 20'x20' garage and the shed and decks were already there. He said they had a neighbor's tree fall on the garage last fall during that big wind storm and what they are trying to do is take the existing garage down and just replacing it with one that is a little bit bigger.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he is looking at the plan that is on the screen and the existing garage looks like it is right on the rear property line. He asked Mr. Brown if that was correct. Mr. Brown said that was correct. Chairman Breault asked Mr. Brown if the new one will be pulled away 4'. Mr. Brown said yes. Chairman Breault said it will also be 4' bigger in each

direction and the shed will remain where it is with the 2½' side yard setback. Mr. Brown said yes.

There were no further questions or comments from the Board and the Chairman turned the hearing over to the public. He asked staff if there was any correspondence from any of the abutters. Mr. Landry said there was an email from Daniela Cooper. He read it into record:

Received your letter concerning ZBA2020-061. One small objection. The old garage was one foot on my property which I was told was grandfathered. I would like to get that foot back since there will be new construction. If this happens, I will have no further complaint. Please let me know the answer.

***Daniela Cooper
286 Oakland Avenue***

Mr. Landry said it sounds like that question has been answered. She is getting the foot back and a 4' setback. He said that is all he has for that case.

Chairman Breault turned the hearing back over to the Board.

Guy Guerra said he would like to make a motion and the Chairman said he thinks that this is a reasonable request.

Guy Guerra made a motion to grant the following variance counts for case ZBA2020-061, 8.29(A)3 Accessory Structures and Uses (2 counts) and 6.03(C) Side Yard Setback which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

6. **ZBA2020-062**
11 Estate Drive, R-1B Zoning District, Ward 2

Kenneth Thorpe proposes to maintain two front yard parking spaces as a result of a garage converted to living space, also maintain a gazebo 8' from the side lot line where 10' is required, a pool with a deck 10" from the side lot line and a shed 3'8" from the rear lot line where both require a minimum setback of 4' and seeks a variance from sections **10.09(B)** Parking Setbacks (2 counts) and **8.29(A)2** Accessory Structures and Uses in the side yard and **8.29(A)3** Accessory Structures and Uses in the rear yard of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 7, 2020.

Kenneth Thorpe said he just bought this house in 2016 and everything was here when he

bought the house, except for the gazebo, which is like one of those pop-up canopies. He said he wasn't made aware of any problems. Chairman Breault said everything existed that is on this request. Mr. Thorpe said yes except for the gazebo. Chairman Breault said then it is not a permanent structure. Mr. Thorpe said he had it bolted down so the wind doesn't take it but the roof and everything comes off of it in the wintertime. Chairman Breault said he does remove part of it in the wintertime. Mr. Thorpe said yes. Chairman Breault asked if it could be removed in its entirety. Mr. Thorpe said yes.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman asked Mr. Landry if there was any correspondence either in favor of or in opposition to this application. Mr. Landry said there was no public comment on this case. The Chairmen turned the hearing back over to the Board.

Chairman Breault said from the record, looking through the property card, it looks like the above ground pool was permitted or he should say taxed as it is on the tax card. He asked Mr. Thorpe if he knew if all this stuff was permitted at one time. Mr. Thorpe said people that he bought the house from installed the pool. Chairman Breault said there is nothing on the permit card that actually says pool. Mr. Thorpe said he is working with the Building Inspector right now to get everything straightened out.

Vice Chairman Lovell said regarding the gazebo, he is of the opinion that it is a movable structure and can likely be brought into conformance and he thinks he would like to see that brought into conformance if possible. Mr. Thorpe asked if that's got to be 10' off the property line. Chairman Breault said yes. Mr. Thorpe said he will either move it or take it down. Chairman Breault asked Michael Landry if the Board made a motion, would they eliminate any of these counts. Mr. Landry said yes and he thinks there might have been some confusion. He said he didn't think it was made clear in the application to this Department that what we are talking about is a structure like that. He said he is really on the fence because we wouldn't permit something like that so if we weren't to permit it, there would be no requirements to meet any setbacks. It shows up on the drawing as a gazebo and he thinks we all made the assumption, because he looked at it too, that it was a permanent structure. He said if there is something in the application that says otherwise, he is sorry that we missed it.

Vice Chairman Lovell said then we should just eliminate a count of the accessory structure in the side yard. Michael Landry said yes, count 8.29(A)2. Vice Chairman Lovell said then that is what he would like to do then. Either it can be brought into compliance or it doesn't need to comply at all so we wouldn't need that count. Mr. Landry said the Board can consider it erroneous and just drop it and he thinks the record would reflect that. The big thing is his parking and the pool deck. If he was to get that, he would have no problem with this Department. Chairman Breault said there is the shed which is only 3'8" from the rear lot line as well so we can't leave that off. Mr. Landry said that would be the 8.29(A)3 Accessory Structures and Uses in the rear yard. Chairman Breault said the pool is not in compliance either and that is side yard so he thinks we should still list them all, it just doesn't apply to

the gazebo. Mr. Landry said the shed and the pool are in the rear yard which deals with 8.29(A)3 and it was the gazebo that was 8.29(A)2 in the side yard that. Chairman Breault said the pool and the deck is 10" from the side lot line and the shed is 3'8" from the rear lot line so we still need to list all of the counts because 8.29(A)2 is for side yard and 8.29(A)3 is for rear yard. He said we don't have as many counts but he doesn't think we should drop it because it still applies. Michael Landry said the pool and the shed are both in the rear yard. They both fall under 8.29(A)3. He said you can see that the gazebo is just barely in line with that rear porch and that puts it in the side yard. Chairman Breault said the Board would base their motion on what Mr. Landry said.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-062, 10.09(B) Parking Setbacks (2 counts) and 8.29(A)3 Accessory Structures and Uses in the rear yard which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

7. **ZBA2020-063**
451 Campbell Street, R-1A Zoning District, Ward 1

Tom Huot (Agent) proposes to enclose a carport to create living space with a front yard setback of 23.5' and a street yard setback of 13.8' where 25' is required, construct a new set of stairs with a landing with a 9.5' street yard setback where 25' is required, create three new street yard parking spaces, maintain front steps and landing with a 16' front yard setback where 25' is required, as well as maintain a weather tower in the street yard and a pond located in the front yard and seeks a variance from sections **6.03(A)** Front Yard Setback (Campbell Street), **6.03(A)** Street Yard Setback (Juniper Street), **10.09(B)** Parking Setbacks and **8.29(A)1** Accessory Structures and Uses (2 counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 8, 2020.

Tom Huot from S and H Land Services said he was here with the home owner, Casandra King. He said the property is located on the corner of Campbell and Juniper Streets in the R-1A zone. Basically, what the homeowner is proposing is to convert an existing carport which is shown in the northwest corner of the house on the drawing, into first floor living space. Mr. Huot said what they are also proposing is there is currently two curb cuts, one on Campbell Street and one on Juniper Street, both of which are within 20' of the intersection which is a safety concern. What they are proposing is to eliminate both of those curb cuts and move the driveway further down Juniper Street, approximately 60' from the intersection and create three new parking spaces. Mr. Huot said although they would need a variance to have that many parking spaces in the front yard, this is a corner lot and by what they feel is eliminating safety concerns and eliminating an entire curb cut on Campbell Street, they feel this is reasonable.

