

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
July 26, 2005

A public hearing of the Zoning Board of Adjustment was held on Tuesday, July 26, 2005 at 6:30 p.m. in the Auditorium at City Hall.

Tom Jenkins conducted the hearing.

Members present were: Tom Jenkins, Chair
Susan Douglas, Clerk
Jay Coffey
Jack Currier

Also present, Carter Falk, Deputy Manager/Zoning

Mr. Jenkins said in hearing tonight's cases the Board would be looking for evidence on the following points of law as established under the City of Nashua Zoning Ordinance and empowered to it under the State of New Hampshire enabling legislation.

For variances in the ordinance the following conditions must be met:

(1) A zoning restriction as applied to your property interferes with reasonable use of the property, considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and (3) the variance would not injure the public or private rights of others.

(2) The spirit and intent of the ordinance must not be broken by granting the variance.

(3) Granting the variance will not adversely affect other property in the district.

(4) Granting the variance must be of benefit to the general public and not solely the individual.

(5) Not to grant the variance would result in an injustice.

For special exceptions designated by the ordinance, the following must be met:

(1) The use requested must be listed in the Table of Use Regulations as a special exception in the district for which the application is made or is an existing non-conforming use for which a request to expand is being in accordance with Subchapter 13 of the Nashua Revised Ordinances.

(2) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

(3) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety, or the general welfare.

(4) Any special regulations for the use set forth in other sections of the zoning ordinance are fulfilled.

(5) The requested use will not impair the integrity or character of the district or adjoining zones nor be detrimental to the health, morals or welfare of the residents of Nashua.

He said the order of receiving testimony will be in the following manner: Testimony will be heard from the applicant seeking the adjustment. The applicant will have fifteen minutes to address the five points of law just described. The Board will not consider in their decision any information which does not address those points.

The timing light on display will shine green until there is one minute remaining at which time the amber light will come on. When the light turns red, the speaker must stop testifying. The Board may then ask questions of the applicant.

After the presentation the Board will then take testimony from those in favor of the application and then from those in opposition.

He said each speaker will be allowed five minutes to address the Board. The timing light will show a green light until one minute is remaining. The amber light will be on during the last minute and the speaker must stop when the light turns red.

He said speakers are asked to confine their comments only to the new points of information or may simply state that they agree with the previous speaker. Speakers will come forward to the microphone and state their name and address for the record. All testimony given this evening is understood to be given under oath as in a court of law.

At the end of all testimony in opposition, the applicant will have five minutes to address any points raised in opposition. After this testimony one (only one) person from those in opposition will be given five minutes to address the applicant's rebuttal. No new testimony may be given and only someone who spoke in opposition may provide rebuttal testimony.

He said should the applicant or any of the public in opposition feel an unjust or unlawful decision was made may request a rehearing of the Board within 30 days of the decision. Contact the Office of Zoning for further details about the process. If any person or party is not granted a rehearing or still feels that an unjust or unlawful decision has been rendered by the Board you may appeal the case to the New Hampshire Superior Court. Three affirmative votes are needed for granting a variance or special exception. There are four members present tonight and a full Board consists of five members. If anyone does not wish to proceed without a five member Board they have the option not to be heard tonight and have their case heard at

the meeting of August 23, 2005, with the exception of the case for Catherine Street, which will be heard on August 9, 2005. He asked anyone who is going to postpone to come forward.

Atty. Brad Westgate. Atty. Westgate said he represents Richard Raisanen in the Catherine Street cases and as was stated by the Chair, he is confirming that he wishes that case to be postpone to the August 9 Zoning Board meeting.

1. Norman E. Jr. & Shirley J. Wrenn (Owners) 138 Concord Street (Sheet 55 Lot 94) requesting the following: 1) use variance to expand nonconforming use by removing existing florist shop/greenhouse and constructing new two-story building with 1,320 square foot retail florist/gift shop, one residential dwelling unit on second story, and a 720 square foot outdoor display area; and the following variances: 2) to encroach 10 feet into the 25 foot rear yard setback, 3) to encroach 10 feet into the 25 foot required front yard setback (on Adelaide Ave) for parking, and 4) to allow a driveway 32 feet from an intersecting right-of-way - minimum of 50 feet required. RA Zone.

Atty. Gerald Prunier, 20 Trafalgar Square, Nashua. Atty. Prunier said this business (Shirley's Flowers) has been on Concord Street for a number of years. It is a legal non-conforming use.

He said the building is long and thin. They are proposing a two-story colonial style building with an outside display area of 700 + square feet. The present building will be demolished. The new building will probably have less square footage than the present building.

He said the City Traffic Engineer has reviewed the plan. One of the things that the plan has is a wide-open area to go out onto Concord Street, Adelaide Street, etc. The City Traffic Engineer wanted to have a one-way entrance from Concord Street and a two-way entrance from Adelaide.

Atty. Prunier said the first floor of the new building will be used for the flower and gift shop and the second floor will be used as a residential unit for the Wrenn's parents.

He said a hardship exists because of the length of the existing building for this legal non-conforming use. Anything that they want to do to improve its appearance on Concord Street will be an improvement. This will take care of the traffic problem, which will benefit everybody using Concord Street. He said the lot is served by all public utilities.

He said the property is on a corner lot and therefore, must meet the requirements for a front yard setback on both streets, which is the basis for a variance request.

He said they are not going to have any parking on Adelaide as far as the applicant is concerned. He said Mrs. Wrenn's business is approximately 85% - 90% delivery. He said there is some vehicular traffic, but it's few and far between.

He said they feel that with the character of the new building it will be in character with what presently exists in the surrounding areas. It should enhance the values of the surrounding area. Safety and the public interest will be taken care of by the entrances to the site and the parking at the building.

Mrs. Douglas asked if the lot is going to be subdivided.

Atty. Prunier said it's four lots right now. The building exists on all four. They will combine two lots so in the end there will be two lots.

Mr. Jenkins asked about the vacant lot in the back.

Atty. Prunier said there are no plans at this time. It is zoned residential, so it would have to be used for residential purposes.

Mr. Carrier asked if there is a residence on site at the present time.

Atty. Prunier said there was not.

Mr. Carrier asked about the driveway being 32' versus 50' and what the impact would be to get it to 50'.

Atty. Prunier said they would have to push it further back into the lot. The rest of his comments were **unintelligible**.

Mr. Carrier asked if the business plan changes any from what it is now.