Mr. Huot said the variance for the porch is necessary which is shown just north of the parking, because currently, the homeowner enters their house underneath the carport so obviously, that would be going away. It would make sense with the layout of the house to put the entrance for the porch there and again, with the elimination of the driveways, they feel that this is a reasonable request.

Mr. Huot said all the other requests are existing structures on the lot. He said there is the decorative pond, the greenhouse, the existing pool and the weather tower all exist. They are also proposing to remove some fences that are within the right of way and move them back onto the property. With all that being said and for those reasons they feel that this is a good application and they hope the Board can support it.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public and asked Mr. Landry if there was any correspondence on this application. Mr. Landry said there was no public comment on this case. The Chairman turned the hearing back over to the Board.

Guy Guerra said he is just looking at this and he is thinking that the removal of the curb cut on Campbell Street is probably a good idea only because of the business of Campbell Street. Chairman Breault said he thinks in general, this application frees up safety issues with Juniper Street being a dead end street. He said that would definitely limit any impact on that corner and on Campbell Street.

Michael Simoneau said he concurs with Guy Guerra on the fact that Campbell Street is a busy street. He said he did check out this location and concurs. He said Juniper Street is a much quieter street.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-063, 6.03(A) Front Yard Setback (Campbell Street), 6.03(A) Street Yard Setback (Juniper Street), 10.09(B) Parking Setbacks and 8.29(A)1 Accessory Structures and Uses (2 counts) which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

8. **ZBA2020-065**
35 Pine Avenue, R-1B Zoning District, Ward 8

Christopher Berube proposes to maintain the accessory storage of a camping trailer in the front yard, maintain a 6' high fence located in the front yard on the western side lot line next to the trailer, maintain a second front yard parking space, maintain a 10' x 12' shed

and a 10' x 10' rear deck within the 25' wetlands setback and erect a 6' fence in the front yard along the eastern side lot line and seeks a variance from sections **8.21(A)1** Accessory Structures and Uses, **8.27(B)** Fences Walls, **10.09(B)2** Parking Setbacks and **6.09(A)** Minimum Setbacks from Wetlands of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 10, 2020.

Chairman Breault asked Christopher Berube if he had anything to add. Mr. Berube said Mr. Landry got everything.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Lovell said he wanted to comment that it looks like there is really nowhere else to put that trailer. There is definitely a hardship on that property and that is in regard to the trailer and in regard to the tall fence, he thinks that is good to hide the trailer from the neighbors and it serves a good purpose there. He said no justice would be done for removing that or not allowing the trailer. He said two cars in front of the house, again, is not unusual. We see that all the time.

Michael Landry said he just wanted to point out that when the Board makes a motion, can we make that as **8.29(A)1** and not **8.21(A)1**. He apologized for that.

Chairman Breault turned the hearing over to the public. He said there was a letter from the Conservation Commission and a correspondence in the packet and he asked Michael Landry if he would read those into the record.

Michael Landry said the first letter was from a neighbor, Jeffrey Tarmey and he writes:

My name is Jeffrey Tarmey, I live directly across from said property. I have no issues or concerns with requested changes. I have no issues or concerns with changes already made by the resident or previous resident. The yard is well maintained and aesthetically pleasing. No health or safety concerns. It is my hope the Board will approve the request.

***Sincerely,
Jeffrey W. Tarmey***

Mr. Landry said there is a letter from the Conservation Commission because we are talking about a wetland setback. He said the letter was from Kristin Bixby, City Planner for the Manchester Conservation Commission. She writes:

Upon deliberation, the Commission voted in support of the section of the variance request that asks to maintain an existing 10'x10' rear deck, and build a 10'x12' shed within the 25' wetlands setback [6.09(A) Minimum Setbacks from Wetlands].

The Commission recommends the proposed shed be placed at Location #1 as shown on the plan submitted and not at Location #2.

Mr. Landry said it seems as if the applicant's first choice is Location #1.

The Commission feels strongly that the recommended shed location will have the least amount of impact on the wetlands. The Commission also requests that the Zoning Board of Adjustment impose a condition of approval that noting the presence of wetlands be installed at intervals no greater than 50 feet along the northern edge of the wetlands on the lot.

The Commission delegated me, as staff, to inform you of the cCommission's decision. Should you have any questions, staff of the Planning and Community Development Department will attend the meeting at which you consider the application.

***Sincerely,
Kristin W. Bixby***

Michael Landry said this is something very typical. He said these signs are available from the Planning and Community Development office for \$1.00 apiece and you might need four or five of them. He said it seems to be a reasonable condition. Chairman Breault said it says every 50' and it will be over 100' wide at that point so a couple of signs will be enough.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he agreed with what Vice Chairman Lovell stated before. Vice Chairman Lovell said he had a question for the applicant regarding the proposed 6' high fence in the front yard. He said the existing 6' high fence on the west side of the property seems to make sense. He asked the reason for the 6' high fence in the front yard on the east side. Mr. Berube said they haven't decided 100% yet but were advised by Mr. Tierney when they were going through all that if there was anything else they may want to do with the property, to do it now with this hearing. They were just throwing that in there if they were going to do a 6' high fence, they might as well because it will look nice just to go the 16' in front. He said it doesn't block anybody's driveway or any viewing points from anyone. He said they are asking for it and they understand if they can't do it that is ok too. Vice Chairman said his appreciated Mr. Berube's candor and said if there is not really a reason for it and there is no real hardship here, he wouldn't be inclined to approve that count.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-065, 8.29(A)1 Accessory Structures and Uses, 8.27(B) Fences Walls on the west side , 10.09(B)2 Parking Setbacks and 6.09(A) Minimum Setbacks from Wetlands with stipulations suggested by the Conservation Commission that the shed be put into location number 1 and the placards are placed every 50' which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

9. **ZBA2020-066**
48 Huse Road, R-1B Zoning District, Ward 8

Matthew Stanton (Agent) proposes to change the use of the property, which also has a single family home, from a warehouse to a building contractor's yard with accessory structure material bins for outside storage located within 10' of the side lot line where 20' is required and without the required screening of an 8' high solid fence or wall, create three new commercial parking spaces in a residential zone without parking bumpers or landscaped perimeter and erect a free standing sign 0' from the front lot line where 10' is required and seeks a variance from sections **5.10(C)2** Building Contractor Yard, **8.11** Required Screening for Building Contractor Yard, **8.29(A)2** Accessory Structures and Uses, **10.02(F)** Business Parking in Residential District, **10.07(K)1** Parking Bumpers, **10.07(G)** Landscaping and **9.08(C)** Signs of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 13, 2020.

Matthew Stanton said he is a lifelong resident of Manchester, born and raised and educated at Manchester Central High School. This has obviously been a goal and dream of his to own a small business here in the City and he feels like they found the perfect location to allow them to do that while keeping consistent with the neighborhood and the other commercial properties in that neighborhood.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Mr. Stanton what his intention for the house was. Mr. Stanton said his intention would be to keep it rented as is. He said the current owners have a lease with a couple of young people and he intends to keep that the way it is as far as a rental property. Chairman Breault said then it will remain residential and not be made part of the commercial building for commercial use. Mr. Stanton said that was correct, it will remain a residential property.

Chairman Breault said those of you that have been in Manchester for some time will recognize this as the former Fay Electric. It has been a long standing commercial property and Fay Electric was a motor and electrical rebuilding company.

Guy Guerra said he notices that we are looking at four parking spaces within the building and asked Mr. Stanton how many vehicles he planned on having on the property. Mr. Stanton said at the most he will probably have five vehicles. Mr. Guerra said that was including employees parking or just his equipment. Mr. Stanton said he had five vehicles and most of his employees take a company truck to and from work. There is only one employee that drives his own personal vehicle.

Chairman Breault said as Mr. Stanton's employees arrive they will be taking a company vehicle and off to do work for the day and with the exception of loading and unloading materials and tools and equipment, will there be any on-site activity. Mr. Stanton said the only on-site activity will be in the existing warehouse building which will be just to fix and maintain equipment such as oil changes and sharpening of blades. He said there will be nothing excessive and no excessive noise, just typical maintenance of equipment. Chairman Breault asked Mr. Stanton if he intended to retail any landscaping materials from that site. Mr. Stanton said not at this time. Chairman Breault said then it would be all for his own use. He said he was just considering those bins for the material storage and is assuming that is for bark mulch and/or sand or loam or whatever. Mr. Stanton said exactly.

Guy Guerra said the comment that Mr. Stanton made, not at this time, makes him nervous. He asked if Mr. Stanton was going to be selling retail at any point and is he ok with the Board putting it in that he won't be selling retail at that location. Mr. Stanton said he hadn't really considered it at any point right now. He said he didn't know how that worked with zoning whether if ten years from now he did decide to try and sell material out of there if that would nullify it forever or it could be a temporary thing. He said they have no plans at this time to do it, but certainly, he is a young enough guy that he doesn't know if he would want to agree to that for fifty years or so. Mr. Guerra said he thinks that one of the thoughts the Board may want to do is deny it for retail purposes now and then he could always apply for it later. Mr. Stanton said that was fair enough.

Michael Landry said he wanted to address Mr. Guerra's very valid concern. He said there is no retail component of a builder's contractor yard so if he wanted to do retail, it wouldn't be allowed at any relief granted tonight. Chairman Breault said it would require that the applicant come back.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence either in favor of or in opposition to this application. Mr. Landry said there was no correspondence from the public. The Chairman turned the hearing back over to the Board.

Chairman Breault said if the Members of the Board read through the application, the applicant is looking to clean up this property and improve its appearance.

Vice Chairman Lovell said he had a question about the sign as he sees there is a count for the sign but in the zoning review it says ok. He asked if there was a count for signs because the sign is at 0' from the lot line. Mr. Landry said below that, it says N/C – Non-Conforming 0' to the front lot line where 10' is required and the box on the far left is checked. He said they probably should have checked 9.08(C) as well, but the count is about the setback from the sign. He said he also wanted to make a comment on that because if you look closely on the drawing, it is the red in the street at the northern side of the lot. It says existing sign to be removed. That old sign was in the right of way so they are making it better by moving it onto their property. Vice Chairman Lovell thanked Mr. Landry for that explanation and said the existing sign is the one that is shielded external only or whatever it said. Mr. Landry said

yes, the proposed sign needs to conform and to conform in that zone, it cannot exceed 20 square feet and it needs to be a shielded external light.

Vice Chairman Lovell asked the applicant what the reason was that he couldn't have a solid fence. Mr. Stanton said basically it is so wooded that no abutters except for the house that is part of the property would even come close to being able to see that far back. He said it just seemed excessive for where it is located. It is at the very far back of the property surrounded by woods and you can barely see it from the road let alone from any of the abutter's properties. Chairman Lovell said that makes total sense. He said he is just trying to think how he can make a stipulation that no fence is required as long as it stays wooded. He said that is a pretty broad term. He asked Michael Landry if he had any suggestions. Mr. Landry said he thinks the buffer is made up of the trees on his property as well as the trees on the other property. He said he can't do anything on the trees on his neighbor's property and it looks like he is going to be cutting some trees for the material storage bins. He said he was looking at GIS, and the trees are not shown in the drawing so he doesn't know how much cutting is going to be done around those material storage bins, but then he still has his neighbor's trees to rely on. He said he guesses the question for the applicant is, is he going to be cutting many of those trees to fit in the material storage bins. Mr. Stanton said most of the trimming will be just some of the longer branches that hang over his property. He said the base of the trees are either on the property line or on his neighbor's property and those wouldn't be touched. He said it is just a lot of longer limbs and brush that have slowly crept their way towards the parking lot that is back there. It would be pretty minimal trimming around those storage bins.

Vice Chairman Lovell said he didn't want to make a mountain out of a mole hill. He said he would just say that the stipulation is that it needs to remain reasonably wooded and screened and for Mr. Stanton to just be a good neighbor.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-066, 5.10(C)2 Building Contractor Yard, 8.11 Required Screening for Building Contractor Yard with the stipulation that it needs to remain reasonably wooded and screened, 8.29(A)2 Accessory Structures and Uses, 10.02(F) Business Parking in Residential District, 10.07(K)1 Parking Bumpers, 10.07(G) Landscaping and 9.08(C) Signs which was seconded by Bob Breault.

Joe Prieto lost his connection and Anne Ketterer became a voting Member.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the variance was granted.

10. **ZBA2020-049**
356 Reed Street, R-1B Zoning District, Ward 12

Bryan Button proposes to maintain a rear deck connecting a 24' above ground pool to the house resulting in a 10' rear setback where 30' is required, a cabana in the side yard with a 3' setback where 10' is required and three parking spaces in the front yard with two being undersized and all three within 4' of the lot line or building and seeks a variance from sections **6.03(B)** Rear Yard Setback, **8.29(A)** Accessory Structures and Uses, **10.09(B)** Parking Setbacks and **10.07(B)** Parking Layout of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 13, 2020.

Bryan Button said the pool was existing and was replaced with a brand new pool and the deck is existing right now and has been there for 25 years. He said the open sided cabana, which is actually a covered clothes line, existed since the house was built in 1955, so that is 65 years old. He said the driveway would be the same way.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He asked Mr. Landry if there was any correspondence either in favor of or in opposition to this case. Mr. Landry said there was no public comment for this case. The Chairman turned the hearing back over to the Board.

Alderman Hirschmann said he wanted to say that he drove by 356 Reed Street to take a peek. He said the family home there is typical of the neighborhood. They are small lots and he knows Mr. Button's pool has been up for years. He said he looked at the driveway apron and it is a very nice piece of tar. He thinks for efficiency of landscaping, he tarred up to the building but he is saying he supports what he has done. He said the apron looks nice and it is tied in with the walkway and he doesn't think it is too wide. He said the apron looks good and really fits two cars better than three but it is a nice piece of tar. Like Bryan Button said, the back cabana has been there for 50 years. He is saying the Board should grant this gentleman his relief.

Michael Simoneau said he believes this meets the five criteria.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-049, 6.03(B) Rear Yard Setback, 8.29(A) Accessory Structures and Uses, 10.09(B) Parking Setbacks and 10.07(B) Parking Layout which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the variance was granted.

11. **ZBA2020-068**
316 Amory Street, R-2 Zoning District, Ward 11

Sarah Dreckmann proposes to construct a detached 15'x20' deck in the rear street yard with a street yard setback of 8' where 15' is required and seeks a variance from section **8.29(A)** Accessory Structures and Uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 15, 2020.