Atty. Prunier said it doesn't. It is flowers and gifts - the same as it is now.

Mr. Jenkins said the outdoor display area is changing. It's 20'X36'. He asked if they are talking about statuary, flowers, or what.

Atty. Prunier said seasonal merchandise.

Mr. Jenkins asked if the business operates year round.

Atty. Prunier said it does - that hasn't changed.

Atty. Prunier presented letters to the Board in support of this request.

SPEAKING IN FAVOR

Richard Maynard, Professional Engineer, Maynard & Paquette. Mr. Maynard said the existing footprint of the building is 4400+/- square feet. The proposed new building's footprint is 1300+/- square feet. This is a substantial reduction in the non-conformity.

He said they will not have people backing out into the street with the new parking lot. There will also be a sidewalk across

the front of the site. They will also have landscaping where there is pavement across the front now.

He said there is over 56% green space. All the commercial areas in town have 20% or less so there will be less storm water runoff.

Mr. Maynard said the zoning ordinance talks about the distance from the curb line to the driveway. The 32' mentioned is to the edge of the rounding. It's actually 38' to the edge of the driveway. He said this ordinance is in place primarily to assure that there's adequate site distance around corners. He said there is more than adequate site distance in all directions in this instance.

SPEAKING IN OPPOSITION

Bob Burgess, 32 Bates Drive. Mr. Burgess said supposedly they are talking about a 4400 square foot building on the site. He referred the Board to Section 16-298 which states that whenever a non-conforming use of a building or portion thereof has been discontinued for a continuous period of at least one year in a RA Zone the land has to conform to the current regulations. He said the greenhouse on the site has been vacant for years. According to the zoning ordinance this should be denied.

He referred the Board to Section 16-300 which states that any non-conforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, the use thereof on the lot, shall be conforming.

He said on June 14, 1994 there was a hearing on this site. The request was for a **food center** ????. The greenhouse had paint and furniture stored in it. It isn't being used as a greenhouse today. It's all boarded up.

He pointed out the 6 - 8 parking spaces. He asked where the parking spaces for the three vans that belong to the facility will be parked. Also, there is a big rig that is parked on the

site every weekend - sometimes just the body and sometimes the whole thing.

He said he doesn't believe there is any hardship on the lot. He said back in 2001 he believes one of the lawyers said that anyone who purchased the land realized what they were getting into.

He said right now they have a building that is covering several lots and they want to reduce the size of the building in order to preserve a lot. He said it isn't the neighbors' fault that they want to "wiggle" this in and need variances to do so.

Albert Mueller, 11 Bates Drive. Mr. Mueller said this is a residential area. He said he wished there were absolutely no businesses at all on Concord Street. He said this business is there because it was grandfathered. In his opinion, if the building is torn down, the grandfathering no longer applies. He said if they want to rebuild or do something different, they should rebuild in a business area and not in a residential area.

James Nassif, 4 Adelaide Avenue. Mr. Nassif said he has a kid who plays out in the street. There is no sidewalk on Adelaide Avenue. He's afraid that the two-way exit on Adelaide Avenue is right in front of his driveway. He's afraid that people coming around the corner might not be looking to the right for a kid playing there.

Mr. Currier asked if there is a lot of business at the store.

Mr. Nassif said basically on the major holidays. Other than that it is pretty calm. He believes that most of their business is deliveries, as the applicant has testified.

Richard Gelinas, 123 Concord Street. Mr. Gelinas said he frequents this business a few times a year. He said he spoke to Shirley briefly about what is being proposed. He said it does have some positive attributes - the residential look versus what is currently on site is an improvement. The residential aspect with bringing in a residence above the store can be seen to be a

step toward conformity.

He said there are people in the neighborhood who are very concerned about the businesses on Concord Street. They don't want it to look like Amherst Street. They don't want any more businesses or businesses expanding.

He said he has a problem with the outdoor display area. He said Shirley told him that it was basically for her mums in the fall as she does now. He said the area is 720 square feet whereas right now she has somewhere in the neighborhood of 80 square feet. Usually she has a little three step display about 10' long, somewhere around 4'X10' - one on either side of the door.

He said this is the first time he has seen the site plan. He said he's leery of approving the setback allowances that are proposed for the purpose of preserving another lot. There is one building that uses all four lots. He said it seems like this could be brought into conformity as far as the setbacks are concerned. He said one of the things that spirit and intent are supposed to look at is whether the benefit sought by the applicant be achieved by some other method reasonably feasible for the applicant to pursue. He said the applicant is using all of the property now.

He said the setback issue is only going to make it easier down the road for this business to expand. That is something that gives him and other people some concern.

A woman came to the microphone, but her name and address were not stated. She said the big truck that was mentioned does not belong to Shirley, it belongs to somebody across the street. He puts it there when he wants to.

She said Shirley has mums that she puts out for display.

She said she is a little concerned about the cars coming out. She said they're concerned whether the shop is there or not. Other than that she doesn't have a problem with the proposal.

Keith Fredette, 140 Concord Street. Mr. Fredette said he directly abuts the subject property. He said the whole length of her building is 3' from his land.

He said he thinks this will be good for the community. He said it's not going to take away from his privacy one bit. There's not going to be four house lots in there.

He said he is not in opposition.

Andrew Gagnon, 13 Courtland Street. Mr. Gagnon said he is speaking in favor of the plan. He said he lives off of Concord Street on the other side of Greely Park. He said he frequents this business quite often and thinks they do a great job.

He said this is a much better for the area. It's more conforming. It's much more in keeping with some of the colonials that have been recently built in the area.

SPEAKING IN FAVOR - REBUTTAL

Atty. Prunier said they have a non-conforming legal business existing on the site. They are going to take it down and replacing it so that it will be more conforming. The neighbors who live next door to the site are in favor of the request because it is going to be more conforming.

Mr. Carrier asked if this use were to change to a convenience store would it have to come back to the Zoning Board for approval.

Atty. Prunier said it would be a change of use so it would have to come back to the Board.

SPEAKING IN OPPOSITION - REBUTTAL

Bob Burgess, 32 Bates Drive. Mr. Burgess said he is totally opposed to the outside area. At this time the applicant is saying that there will be mums in the fall, but in the spring they will see statues, trees, mulch, etc. He said if you look

at the minutes of the meeting from 1994 they went through this and at that time it took the City some time to remove the illegal activity that was going on there.