Chairman Breault asked Ms. Dreckmann if she had anything to add. Ms. Dreckmann said not at this time.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he is quite familiar with this neighborhood. He said this property is sandwiched by Amory Street and Bartlett Street. He said Bartlett Street is a steep decline from where it meets Montgomery Street. The rear of the property slopes down towards Bartlett Street. He said about the only way they can utilize the rear yard of this property is by constructing some kind of a level plateau. From the looks of the application, that is what they are attempting to do. He said about the only way they can use the rear of their property, the street yard setback because it is sandwiched by two streets. He said he didn't see any issues with this application and he would be in support of this variance.

Michael Simoneau said he agreed with Chairman Breault. He said he actually grew up in this neighborhood and it is a very steep slope going down the rear and he is in support of this request.

Chairman Breault turned the hearing over to the public and asked Michael Landry if there was any correspondence either in favor of or in opposition to this request. Mr. Landry said there were no public comments on this case. Chairman Breault turned the hearing back over to the Board.

Michael Simoneau said he believes this application meets the five criteria especially with respect to the hardship of the back yard and the way it slopes down.

Michael Simoneau made a motion to grant the following variance count for case ZBA2020-068, 8.29(A) Accessory Structures and Uses which was seconded by Guy Guerra.

Joe Prieto regained his connection and was a voting Member on this case.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

12. **ZBA2020-069**
41 Katinka Drive, R-1A Zoning District, Ward 6

Shantel Frost proposes to construct a 12'x16' shed approximately 2' from wetlands where 25' is required and seeks a variance from section **6.09(A)** Minimum Setback from Wetlands of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 16, 2020.

Vice Chairman Lovell said the agenda states the shed would be 12'x16' and so does the application. Mr. Landry said that is correct and he probably should have explained that a little more. He said he got an email after the notices went out and Ms. Frost said that she intended to put a 12'x20' shed. He said he didn't think it was a material change because she is not seeking relief for the size of the shed, it is simply the setback from the wetlands. He said Ms. Frost just wants to be clear that she is looking to build a 12'x20' shed.

Shantel Frost said the biggest thing that she wanted to mention was that the wetlands are not wetlands anymore. The builder put a culvert to the left of her home that drains any water that used to go through there, across the street.

Chairman Breault turned the hearing over to the Board.

Guy Guerra asked if the Conservation Commission has chimed in on this. Michael Landry said he didn't believe so. Mr. Guerra said shouldn't this be part of their purview? Mr. Landry said absolutely and he believes that it would be appropriate for this Board if it was to grant a variance, that it be conditioned upon consulting with the Conservation Commission.

Chairman Breault said based on the applicant's comment that the wetlands have been limited due to some introduction of drainage pipe, should the edge of the wetland be reflagged to clearly define where it is. Mr. Landry said he thinks the Conservation Commission is better equipped to address that question. He said he was not prepared to weigh in on that. Chairman Breault said he thinks Mr. Landry is right. He said based on that comment, they may want to review what is wetland and what is not.

Vice Chairman Lovell said he had a quick question on how this got flagged by the City as wetlands if there weren't any. Mr. Landry said the drawing we are looking at shows the wetlands. The drawing that we are using, which looks like the as built foundation and when this was built, they are showing the wetlands. That is the best we have.

Chairman Breault said this survey is dated 2014 and things change, although there is sometimes a few liberties are taken, so who knows what is actually there now. The Conservation Commission will confirm what are wetlands and what are not.

Chairman Breault said he didn't see this being a terrible request. He said the property dynamics being pie shaped limits where they can locate a shed. It is far back on the property and it looks like it abuts the wetland that separates the two lots. He said it looks like it abuts

a wetland that separates the two lots and the drainage easement on the opposite side where obviously, if they put a shed on top of it would present a problem if somebody ever had to work on that easement. He said he is in favor of this but subject to Conservation Commission review.

Shantel Frost said she just wanted to add that you can see where the drainage easement is on the plan on the screen. Chairman Breault said he could see it.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence either in favor of or in opposition to this application. Mr. Landry said there was no public comment for this case. Chairman Breault turned the hearing back over to the Board.

Guy Guerra said on the note in the denial letter that was sent to the applicant, it says that Conservation Commission review is required on there. Chairman Breault said he thinks that Mr. Simoneau's stipulation that subject to Conservation Commission review should say approval as well.

Michael Simoneau made a motion to grant the following variance count for case ZBA2020-069, 6.09(A) Minimum Setback from Wetlands, subject to review and approval by the Conservation Commission which was seconded by Jose Lovell.

Joe Prieto lost his connection and Anne Ketter took over as a voting Member

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the variance was granted subject to Conservation Commission review and approval.

Ms. Frost asked how she would go about getting that review and approval by the Conservation Commission. Chairman Breault advised her to give the Planning and Community Development Department a call and they will take her through the steps that she should take to get to the Conservation Commission. Michael Landry advised Ms. Frost to call the main number and ask for Kristen Bixby and she will help her.

13. **ZBA2020-070**
265 Aaron Drive, R-1B Zoning District, Ward 6

Daniel and Paula Alexander propose to construct an approximately 27' x 12' concrete patio resulting in lot coverage of 51% where 50% is allowed and maintain a 10'x 14' rear deck with stairs with a rear yard setback of 20' where 30' is required and seek a variance from sections **6.04** Lot Coverage and **6.03(B)** Rear Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 16, 2020.

Daniel Alexander said they purchased the home five years ago and the deck already existed there. He said there was an addition put on the home and he believes the deck was moved and he was informed that it was not put on the original variance. That is why that came on there.

Chairman Breault turned the hearing over to the Board.

Michael Simoneau said he thinks this is pretty straightforward. He said he sees Mr. and Mrs. Alexander trying to correct a wrong and doing it the right way.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there were any correspondence from the public. Mr. Landry said there were no public comments on this case. Chairman Breault turned the hearing back over to the Board.

Guy Guerra asked if the 14'x28' at the back of the property was a pool. Mr. Alexander said yes, that was already permitted and approved. Mr. Alexander said that was completely separate and was just drawn on there because it was part of what is currently there.

Michael Simoneau said he does see this as meeting the five criteria and correcting something not correct.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-070, 6.04 Lot Coverage and 6.03(B) Rear Yard Setback which was seconded by Bob Breault.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

14. **ZBA2020-071**
68 Webster Street, B-1 Zoning District, Ward 1

Greg Timbas proposes to create six new parking spaces 0' from the side lot line with access to be provided via an easement from the adjacent property, without the required 10' landscaped perimeter, where the drive aisle is 21' where 22' is required, and with pavement other than that required for access located within 10' of the front lot line and with one parking space with a width of 7' where 8.5' is required and seeks a variance from sections **10.09(A)** Parking Setbacks, **10.06(A)** Parking Layout, **10.07(K)1** Parking Bumpers and **10.07(G)** Landscaping of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 16, 2020.

Greg Timbas said his only concern and he actually asked Attorney Cronin to chime in as well, is the spaces that are marked actually are 5½' off the right side lot line. They are drawn all

the way to the lot line so he believes that one stipulation does not have to be addressed at this point. Chairman Breault asked Mr. Timbas if he was referring to Lot 374-13 which would be the northeast corner. Mr. Timbas said the entire east lot line. Those lines do not extend all the way to Lot 374-13. He said there is 24' there.