He said that although he lives on Bates Drive, he has been there for thirty years or so and he knows Concord Street well.

He referred back to his testimony that refers to non-conformities. He said a good portion of this structure has been abandoned for many years and the way he understands it, it cannot be used again as a non-conforming use.

Mr. Coffey said this is an improvement over what currently exists. There is a reduction in the non-conformity. He would like to see the lot line in the rear pushed further back.

Mrs. Douglas said that one thing that they have to remember is that this is a corner lot so the setback restrictions are more severe.

Mr. Jenkins said this is a great improvement over what currently exists. He spoke of the parking lot, the curb cut and pedestrian safety. He said he'd rather see outdoor display than the greenhouses that are on site right now. He said the Board might want to consider a condition on the outdoor display that there be no earth products such as dirt, mulch, stone, etc.

Mr. Carrier said he was wrestling with the rear yard setback as well, but there has been testimony that this is a low volume business so maybe they aren't asking for too much.

He said he didn't think the traffic will really change on Adelaide Street because of this change. He said he believes it will stay pretty much the same. He said the testimony from the neighbor right next-door means a lot because he testified that he believed it would improve the neighborhood.

Mr. Jenkins said demolishing the greenhouses will increase the surrounding property values.

Mrs. Douglas said she didn't have a big problem with it. She would like to see a condition that the outdoor display area not be covered.

MOTION by Mr. Coffey to grant the use variance to expand non-conforming use by removing existing florist shop/greenhouse and constructing a new two-story building with 1300 square feet of florist/gift shop, one residential dwelling unit on second floor, and a 720 square foot outdoor display area at 138 Concord Street. The zoning restriction as applied interferes with the landowner's reasonable use of the property considering the unique setting of the property in its environment. No fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property. There will be a reduction in the footprint of the building. Anything that can be done on the property would continue to be non-conforming. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It will not be contrary to the public interest. Substantial justice will be served. Special Conditions: No loam, stone or mulch (earth products) and this will remain an open uncovered display area.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Currier to grant the variance at 138 Concord Street to encroach 10' into the 25' rear yard setback and variance to encroach 10' into the 25' required front yard setback (Adelaide Avenue) for parking. The zoning restriction as applied interferes with the landowner's reasonable use of the property considering the unique setting of the property in its environment. No fair and substantial relationship exists between the general purposes of the ordinance and the specific restrictions on the property. It is on a corner lot. It is a reasonable use of the property. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Coffey to grant the variance at 138 Concord Street for a driveway located 32' from the intersecting right-of-way where 50' is required. The zoning restriction as applied interferes with the landowner's reasonable use of the property. It is a corner lot. In order to achieve a safe flow of traffic exiting from the property the variance is needed. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

2. John A. & Paula M. Farrar (Owners) 15 Spindlewick Drive (Sheet B Lot 2503) requesting variance to encroach 5 feet into the 25 foot required front yard setback (on Brackenwood Drive) to construct an attached 24'x37'-6" garage with room above. R9 Zone.

John Farrar, 15 Spindlewick Drive. Mr. Farrar said he is located on a corner lot and therefore subject to two front yard setbacks. He is asking for the 5' setback so that they will be able to construct a garage that will be deep enough to get both their vehicles into the garage.

He said this won't go any closer to any of his neighbors. It just goes a little closer to the street.

He said this will only help to increase property values as they will be able to get their vehicles into the garage and the addition will improve the neighborhood as well.

Mr. Jenkins said he has seen the property and was a little nervous about it because it seemed like the driveway was right on top of the corner and with the construction of this structure they will be closer to the corner.

Mr. Farrar said he would still have 20', plus there is some right-of-way belonging to the City. He said there's about 47' from the current garage to the curb right now.

Mr. Jenkins said he was looking at the driveway across the street which looked like it was at 25' and was trying to visualize how the subject property would look at 20'.

Mr. Farrar said the house behind his is much closer to the street and the house directly across from their driveway is much closer to the street and is also on a corner lot. He said one thing that is deceiving is that his house is on a hill so it looks like its closer than it actually is.

Mr. Jenkins agreed. He also mentioned that there was a stop sign there.

Mr. Jenkins said there would still be room to park outside even with this addition.

Mr. Farrar said they would still be able to park three vehicles outside on the driveway after the proposed garage is constructed.

Mr. Jenkins asked if was possible to incorporated the existing garage into the proposed garages.

Mr. Farrar said because of the grade and the depth they need, this is the only way they can do this. They met with an architect to look at their options.

Mr. Currier asked if there was room in front of the proposed garage to park cars. He said there is going to be 20' to the property line.

Mr. Farrar said he believes that when the subdivision or street was done they set it up so that it would have room for a sidewalk. There is actually another 3' - 5' on top of what's on the plan. There is a sidewalk on the other side of the street and there is a sidewalk that comes down the front of their house and basically stops at their driveway.

Mr. Currier asked if there is a garage now.

Mr. Farrar said there is a drive-under garage. It's about 16' deep and not deep enough to get their existing vehicles into. Due to the grade of their lot they can't really extend into that.

Mr. Currier asked how many neighbors have a three bay garage. He said it looked like there were people with either none or two.

Mr. Farrar said there are a lot with the two. Further up Spindlewick there are a some houses that have three bays. The third bay would be smaller. They have a utility trailer and they are trying to get everything out of the driveway like the kids' bikes and the utility trailer.

Mr. Currier asked if Mr. Farrar had shown this design to his neighbors.

Mr. Farrar said he did. Everyone he spoke with supports the request.

SPEAKING IN FAVOR

James Landman, 16 Spindlewick Drive. Mr. Landman said he lives across the street from Mr. Farrar. He said he has looked at the plans and feels that it is within the spirit of the neighborhood. He said the setback doesn't seem to intrude into any driving site lines. He doesn't see anything against it and the neighborhood is all for it.

SPEAKING IN OPPOSITON

No One.

Mr. Coffey said when you drive around the neighborhood you do see some lots that are "tight" and they have similar additions such as family rooms. He said he believed it would blend in with the rest of the neighborhood.

Mr. Carrier said he thought it would stick out, but doesn't know that he felt strongly enough about it since there's testimony by an abutter that thinks it won't.

Mr. Jenkins said he thought it would stick out too. He said there is a four-way stop sign at the intersection.

Discussion ensued.