Attorney John Cronin said he knows in the notice that it is called out that there is zero distance between the lot line and he just wanted to give some history of this. He said Mr. Timbas has been a great urban renewal advocate along this corridor. He said he started next to Crystal Cleaners with the small business there and redid that building there and has moved down a ways and is the principal in both of these properties. He said he lives off of Union Street and works on Chestnut Street and those of you that travel in this area frequently would know that Lot 374-12 was one of the worst properties in the City. The building had lead issues and it had habitation issues and on any given day you could drive by and find mattresses, shopping carts and various other things on the front lawn and everywhere else. First, as a neighbor, he would like to thank Mr. Timbas for what he has done to improve that whole corridor and particularly that corner. He said he knows in the zoning review, when it was laid out with the pavement there, it did look like there was no distance, but there is distance to the lot line. He said he went out there today and it is kind of a peculiar lot where you look at it and the house to the rear at Lot 374-11, is probably 2' from the overhang of that building to the back of Mr. Timbas's building. On the plan where it shows compact space 7', there is a gate there which is an easement that allows that person to walk to and from Webster Street if they so choose.

Attorney Cronin said granted, it is an interesting configuration and when he looked at it, he said they could probably merge the lots and condo it and not need any variance relief at all, but that doesn't make a lot of sense because it seems to work. Attorney Cronin said he recognizes that there may be some issues with the draft easement that they did and they are certainly open to amend it. The drive aisle which is protected by an easement aligns perfectly with the light there at the corner of the great wall of Webster, as he calls it, which is the side wall of Bunny's Superette which has been there for years with no windows in it. It is a white wall that extends along the block and has a lighted sign that hangs over the sidewalk. He said that aligns nicely so anyone coming out of Lot 374-13 or 374-12 has great sight distance and they will have queuing and ample space with the rotation of the light cycles. There is no issue with that, backing in and backing out.

Attorney Cronin said the variance relief that is sought, certainly, bumpers is one of them and if you had an opportunity to go out and look at the site and look at the plan, you will see the hatch lines there and there is a three or four course retaining wall that is very nicely and tastefully done with landscaping internal to it. That provides the same benefit and utility as bumpers and actually better than bumpers because it does protect the building from vehicles that are coming in.

Attorney Cronin said one of the other issues or two issues is the front landscaping. He said in that small section where the driveway goes out to Webster Street, the perimeter landscape could be there as well as at the back. If you look at this site or you are familiar with this site,

it really makes no sense in any of these tight lots which were originally built for residences and that corridor has become more small business, small office and snow storage is not readily available and Mr. Timbas will tell you that what he does in the winter time is has a crew come in and plow it and then remove the snow. It is certainly a much better way to go and if you put landscaping in that little section of the driveway, its survival rate, he thinks would be very small.

Attorney Cronin said at the rear of the lot where it says compact space, 7', again, if the Board wanted them to landscape that, it would provide really no benefit to anyone other than Lot 374-11. He said he thinks they are very happy with the relationship with Mr. Timbas and certainly they are happy with what he has proposed and done here. He said his recollection is that they may have sent a letter on the record but he would wait for Mr. Landry to check that to see if there is a letter of support for them.

Attorney Cronin said although it is a little unorthodox, we know in Manchester most of these properties were built long before any zoning Ordinance was put into place. This is one that provides a substantial improvement to the neighborhood in general and this particular corner specifically. He said he recognizes there are some permitting issues with respect to electrical and Mr. Landry has brought those to his attention and they would have no reservation if the Zoning Board looked favorably on these variance requests to condition it on getting those permitting issues resolved. He said they would be happy to do that and this is Mr. Timbas's primary business here and he started out with nothing and has done very well for himself and really improved that corridor. He wants this to be an attractive place, one that is not only beneficial to him in his business but also beneficial to the neighborhood at large.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Lovell asked Mr. Timbas when he purchased this property. Mr. Timbas said he purchased it in 2015 and it was rental property then and he allowed it to be a single residence with five bedrooms and it slowly deteriorated and ultimately, he had a child come down with some lead poisoning and he was left with an option of gutting it and putting residential back in there or move his office in there from the adjacent building. Vice Chairman Lovell said he used to live on the next block of North Adams Street and he recalls that being the scourge of the neighborhood. He said he is glad that Mr. Timbas fixed it up. He said it sounds like originally, maybe he was part of the problem. Mr. Timbas said he would like to defer to that one. He said he picked up a problem and yes, it was a very sweet deal when the owner of Bunny's offered it to him but he had no idea of the internal issues. He said he bought it basically to protect his property at Lot 374-13. Vice Chairman Lovell said if Mr. Timbas wasn't part of the problem, he apologizes, but he is glad that he put the money in to bring it to where it is now. He said he thinks this is great.

Vice Chairman Lovell said he had another question about the six spaces in between the two lots, 374-7 and 374-13 as shown on the plan. He asked if those are the new spaces that we are talking about here. Mr. Timbas said that was correct. He said when he purchased the

building there were two spaces and they actually had to back out onto Route 28 in order to get out of the property so he arranged it to come in from the adjacent property and had Attorney Cronin draft an easement to accommodate that. Vice Chairman Lovell addressed Mr. Timbas and said he wasn't proposing to put a landscaped area there up against Webster Street in between those six spaces. Mr. Timbas said he is asking for some support to not do that because his landscaper has emphatically asked him not to do it because he pushes snow right up into the back lot and then he removes it in the evening.

Chairman Breault said Mr. Timbas has been a long standing resident of the City and has been involved in several property renovations and has a long history of doing repairs and bringing property back to a viable concern. He said he thinks this is a reasonable request. He asked Mr. Timbas if his intention was to secure that easement. Mr. Timbas said it has been documented but he understands Attorney Cronin got a call today that there is an issue with it and he will take care of any issue that comes up. Chairman Breault said on the plan, there and existing pedestrian easement for Lot 374-11 and asked Mr. Timbas if that was to remain. Mr. Timbas said that is correct and has been written into his deed.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence either in favor of or in opposition to this application.

Mr. Landry said he had a letter from Colby and Patrick Griffin of 11 North Adams Street, abutting to the north. He read the letter into record:

I am writing in regards to the hearing for Greg Timbas on August 13, 2020 concerning 68 Webster Street. Patrick and I's property is an abutter to 68 Webster Street. As mentioned I Greg's variance criteria and letter, he does allow us to park our vehicles back there during snow emergencies as well as use the lot when we need to.

We have no problem with the 6 new spaces Greg has created and we are in favor of the variance as long as we continue to have access to our back yard through that area, even pending ownership of 68 Webster Street changes.

Should you have any questions, please feel free to contact us.

***Thank you,
Colby and Patrick Griffin***

Mr. Landry said that is the only comment he had on this case.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he thinks that was the case that he was referring to with the pedestrian easement. He said Lot 374-11 has your abutter to the north. Referring to the letter, he asked if that was correct. Mr. Timbas said that was correct. Chairman Breault said if that remains in effect, Mr. Timbas would create another easement between the two

properties that should he divest himself of one of them, they would still be allowed access to the parking from his adjoining property.

Vice Chairman Lovell said regarding the access easement, is there basically no way that that can be taken away from the folks at Lot 374-11 in the future? Attorney Cronin said that is actually a grant that is in the deed to Mr. Timbas. It has priority and protective rights so regardless of what Mr. Timbas does with that property, whether he mortgages it or sells it, that easement continues because it is recorded prior in time. That is a vested easement for the benefit of that particular lot, so sales, transfers of either one will not change that right. The only way that goes away is if the owners of that lot were given a release and there is no request on their part to do that and certainly that discretion would be with them. Vice Chairman Lovell said it sounds like the folks at Lot 374-11 could use that easement if Mr. Timbas decides to sell or get rid of it at some point. Attorney Cronin said no, they couldn't lose it. The only way they could lose it is if they agreed to release it. It is already a matter of record at the registry and when Mr. Timbas acquired his property, the deed has it clearly spelled out that the grant to him is subject to the rights of his neighbor for that easement. That is not going away.

Michael Landry said he had two very quick things. He asked Attorney Cronin if he was saying that the deed that Mr. Timbas submitted in the package contains that language to give the pedestrian easement to Lot 11. Attorney Cronin said it is in the chain of title and to the extent the Board wants an affirmation of that, they can do it to make sure that that doesn't change. He said he could also provide a title opinion to the Board or to Mr. Landry if they wish. Mr. Landry said somehow, he would like to confirm it. He said he is not seeing it in the deed he is looking at and he did not research the chain of title. The other comment he had was on the proposed easement for the parking arrangement. He said in the second paragraph, he thinks the two properties are swapped. He said the way it reads it says "an easement over and across a portion of 68 Webster Street and he thinks the easement is going to be over and across 76 Webster Street for the benefit of 68. He said he thinks it's a swap. Attorney Cronin said they could amend that to fix it. He said he appreciated Mr. Landry calling those concerns out but he will be more than happy to get him a title rundown on that and make sure that easement is properly documented.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-071, 10.09(A) Parking Setbacks, 10.06(A) Parking Layout, 10.07(K)1 Parking Bumpers and 10.07(G) Landscaping with the stipulation subject to creating and recording new easement over 76 Webster Street for the benefit of 68 Webster Street to allow vehicles to pass and re-pass to access parking spaces on 68 Webster Street, as well as maintaining pedestrian easement for the benefit of 11 N. Adams Street shown on the plan entitled "Exhibit Plan 68 & 74 Webster Street", dated March 2, 2020 which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

15. **ZBA2020-038**
1667 Elm Street, R-3(PO) Zoning District, Ward 3

Jason Gagnon (Agent) proposes to replace an existing free-standing sign located 2' from the street lot line where 5' is required and 12.8' in height where 12' high was granted by variance case 91-ZO-1979 previously granted relief for a height of 12' and seeks a variance from section **9.08(C)** Signs of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 17, 2020.

Jason Gagnon referred to the page 1 on the screen and said the main issue is that there is a non-conforming sign that they are trying to bring into conformance which currently resides at about 15'8" overall height and the sign itself is about 31.4 Square feet. He said with the new proposed sign area, obviously, they are looking to shorten it and bring it down in height overall as well as keep the square footage much lower than what it currently is and they are keeping it above the height that is allowed which is only 8' per sign code. This is no doubt a requirement to keep the sign out of vandalism which the property itself has had some issues. He said he does believe that Mr. David Larrivee is with us this evening.

Mr. Larrivee said he was present and Chairman Breault asked him if he had anything to add. Mr. Larrivee said he had a quick comment. He said his father and mother owned this building back in 1976. He said they are the ones who filed for the variance and put the sign up and after 40 years, he thinks the variance was granted in 1979, they were trying to fix the sign which was literally falling apart and found themselves with the situation they have right now which in order to fix it, they needed to go back to code. He said they had some vandalism in the back of the Building such as spray painting, etc., so given the fact that the sign has been there for as long as it has been, they would like to reuse the posts that are there and try to build something that is architecturally consistent with the building and the neighborhood but just keep it up above the vandals that have been proven to give them problems in the past.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he happens to work immediately across the street from that sign and he passes it three to four times a day. He said he doesn't think the proposed sign is going to deter from the neighborhood and he has no issues with this.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence concerning this case. Mr. Landry said he had a voice mail from Bruce Leighton, President of Members First Credit Union. He says:

I am calling about ZBA2020-038, David Larrivee's sign request. They are the owners of 1667 Elm Street. I am calling in support of David Larrivee's request for a sign variance. We fully support what he is trying to do and have no issues at all with it. We are in support of

this change.

Yours Sincerely,

Bruce Leighton
President, Members First Credit Union

Mr. Landry said this is the property just to the north that they are developing now. He said that is all he has for comments on this case.

Chairman Breault turned the hearing back over to the Board.

Guy Guerra made a motion to grant the following variance count for case ZBA2020-038, 9.08(C) Signs which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

16. **ZBA2020-072**
54 Gilford Street, R-1B Zoning District, Ward 10

David Moynihan proposes to construct a full second floor over the existing 1.5 story dwelling with a 15' front yard setback where 20' is required and a 9' side yard setback where 10' is required and seeks a variance from sections **6.03(A)** Front Yard Setback and **6.03(C)** Side Yard Setback in the rear yard of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 17, 2020.

David Moynihan said he didn't have anything to add at this point. Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Mr. Moynihan if he was looking to build directly over his existing structure. Mr. Moynihan said yes. He said they are going to take off the roof system of the cape and turn it into a two story colonial. Chairman Breault asked Mr. Moynihan if any of the structure was new and is the existing garage there, as it shows as existing, and is he going to increase the size of the garage. Mr. Moynihan said that is correct. He said that will be phase 2, probably a year from now. Chairman Breault said Mr. Moynihan included it as part of his application on the drawings and he asked Michael Landry if that required a variance as doesn't look like it does. Mr. Moynihan said it should not but in speaking with Don Veilleux from the Building Department, he asked him if he should just bundle it together and he recommended that he does in case there were any issues. Chairman Breault said it looks like Mr. Moynihan's side yard setback is 24' 6" and it only requires a side yard setback of 10' and it is beyond the 20' front yard setback so he would think that it doesn't

require a variance.

Michael Simoneau said he did drive the subject property and what Mr. Moynihan is requesting is very similar to many of the other properties on Gilford Street. He said it would be common to the area and he sees what he is trying to do as a big improvement and would only appreciate values.

Chairman Breault said he would concur with Michael Simoneau. He said he agrees with Mr. Simoneau's assessment and his hardship is he has outgrowing the home and as it is, this would not only help his living situation but it would appreciate values for the whole neighborhood. He said this is definitely in the spirit of the Ordinance.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said there was a letter from Jeff Malone of 46 Gilford Street. He read the letter into record:

My neighbors, Dave and Karen Moynihan are looking to add on a full second floor to their existing home. They have spoken with me about this and explained what they are trying to do. I am more than happy for them to do whatever they would like on their property. It would not affect me in any way, shape or form. I have lived next door to them for nearly ten years and the entire time it has been an absolute pleasure to live next to them. They take care of their home and their property and always try to be courteous neighbors. I would be happy to sign off on any official documents where a variance may be needed. The Moynihans have my permission and blessing.

Jeff Malone

Mr. Landry said that was it for public comment on this case.

Chairman Breault turned the hearing back over to the Board.

Michael Simoneau said he is in support of this. It makes sense and meets the five criteria. He said he thinks what Mr. Moynihan is trying to do is a positive thing.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-072, 6.03(A) Front Yard Setback and 6.03(C) Side Yard Setback which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

17. **ZBA2020-051**
66 Murphy Street, R-1B Zoning District, Ward 9

Lynette Standish proposes to construct a 16' x 30' garage with a 3' side yard setback where 10' is required and create one new front yard parking space resulting in a driveway width of 26' where 24' is allowed and with two parking spaces within the front yard setback and within 4' of the front lot line and the proposed garage and seeks a variance from sections **6.03(C)** Side Yard Setback, **10.08(C)** Driveways Width and **10.09(B)** Parking Setbacks in the rear yard of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 24, 2020.