MOTION by Mr. Coffey to grant the variance at 15 Spindlewick Drive to encroach 5' into the 25' required front yard setback on Brackenwood Drive to construct an attached 24'X37 1/2' garage with room above. The variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue. The dwelling is located on a corner lot and has to meet two front yard setbacks. The sloping of the land prevents them from adequately using the current garage. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It will not be contrary to the public interest. Substantial justice will be served by granting the variance.

SECONDED by Mrs. Douglas.

MOTION CARRIED UNANIMOUSLY

3. Amherst Plaza, LLC (Owner) WSBE Wildcats, LLC (Applicant) 449 Amherst Street (Sheet H Lot 35) requesting variance to exceed maximum wall sign area, 47 square feet allowed, 37 square feet existing, an additional 37 square feet requested. GB Zone.

Scott Carrigan, Owner - Quizno's, 449 Amherst Street. Mr. Carrigan said this plaza has two entrances - a main entrance for the middle of the plaza right off of Amherst Street and then right after Kinko's you can take a right turn and then a left into the side of the plaza. It makes sense to put some signage there to let people know that are coming west on 101A that they can take a right and then a left into the plaza. He said there is parking on the side of the plaza where the sign would be located.

Mr. Jenkins asked if Quizno's is moving in.

Mr. Carrigan said they are looking to open Saturday.

Mr. Jenkins asked if they have a sign.

Mr. Carrigan said they have a sign on the front.

Mr. Jenkins said he fails to see the hardship. He asked if he wasn't correct in stating that all the businesses in the whole strip have signage in the front.

Mr. Carrigan said that this is correct.

Mr. Jenkins asked if there wasn't a ground sign where Quizno's would be recognized on it.

Mr. Carrigan said there is a ground sign, but it's jumbled up on the sign with every other tenant. He said there's going to be six of them on the sign.

Mr. Currier said he goes down this street a lot and he was there this morning. He said he had no problem finding the location with the existing sign. He said he was in the right hand lane, but he saw the sign in plenty of time to turn into the driveway. People going eastbound are going to go by the shop and U Turn around anyway. He said he didn't think that there was any disadvantage and he didn't see a need for the sign.

Mr. Carrigan said he doesn't know if there is a need for it, but it would only draw in more customers. He said he is looking to maximize sales.

Mr. Currier brought up signage for a shop at the Globe Plaza on Main Street.

Mr. Carrigan said Main Street has a light every ten yards and traffic stops and goes. There are crosswalks everywhere.

(Tape change - some testimony lost) Testimony picks up ..

He said by the time the person realizes there is a Quizno's Sub in the plaza they will have passed the entrance. He said it made sense to him to get a sign on the side.

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

MOTION by Mr. Currier to deny the variance to exceed maximum wall sign area, 47 square feet allowed, 37 square feet existing, additional 37 square feet requested at 449 Amherst Street. The variance is not needed to enable the applicant's proposed use of this property. The existing ground sign and wall sign are adequate. The increased signage is not within the spirit and intent of the ordinance.

SECONDED by Mr. Jenkins.

MOTION CARRIED UNANIMOUSLY

4. Jeffrey M. & Karen M. Morse (Owners) 31 Gordon Street (Sheet 64 Lot 7) requesting variance to encroach 7 feet into the 10 foot required right side yard setback to construct an

attached two-story 20'x24' garage addition. RA Zone.

Karen Morse, 31 Gordon Street. Mrs. Morse said they wish to construct a two-car garage which would be level with their basement. Above that there would be residential space. She said the roofline would remain the same.

She said they have two bedrooms in their home and they have two children - a boy and a girl. By adding the residential space above the garage they will be able to have another bedroom in the house.

Mr. Jenkins asked how long they have lived in their home.

Mrs. Morse said they have lived here since 2001.

She said the property is on a slope. The driveway will no longer be on a slope with the construction of this addition. They feel this will be safer for their children and the other children who come over to play.

She said they have spoken to all their abutters and all of them have said that they had no problem with the request.

Mr. Jenkins said this property is about 3' higher in ground elevation than the neighbor next door to the right. He asked if the proposal is to bring the whole elevation down by 3'.

Mrs. Morse said their garage will be level with their basement and they will have a residential space above that. The roofline will remain the same.

Mr. Jenkins asked if the driveway would still be pitched.

Mrs. Morse said not quite like it is right now. She said there will be retaining walls on both sides.

Mr. Jenkins asked if you are facing the house on the left hand side there will be a retaining wall. She presented the Board

with a copy of the design.

Mr. Currier asked about the house to the left of Mrs. Morse's home. He said it appears that the garage is down under.

Mrs. Morse said this is correct and that is what they are proposing to do as well.

Mr. Jenkins said he was concerned because of the runoff. He said the homes on the street are relatively close together, but he doesn't believe there is anyone only 3' from the property line.

Mrs. Morse said on the other side of her house there's a 6' encroachment. She said there's only 15' between the two homes.

Mr. Coffey asked Mrs. Morse if they are getting rid of the shed and she said they are.

Mr. Jenkins said they are already encroaching 4' into the left side yard setback and now they want to encroach into the other side yard setback. He said that the problem is that having no side yard setback an emergency vehicle would not be able to access the back yard. They would have to drive across the neighbor's yard to get back into her back yard.

Mrs. Morse said the space right now is being used as a driveway so they would be maximizing their living space.

Mr. Jenkins asked if the proposal is for a two-car garage and Mrs. Morse said it is.

He mentioned that it's hard for people to come to the Board and say they are neighbors and that they don't want the proposal passed by the Board.

Mr. Jenkins said if they were to shrink it to a single-car garage, they could still have their room on top. He said he couldn't support the request as proposed.

SPEAKING IN FAVOR

Jeff Morse, 31 Gordon Street. Mr. Morse said he's not sure what was meant by "it's hard for people to come down here." He asked if he had a written statement from the neighbor...

Mr. Jenkins said it wouldn't make any difference. He said it's the Board's job to protect the current lot as it exists to the best of their ability.

Mr. Morse said the encroachment on the other side has existed since the house was built. He questioned how this could be called an encroachment.

Mr. Jenkins said a 10' setback is very minimal. This basically means there is 20' between homes. Once you are encroaching into that setback and the neighbor next door is encroaching, you actually end up with no space between the two structures. He said it decreases property values and it could lead to dangerous situations, such as fire spreading from one structure to another.

Mr. Morse said on the other side its 15' from house to house. He said this is the nature of the neighborhood. The houses are close.