Lynette Standish said she didn't have anything to add at this time.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Ms. Standish if there was any particular reason why she wanted a 26' wide driveway or curb cut where 24' is allowed by Ordinance. Ms. Standish said she did it for aesthetic purposes and to fit in with the other houses on the street. She said in other words, the width of both is going to be 26' so aesthetically to have it look nice, that is why she asked for the 26' versus the 24'.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there was any public comment on this case. Mr. Landry said there were no public comments on this case. Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he drove through this neighborhood and there are several properties that have this similar condition. He said it is an older neighborhood and there are a lot of ranches that seem to go from property line to property line. He said he didn't think this was going to impact any values in the neighborhood and he thinks it would be in the spirit of the Ordinance to grant this variance.

Guy Guerra said on the drawing, it shows a pool in the backyard. He asked Ms. Standish if that was still there. Ms. Standish said it is not.

Chairman Breault said in the packet, you will see that Ms. Standish has five people in the neighborhood that have voiced their opinion in favor of this variance as well.

Michael Simoneau said he sees this as very straightforward and it does meet the five criteria.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-051, 6.03(C) Side Yard Setback, 10.08(C) Driveways Width and 10.09(B) Parking Setbacks which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

18. **ZBA2020-078**
294 Brennan Street, R-1B Zoning District, Ward 6

Joan Pinard proposes to construct a 10' x 12' sunroom with a rear yard setback of 25' where 30' is required and with a side yard setback of 9' where 10' is required and seeks a variance from sections **6.03(B)** Rear Yard Setback and **6.03(C)** Side Yard Setback, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 28, 2020.

Michael Landry said we may have discussed this before but Joan Pinard is listening at home. She is unable to connect onto the webinar platform so if there are any questions for her, he would be happy to call her. He said he has discussed this at length with her so he might be able to answer some of the questions.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he had the opportunity drive by. He said this is on the very dead end of Brennan Street. He said it is an area of modest older homes. The limited area they have causes her to need a variance. He said he didn't see an issue with this addition of a sunroom or this variance.

Guy Guerra said he didn't see any issues with it either. He said he thinks this is kind of straightforward and frankly, it will be a nice improvement.

Michael Landry said he agreed with those comments and he thinks there is very little impact to abutters. Assuming north is to the top of the drawing, he thinks the abutter to the right or east is kind of right along Brennan Street but the abutter that is to the south or to the bottom, that is a 300' deep lot that goes to another side street. No one is really going to see this. He said the Pinards abut the rail trail and across the rail trail is the industrial zoning district and there is a pretty large industrial building which is the Majestic Theater and the cross fit style gym there.

Chairman Breault said the Board granted the music school variance to operate in that building as well. He said this impacts virtually no one and it would serve the resident well and give them a pleasant place to appreciate the outdoors.

Guy Guerra made a motion to grant the following variance counts for case ZBA2020-078, 6.03(B) Rear Yard Setback and 6.03(C) Side Yard Setback which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

19. **ZBA2020-057**
88 Randall Street, R-2 Zoning District, Ward 9

Kendall Mannon proposes to construct a second floor onto an existing single family one story home with a 17.5' setback where 20' is required, construct a 6' x 41' farmer's porch on the front of the house with a 11.5' front yard setback where 20' is required and construct a 22' x 24' detached garage in the rear yard within 2' of the side lot line where 4' is required and seeks a variance from sections **6.03(A)** Front Yard Setback (2 counts) and **8.29(A)3** Accessory Structures and Uses, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 28, 2020.

Kendall Mannon said she would just like to say she was born and raised at 87 Randall Street across the street from her grandmother who passed away this past October. Mrs. Mannon said her grandmother left her house at 88 Randall Street to her. She said she and her husband would love to raise their children there and make this house their forever home. She said they have spoken with all of the abutters and they all provided letters in support of this project.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he considers this kind of a similar request of the earlier application that the Board reviewed. He said they are looking to increase the size of their property in support of their family and he doesn't see any problems with this application and he is in support of it.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if would share the letters from abutters.

Michael Landry said the first letter was from Timothy and Tammy Zinck. He read the letter into record.

The purpose of this letter is for reconsideration on the variance request to deviate from the current zoning requirements for Travis and Kendall Mannon. It has been brought to our attention they would like to add a second floor, farmer's porch and garage to their existing property located at 88 Randall Street, Manchester, NH 03103.

We are in support of this addition and believe it will be aesthetically pleasing, matching the character of the surrounding homes, increase property values and only enhance the neighborhood.

This property was previously owned by Kendall's grandmother, Phyllis Burkush. Kendall

grew up here and made years of memories with her. It has always been known that Phyllis wanted Kendall to carry on her legacy and be able to raise her family with her husband here.

We are in full support of this project and hope that you will reconsider the zoning requirements for Travis and Kendall to go forth with their project. We would hate to see them have to sell and leave the neighborhood.

***Sincerely,
Tammy and Tim Zinck***

Mr. Landry said the next letter is from Andrea and David Kuhman. They write:

I have been asked to write in regards to the above referenced property. The owners, Kendall and Travis Mannon, are in the process of requesting a variance on the property.

They are looking to add a full 2nd floor to support a growing family, install a 1 stall garage and a front porch.

We, as neighbors at 70 Randall Street are hoping that the Board approves the variance for a number of related reasons.

This will bring up the property values, thus the real estate taxes for 88 Randall will be adjusted accordingly.

This will also allow the new owners to bring other aspects associated with such an addition up to current codes.

It will not hinder the neighbors on either side, nor across the street.

Again, as a neighbor who recently made a permitted addition to our home, we feel that this can only further improve our neighborhood.

***Thank you for your time,
Andrea and David Kuhman***

Michael Landry said the next letter is from Pete Franggos. He read it into record:

I am writing this letter to let you know that I fully support the variance as requested by Travis and Kendall Mannon for their residence at 88 Randall Street. I feel the renovations will only improve all our homes moving forward in the future. They are a young, established couple, that are in the process of raising a family and building a good life for one another. It's a pleasure to have them as my neighbor.

I live at 104 Randall Street. If there are any questions, please do not hesitate to reach out

to me.

*Thank you,
Pete Franggos*

Mr. Landry said there was a voice message also from Pete Franggos who again is supporting them. Mr. Landry said this was all for public comment on this case.

Chairman Breault turned the hearing back over to the Board.

Michael Simoneau said this meets the five criteria.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-057, 6.03(A) Front Yard Setback (2 counts) and 8.29(A)3 Accessory Structures and Uses which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

20. **ZBA2020-058**
218 Whitney Street, R-1A Zoning District, Ward 1

Evelyn Harbour proposes to maintain a 6.5' x 7' extension of an existing deck with a side yard setback of 6.5' where 20' is required, as well as maintain a roof over a portion of the existing deck allowed by variance case 136-ZO-1987, and maintain one additional front yard parking space and seeks a variance from sections **6.03(C)** Side Yard Setback and **10.09(B)** Parking Setbacks, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 28, 2020.

Evelyn Harbour said she wanted to point out that all of the items in this variance are pre-existing. She said she bought the house 2015 and she was not made aware of any of these and she appreciates the guidance through all of this process because she was not aware of what should have been.

Chairman Breault turned the hearing over the Board.

Chairman Breault addressed Ms. Harbour and said she was just trying to correct some lack of permitting and so on.