Mr. Jenkins said it is already a condensed neighborhood. They are trying not to make it more condensed by adding a structure that will go within 3' of the setback.

Mr. Morse asked what Mr. Jenkins meant by his remark concerning a single-car garage.

Mr. Jenkins asked the width of the proposed garage.

Mr. Currier answered 20'.

Mr. Jenkins asked if two cars could fit into it.

Mr. Morse said they could.

Mr. Jenkins asked if they couldn't shrink it to 15' and get a

car in.

Mr. Morse said he could get one car in. He asked if it was possible to compromise and get a 17' wide garage.

Mr. Jenkins said the Board will discuss it after hearing any other testimony.

SPEAKING IN OPPOSITION

No One.

Mrs. Douglas said it seems like the property next door is right on the property line.

The Board discussed how the whole street is "tight" as well as water runoff.

Mr. Currier said that the left side yard setback is already down to 6'. If you have 6' on one side and 3' on the other, you're whittling it right down. He said he has a 20' wide garage and it's a tight squeeze for two cars. He feels for the applicant because they want to stay in the house and raise their kids there, but it's 3'.

Mr. Coffey said the applicant is amenable to shrinking the size of the garage.

Mr. Jenkins said that is fine, but he thinks the 10' that is required should be met. The house next door is almost right at the line.

Mr. Currier said it sounds like the applicant is on good terms with their neighbors to the right. As time goes on, properties change and when they don't have those good terms and there is a house 3' away from the property line, it could cause problems.

Mrs. Douglas said if this is denied by the Board they can still build a single-car garage by right and meet the setbacks.

MOTION by Mr. Currier to deny the variance to encroach 7' into the 10' required right yard setback to construct an attached two story 20'X24' garage addition at 31 Gordon Street. The variance is not needed to enable the applicant's proposed use of the property given the special conditions. The left side of the house is close to the property line and the side yard setback of 10' is pretty minimal as it is. A 3' setback is not within the spirit and intent of the ordinance.

SECONDED by Mr. Jenkins.

MOTION CARRIED UNANIMOUSLY

5. Floyd W. Gorveatt (Owner) Wilman Fernandez (Applicant) 23 Benson Avenue (Sheet 10 Lot 27) requesting special exception to convert a two-family dwelling into a three-family dwelling. RB Zone.

Wilman Fernandez, 21/23 Benson Avenue. Mr. Fernandez said right now this is a two-family house and he is requesting a three-family. The third unit would be in the basement. He said he has plenty of parking on site.

Mr. Jenkins asked if Mr. Fernandez owned the property.

Mr. Fernandez said he does. He said he just bought it last month.

Mr. Jenkins asked if the renovations have already been done.

Mr. Fernandez said he has not done any renovations. He is seeking approval so that he can do the work.

Mr. Jenkins said he couldn't find the property when he went out to view it.

Mr. Fernandez said it looks like a single-family house, but it's side by side. The bigger side is a three-bedroom unit, up and down and the other side is a one-bedroom apartment. The new

unit is going to be in the basement.

Mr. Jenkins asked if this is a walkout basement.

Mr. Fernandez said it is. It has two main doors and you can walk into it from the outside.

Mr. Jenkins asked about the parking.

Mr. Fernandez said on the side of the house there is so much parking that the prior owner rented to the four-bedroom house next door.

Mr. Jenkins remarked that the lot size is adequate and the house is in an area of mixed use, single-family, two-family, four families, etc.

Mr. Currier asked how many bedrooms the two existing units have.

Mr. Fernandez said the biggest unit has three bedrooms and the other one has one bedroom.

Mr. Currier asked if Mr. Fernandez is proposing to change these two units and Mr. Fernandez said these will stay the same.

Mr. Currier asked if the basement unit will be a one-bedroom apartment.

Mr. Fernandez said he can get two bedrooms out of it.

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

Clyde Cooper, 19 Benson Avenue. Mr. Cooper asked if there was going to be any construction on the outside.

The answer was not heard, but apparently it was a "no" because

he had no further questions.

Mr. Currier said he doesn't have any opposition to the request. There is sufficient parking.

MOTION by Mr. Coffey to grant the special exception to convert a two-family dwelling into a three-family dwelling at 23 Benson Avenue. This is listed in the Table of Uses, Section 16-227, Residential #3. It will not create any undue traffic congestion or unduly impair pedestrian safety. There is sufficient parking. It will not overload public water, drainage, sewer or other municipal systems. No special regulations are required. It will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents. There are a number of multi-family dwellings surrounding this particular parcel.

SECONDED by Currier.

MOTION CARRIED UNANIMOUSLY

6. Homer L. Jr. & Claire L. Grooms Irr Trust (Owners) 1 Glen Drive (Sheet B Lot 489) requesting variance to encroach 10 feet into the 30 foot rear yard setback to construct an attached 17'x40' garage. R9 Zone.

Nobody came forward to present this case.

MOTION by Mrs. Douglas to deny 1 Glen Drive as nobody has come forward to make a presentation.

SECONDED by Mr. Coffey.

MOTION CARRIED UNANIMOUSLY

7. Richard A. & Bonnie M. Porzio (Owners) 127 Amherst Street (Sheet 60 Lot 11) requesting special exception to

convert an existing single-family dwelling with an accessory professional dental office to a two-family dwelling with an accessory professional dental office. RA Zone.

Atty. Gerald R. Prunier, 20 Trafalgar Square. Atty. Prunier said this building is located on Amherst Street adjacent to the Nashua Children's Home. It is being used as a residence for the Porzios and a dental office. It's a two-story building and the proposal is to divide it into two units. There would be no exterior changes.

He said the parking is in the rear of the building. There are fourteen spaces provided where eleven are required. There is more room to put in additional parking, if necessary.

He said the use is allowed as a special exception under Section 16-227. It is served by all public utilities - water, sewer, gas, etc. It will not cause any increase in pedestrian or vehicle safety. They are talking about adding one unit. It will not be out of character with the neighborhood because there are no exterior changes.

Mr. Jenkins asked if this is currently an in-home occupation.

Atty. Prunier said Mr. Porzio lives in the house and he intends to stay there in the upstairs of the house.

Mr. Carrier asked how many bedrooms there are upstairs.

Atty. Prunier said "two."

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

MOTION by Mr. Coffey to grant the special exception at 127 Amherst Street to convert an existing single-family dwelling with an accessory professional dentist's office to a two-family dwelling with an accessory professional dentist's office. This is listed in the Table of Uses, Section 16-227, Residential #2. It will not create any undue traffic congestion or unduly impair pedestrian safety. There is adequate parking for all tenants in the building. It will not overload the public water, drainage, sewerage, or other municipal systems. There are no special regulations required. It will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents. There are other multi-families.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY

8. Alvin R. Bonnette Rev. Trust (Owner) 62-70 East Pearl Street (Sheet 32 Lot 20) requesting special exception to locate 16 required parking spaces in municipal lots, 14 for a restaurant expansion and 2 for a future retail use at vacant storefront. CB/MU Zone.

Peter Bonnette, Co-Owner 62-70 E. Pearl Street, Business Address is 5 Pine Street Extension, Nashua. Mr. Bonnette said that the request before the Board is for a parking waiver for the use of 16 additional parking spaces to be assigned to municipal lots and/or on-street parking. Fourteen spaces will be due to a restaurant expansion of "Manhattan on Pearl" and two spots will be for the use of a financial services group they are currently in negotiations with to occupy the vacant storefront.

He said the restaurant expansion should have very little impact on daytime parking due to the nature of after hours business clientele that is serviced by this establishment. There will be no structural changes. It is for interior renovations only.

Mr. Bonnette said this meets all the criteria for the district, which includes restaurants such as Surf, Martha's, Michael Timothy's, Villa Banca, etc. He said on-street parking on East Pearl Street, Spring Street, and the Spring Street lot will provide adequate parking as well as after hours parking available at the Superior Courthouse which is less than one block away.

Mr. Jenkins asked Mr. Bonnette if he really thought he could come downtown and find fourteen additional parking spaces with no problem at all.

Mr. Bonnette said "absolutely." He said the dining clientele of Downtown Nashua know where to look for these spaces. He said if anything, Manhattan on Pearl has a great following from the walk-by traffic.

Mr. Currier said Mr. Bonnette mentioned the Superior Courthouse. He asked if a lot of clientele park in this lot.

Mr. Bonnette said if you go there on a Sunday night you will see that there's a fair amount of people that park in the Superior Courthouse parking lot on Spring Street next to the Post Office. He said if you see anybody parked in this lot after 4:30PM it is not from the courthouse.

Mr. Currier asked how long ago Manhattan on Pearl opened.

Mr. Bonnette said he thought it was July 7, 2004.

Mr. Currier said the business must be doing well and that is why they are looking to expand.

Mr. Bonnette said the profile has changed slightly. They are looking to introduce an authentic Spanish menu. Originally the concept was more of a martini bar and the food was what it took to get by the standards set forth by the State of New Hampshire for drinking establishments. It seemed that the food was more of a drag on it because it wasn't large enough to service the clientele. This allows an additional seating capacity to put a

better focus on the food.

Mr. Jenkins asked if NH law requires that you serve a certain percentage of food in order to have a bar and, if so, what the percentage is.

Mr. Bonnette said the State does require that food be served in order to have a bar. He said it is a complex formula. There's a \$75,000 breaking point over the course of a year where if you do that much food it doesn't matter.

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

Mr. Coffey said he thought that during the evening there is plenty of parking available for eating establishments.

Mr. Currier said he didn't have an issue with the off-site parking. He's found that there is parking available in the parking lot behind the high-rise parking. (He showed the location on the plan).

MOTION by Mr. Currier to approve the special exception for 62-70 E. Pearl Street to locate sixteen required parking spaces in municipal lots, fourteen for restaurant expansion and two for future retail use at the vacant storefront. The use is listed in the Table of Uses. It will not create undue traffic congestion or unduly impair pedestrian safety. It will not overload public water, drainage, sewer or other municipal systems. Special regulations are fulfilled. It will not impair the integrity or be out of character with the neighborhood. In fact, it is in concert with the Downtown Master Plan to promote establishments of this sort. It will not be detrimental to the health, morals or welfare of the residents.

SECONDED by Mr. Coffey.

MOTION CARRIED UNANIMOUSLY

9. Peter M. & Alvin R. Bonnette, Trustees of A.R. Bonnette Rev. Trust (Owners) 24 Crown Street (Sheet 26 Lot 33) requesting use variance to allow retail sales and service of motorcycles and ATV's. GI Zone.

Peter Bonnette - Co-Owner of 24 Crown Street, Business Address: 5 Pine Street Extension, Nashua, NH. Mr. Bonnette said this request is for a use variance to allow service, consignment sales, and limited retail sales of accessories for the two-wheel, four-wheel, and snow machine industry.

He said Jim Morse worked for many years at the former Nashua Honda/Suzuki Dealership at 283 Main Street. In 2001 Mr. Bonnette purchased that property and he leased the newly vacated "Best Cycle" after they moved up to Amherst Street. He went into business as "Jammin Motor Sports." He has built a quiet, low-key following in the ATV consignment business as well as in service accounts in this trade.

He said he recently sold the 283 Main Street property for the new Walgreen's project. He said 283 Main Street was slated for demolition last week. He said Mr. Morse is still in the facility because he needs a place to go. He has known this has been coming down the pike for 1-½ years and he has tried to find the right location for his shop during this time and couldn't find a location that would work for him.

He said 24 Crown Street is the former Nashua Grocer's Warehouse. Its probably a hundred year old original brick structure - a mill building. More recently Law Warehouses occupied it during the 60s, 70s, 80s, and 90s as they expanded on that building. It is currently occupied by multiple warehouse and distribution tenants. He said the spirit and intent of the ordinance is not violated whereas the proposed use

will fit current trends such as a kitchen cabinet retail showroom at Armstrong across the street and service type businesses such as Harry Wells, also across the street, as well as United Supply (a plumbing supply house).

He said this will have a positive impact on the property values by creating activity in a part of this building that has been vacant for many years.

Mr. Bonnette said the public benefit will be served by helping rejuvenate activity in this zone, which has been negatively impacted by the demise in manufacturing jobs.

He said substantial justice will be served by allowing the applicant to continue to thrive in his business. He has had a difficult time finding a spot to relocate.

He said the building has similar uses that will be compatible with the proposed tenant. There are three wholesale distributors and one regional wheelchair warehouse and factory service representative.

Mr. Jenkins said as he recalls this building has had a multitude of different businesses over the years. He said at one period his daughter went to cheerleading camp here.

Mr. Coffey asked if this will be on the first floor.