There were no further comments or questions from the Board and the Chairman turned the hearing over to the public. He asked Mr. Landry if there was any public comment on this case. Mr. Landry said there were no public comments for this case. The Chairman turned the

hearing back over to the Board.

Chairman Breault said he sees that this is a case that the applicant is trying to correct something that needs to be corrected and is worthy of consideration.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-058, 6.03(C) Side Yard Setback and 10.09(B) Parking Setbacks which was seconded by Bob Breault

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

21. **ZBA2020-067**
81 Milford Street, R-2 Zoning District, Ward 10

Grant Kakazu proposes to create two new front yard parking spaces with one space 2' from the side lot line and the other space 2' from the building and seeks a variance from section **10.09(B)** Parking Setbacks (4 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through July 29, 2020.

Grant Kakazu said the basic genesis was that one of the neighbors purchased a boat and they said they had some trouble driving by on Bowman Street and that is what is behind this.

Chairman Breault turned the hearing over to the Board.

Guy Guerra addressed Mr. Kakazu and said he is adding a driveway this side of his house because his neighbor has a boat? Mr. Kakazu said that's the reason behind doing it initially. He said he thought about it and said well, it is a duplex, and just to make sure all the cars are off the street because sometimes there is a car on the street. That is one factor and the other factor is that it is probably better this way. He said he would rather save the money but longer term it is probably a good thing if it is approved.

Chairman Breault turned the hearing over to the public and asked Mr. Landry if there were any public comments on this case. Mr. Landry said there were no public comments on this case. Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he thinks this is a fair request that this applicant wants to have separate driveways for each duplex. The additional parking is not going to hurt with Milford Street being fairly busy. He said it will alleviate on street parking.

Jose Lovell made a motion to grant the following variance count for case ZBA2020-067,

10.09(B) Parking Setbacks (4 counts) which was seconded by Guy Guerra

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry said that concluded the cases for the public hearing this evening. He said there were three items to discuss for Administrative Matters with the first being a request for rehearing of case ZBA2020-033, which is property located at 220 Londonderry Turnpike.

III. BUSINESS MEETING:

1. ADMINISTRATIVE MATTERS:

**22. ZBA2020-033
220 Londonderry Turnpike, B-2 Zoning District, Ward 6**

Attorney John Cronin (Agent) requests a rehearing of case ZBA2020-033, appealing the effective denial of the request for relief from Section **7.11(C)1** Prohibited Uses Within Lake Massabesic Protection Overlay District where the condition of approval was not satisfied.

Chairman Breault said he was going to ask Vice Chairman Lovell to step in because he needed to recuse himself from voting on this case. He said there aren't many people in attendance tonight that actually voted on this as well. He said he would like to think that we have at least three voting Members. He said Vice Chairman Lovell and Michael Simoneau were here and he wasn't sure if Guy Guerra heard or sat in on this case. He said Jim Roy wasn't here and Alderman Hirschmann has already left the meeting. Mr. Guerra said he was with the Board last month when the case came up. He said the Board was waiting for an answer from Water Works. Chairman Breault said Water Works denied their request. Vice Chairman Lovell stepped in as acting Chairman.

Acting Chairman Lovell asked if there were enough people present to hear this case right now. Michael Landry said Jose Lovell, Guy Guerra and Michael Simoneau were present at the last meeting when this case was heard. Chairman Breault said he tried contacting Alderman Hirschmann to ask him to step back in as he was one of the voting Members, but he hasn't heard back from him. He said the Board had three Members present who were in attendance at the hearing last month.

Michael Landry said there were three and he would suggest to the Board that they give it a full consideration and then take an action. Any action is going to require three votes so if we can't muster three votes one way or another, it would need to be tabled. He suggested the Board proceed accordingly.

Acting Chairman Lovell asked for a minute to read through the letter from Attorney Cronin requesting a rehearing. He said to him, the main point of the letter was vague. Acting Chairman Lovell said the main point in his mind to this letter is that, taking a step back to the previous case, the Board made a motion that they needed unqualified approval by another was mentioned at some point during the hearing of the case. He said the Board didn't get that and now Attorney Cronin is saying, that it was his understanding that if Manchester Water Works denied the request, he would be able to come back to the ZBA to seek approval of the plan over the objection of Manchester Water Works. He said he is not sure he agrees with that.

Michael Simoneau said he agreed with acting Chairman Lovell. He said he doesn't recall any conversation or notation indicating that if the Manchester Water Works came back not approving this request that the Board could override or approve this request. As a matter of fact, one of the things he does remember is Attorney Cronin feeling very comfortable that Manchester Water Works was going to be in approval of this request and there would be no issues and it was more of a formality. He said he assumed that Manchester Water Works would have approved this but they have their reasons for disapproving it and he has to say that he will have to side with Manchester Water Works.

Anne Ketterer said she was there as well and that is also what she remembers. She remembers as a Board, they were not comfortable voting on this without the review of Manchester Water Works and the Board would defer to their judgment. She said without that, the Board wasn't going to approve the variance and so Attorney Cronin suggested to table the case and he would go to Manchester Water Works and come back. That is what happened and never was it the Board's intention to overrule Manchester Water Works. Acting Chairman Lovell said that was his recollection as well.

Guy Guerra said Attorney Cronin certainly has the right to appeal, which is what he did. He said he thinks for this Board to overstep the Water Works is above their pay grade.

Acting Chairman Lovell said he agrees and that is his recollection as well. He said he didn't know if Michael Landry could comment on this or not. Michael Simoneau said he thinks the Board needs to make a motion on whether or not we grant Attorney Cronin's request for a rehearing. Chairman Lovell said he agreed and said he thinks this is the basis for the Board's stipulation that Manchester Water Works needed to review and approve the plans. They reviewed and did not approve the plans. In his mind, that is it. He doesn't think we need a rehearing. He said his question to Michael Landry is should the applicant go back to Manchester Water Works and get an approval for some revisions that Manchester Water Works is looking for and that would be a substantial difference in the case. Michael Landry said he really had no comment on that. He said he couldn't say what someone should or shouldn't do, especially a team like that. Chairman Lovell said he feels without the Manchester Water Work's approval, he doesn't think this Board needs to rehear it. He said he thinks that was pretty clear.

Jose Lovell made a motion not to rehear case ZBA2020-033, which was seconded by Anne

Ketterer.

Yeas: Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the request for rehearing was denied.

1. **Review and approval of the ZBA Minutes of May 7, 2020 and June 11, 2020.**

Michael Simoneau made a motion to approve the May 7, 2020 ZBA Minutes which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Guerra, Prieto

Nays: None

Upon a unanimous vote, the Minutes of May 7, 2020 were approved.

Michael Simoneau made a motion to approve the June 11, 2020 ZBA Minutes which was seconded by Anne Ketterer.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer

Nays: None

Upon a unanimous vote, the Minutes of June 11, 2020 were approved.

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

No new business was brought up.

Guy Guerra made a motion to adjourn the ZBA Meeting of August 13, 2020 which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Guerra, Ketterer, Prieto

Nays: None

Upon a unanimous vote, the ZBA Meeting of August 13, 2020 was adjourned.

Each case file is available on-line at <http://www.manchesternh.gov/Departments/Planning-and-Comm-Dev/Zoning-Board/Project-Applications>. Or search for "Manchester NH ZBA Project Applications".

The order of the agenda is subject to change on the call of the Chairman.