Mr. Bonnette said it will be on both. He said there will be 4,000 square feet on the first floor on the far west corner of the building. He said there is a glass door with a sidelight and a transom above and a small overhead door to gain access with a ramp. He said the grade in the building is about 3' lower than the graded sidewalk.

Mr. Jenkins asked if the fascia of the building is going to be changed at all.

Mr. Bonnette said there are no plans to change the fascia of the building.

Mr. Currier said he likes that this would help out this part of town as it's obviously been depressed. The part he questions is the noise that the business would create. He said he's been to the existing shop and other shops and it isn't quiet. There are a lot of bikes with open pipes and when they leave its loud. He has a vision that the owner won't be able to control the noise and it's going to create a disturbance in the neighborhood. He asked if he could address how that noise would be controlled.

Mr. Bonnette said he hasn't had the same experience with this tenant on Main Street during the four or five years he has been there. He said he hasn't had any complaints about noise. He said Mr. Morse may address this question, but he wanted to remind the Board that this is a General Industrial zone, not a residential zone.

SPEAKING IN FAVOR

Jim Morse, Charles Street, Hudson, NH.

Mr. Jenkins asked Mr. Morse his typical business hours.

Mr. Morse said typically they are 9:00AM - 6:00PM, 9:00AM - 8:00PM on Thursday and 9:00AM - 3:00PM on Saturdays.

Mr. Currier asked Mr. Morse to address the concern he had about noise.

Mr. Morse said there are a handful of motorcyclists that believe loud pipes save lives. In his store they believe loud pipes **risk ??? unintelligible**. He said he is a Motorcycle Safety Instructor at the DMV. He has a decibel meter at his shop and nobody gets a State inspection if they are over 106 decibels. Most of his customers believe the same as he does. There are going to be a handful of people with the loud pipes that will be in and out of the store occasionally. He said when people are leaving his shop they are told to keep the noise down.

He said in the three years or so that he has been at 283 Main

Street he hasn't had one complaint from anyone. He said he actually had an elderly lady come in and taking over from where "Best Cycle" left off because they used to race up and down the old railroad bed behind the building. He said he doesn't allow this.

Wayne Balcolm, Rhode Island Avenue, Nashua, NH. Mr. Balcolm said he has known Jim for about seven years. He has helped paint and hang pictures in the new building to make it habitable for a motorcycle shop.

He said he knows the Alderman from his district mentioned that there hasn't been any noise and there have been no complaints from the neighbors or any of his constituents.

He said if you walk in the store, it is cleaner than his (Mr. Balcolm's) house is.

He said this will enhance the neighborhood on Crown Street. The spot has been vacant for many years. He said that they looked for a building for some time and either the price was prohibitive or the location was wrong.

SPEAKING IN OPPOSITION

Sally Febonio. Mrs. Febonio said she lives directly next door to the proposed business. She presented a petition from some of the neighbors and some pictures to the Board.

She said she spoke with someone from Armstrong Cabinets across the street and was told that they had been approached about renting parking and they turned them down. She said there is no parking on the side of the street where this business is proposed. She said there is a fire hydrant directly in front of this building and people would have to park on the sidewalk. She said Wells is across the street and that is pretty busy during the week, basically 7:00AM - 5:00PM. There is no business on the weekends. It is quiet for all of them who live in the neighborhood. She said she finds it hard to believe this proposed business would not create any noise.

She said she went around the neighborhood and talked to some people. She said they indicated the traffic was terrible because it's a by-pass and a lot of people take the side street to get past East Hollis Street. There is a train that backs traffic up and also makes it busy in that location.

She read a letter to the Board concerning the change of use at 24 Crown Street to allow a retail motorcycle store in the neighborhood. The letter expressed the concerns of parking, noise, and the hours of operation. It addressed the adverse impact to property values due to the parking as well as having repairs and test rides being performed on the site. It says the values would also be affected by the hours of operation for the business that would extend beyond the typical of the current businesses sharing the neighborhood. It also indicated that this type of business, if successful, would increase the traffic on Crown Street. It mentioned winter parking and snow removal already being difficult. This letter also addressed the information about the abutter refusing to rent parking spaces for the use of the proposed site.

The letter went on to state that off-highway recreational vehicles do not have restrictions on exhaust decibel levels and the performance pipes are brutally loud.

Mr. Currier asked what happened with the parking when there were other tenants in the space.

Mrs. Febonio said she doesn't know if they illegally parked across the street. She said she did see cars parked at the Armstrong Kitchen site. They are closed at night. She said there wasn't any noise.

She asked how long the owner of this site has actually owned the building. She asked how the motorcycles are going to be displayed.

Mr. Jenkins said they will have the owner answer these questions.

SPEAKING IN FAVOR - REBUTTAL

Peter Bonnette. Mr. Bonnette said he has owned this property since 1999 and this particular space has been occupied. At one time it was a computer refurbishment company where the person would bring in tractor trailer loads of computers and sort them and re-sell them to school systems. That was the only tenant in that space for about 1-½ years. Otherwise it has been vacant other than a short time where the cheerleading place used it while they were waiting for their new facility to be ready in Hudson.

He said he is in the construction business and he has been doing a fair amount of work for Armstrong Cabinets so he has a relationship with them. He said they have a parking area in the back that has upwards of 135 parking spaces, not including what's in the front on Crown Street or in their showroom parking area. He said they have expressed interest in working with them to lease parking spaces to potential tenants.

He said they have not talked about any outdoor display. It is a City sidewalk in the front. It is a solid concrete block wall facing the adjacent property. There are no windows in that wall so it should be fairly soundproof on anything that should be happening on the inside of the building.

Mr. Currier asked about motorcycles being displayed.

Mr. Bonnette said the inside of the building has been cordoned off so that the front section of about 1500 square feet would be used as an interior showroom, similar to what the owner has now on Main Street. He said the owner of the motorcycle shop will not display them on the sidewalk at this location like he does on Main Street.

Mr. Currier asked about the leased spaces from Armstrong.

Mr. Bonnette said he has a verbal agreement with Armstrong that they would be willing to lease parking spaces to them if parking becomes an issue. He said there is parking within the facility,

closer to the loading dock end of the building alongside the railroad tracks. He said he leases space from Guilford Railroad as well.

Mr. Coffey asked what the typical case would be when people drop their bike off.

Mr. Bonnette said at the present location on the corner of Otterson & Main Street there is no parking and if you were ever to come up Otterson Street towards Main Street you will always see Jim's one pickup truck parked there with two other spaces next Rent One Plus on that side of the street. There's always parking spaces available. He said it seems to him that the only person that ever parks there is Jim. He said it seems to be a client base that is in and out and never really converging at his location.

SPEAKING IN OPPOSITION - REBUTTAL

Sally Febonio. Ms. Febonio said she spoke to "Rhonda" at the Armstrong site today and she was told that they were asked about the possibility of renting parking spaces to the proposed site. This would be across the street from this site. They were refused. She said Rhonda indicated there is parking way out back of the warehouse, but no one coming to the motorcycle business is going to park way out back of this warehouse. She said Rhonda indicated as far as she knew there wasn't any parking.

Mr. Currier said on the application it states the days and hours of operation as Monday-Saturday from 9:00AM - 5:00PM. There are no late hours shown on the application.

Mrs. Douglas said that is not what the owner testified to.

Mr. Currier asked if they would go with the testimony or with what the application stated and other members said they would go with the testimony.

Mr. Coffey said that the testimony was that the owner was trying

to fit into what the downtown hours were, meaning he would be open on Thursday night.

Mr. Jenkins said no matter how you look at this, it is in an industrial zone, not a residential zone. He said it's a unique building because it borderlines the General Industrial and Residential neighborhood.

Further discussion ensued concerning the fact that this building could have a manufacturing business that created all types of noise and do it without coming to the Board.

Mr. Coffey said he didn't foresee that parking would be a problem because he feels it is a drop-off and pick-up situation and multiple people probably aren't going to be there at the same time.

Discussion ensued about how the previous operation of a motorcycle business at Otterson & Main and the activity that occurred there versus this owner's operation, which appears to be much quieter. The Board discussed a stipulation concerning outdoor display of the motorcycles or other merchandise that they will have for sale.

Mr. Currier said he might be favorable to this if there were a stipulation concerning the hours of operation. He said he didn't want to see the business open late because it would be disruptive.

Mr. Jenkins said he wouldn't want to have a stipulation on the hours of operation because someone might want to pick up a motorcycle later than the normal hours.

Mrs. Douglas said the testimony she heard indicated that the operation would be open Monday, Tuesday, Wednesday and Friday from 9:00AM-6:00PM and 9:00AM-8:00PM on Thursday, and from 9:00AM-3:00PM on Saturday.

She said the two houses immediately adjacent to this property are the only two that are outside the residential cluster and in

the "GI Zone." Given the fact of where the zoning line is she doesn't see where the Board has a lot of choice.

MOTION by Mr. Coffey to approve the use variance to allow retail sales and service of motorcycles and ATVs at 24 Crown Street. A zoning restriction as applied interferes with the landlord's reasonable use of the property considering the unique setting of the property in its environment. No fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions of the property. The variance would not injure the public or private rights of others. The building is located within the GI Zone. This is a reasonable use of the property. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served. Special Condition: No outside display of merchandise. Hours of operation to be as testified to.

SECONDED by Mr. Jenkins.

MOTION CARRIED - 3-1, Mr. Currier opposed.

10. Clermont G. & Raymonde A. Labonte (Owners) 450, 454 & 456 West Hollis Street & 14 & 18 Mercier Lane (Sheet E Lots 127, 179, 180 220 & 241) requesting the following: 1) use variance to allow a two-family dwelling; and the following variances: 2) to encroach 13 feet into the 30 foot front yard setback to construct a second story addition on existing building, 3) to exceed maximum number of principal structures on one lot, one permitted - one warehouse, one two-family dwelling proposed, and 4) to allow light trespass to exceed 0.2 foot-candles at property boundary lines and to allow the height of luminaries to exceed 3 feet at property boundary. PI Zone.

Atty. Gerald Prunier, 20 Trafalgar Square. Atty. Prunier said this piece of property is located on West Hollis Street. He

said as you come off the exit heading toward Hollis/Pepperell there is a triangular piece between the ramp and St. Louis deGonzague Cemetery and this is the piece under discussion. It's in the hollow down below. He pointed out the location of the Police Station. He showed the Board where Congress Supply, Inc. is operating their business.

He said over the past four years Mr. Labonte has purchased some vacant property that the State had no more use for. Mercer Lane has been discontinued so everything on the other side of West Hollis Street is owned by Mr. Labonte.

Atty. Prunier said one of the variances they are requesting is for the setback from West Hollis Street. He said there's nobody on West Hollis Street. The land is owned by Mr. Labonte.

He said there are two single-family homes that will be removed as part of this request as part of the agreement with the City in discontinuing Mercier Lane. A duplex is being proposed for employees of Mr. Labonte. The access will be off of West Hollis Street.

He said the other request is due to the fact that they are requesting two buildings on one lot - the warehouse that the owner wants to build as well as the proposed duplex.

He said there is a request concerning the candlepower. He said these two pieces will be together and the candlelight overcomes the owner's other pieces of property in one location. It's his property that will be affected.

He said this is a unique piece of property in that it is surrounded by Turnpike, old West Hollis Street that goes into the F.E. Everett Turnpike. He said Mr. Labonte wants to put in a warehouse that would supplement his business, which is a drywall business.

Atty. Prunier said this is a unique piece of property and the use is reasonable based on its location. It will not adversely affect any of the surrounding properties. He pointed out the

highway, the Police Station, and cemetery.

He said the business won't make noise. He said there won't be any hammering in this area.

Mr. Jenkins asked if the present houses would be torn down.

Atty. Prunier said they will be. He said Mercier Lane is discontinued and you have to be on a public street. He said this part of West Hollis Street is still a public street and the house will be located here.

Mr. Jenkins said the only thing missing from this request is to change Mercier Lane to Monte Court.

Atty. Prunier said this is before the Alderman at this time.

Mr. Jenkins said it seems like a good use of the property. It's a good tax base for the City.

Mr. Currier asked about hardship.

Atty. Prunier said this used to be all single-family homes quite a while back. He said West Hollis Street went right through and there was no turnpike. When the turnpike came things changed. There are two single-family houses now and what they are trying to do is take care of some employees of Mr. Labonte by putting them in a duplex with a public access.

Mr. Jenkins said this won't affect anyone else since the whole triangular piece belongs to Mr. Labonte.

Atty. Prunier said there is nothing else in that area.

Mr. Currier said he has seen the lot in question. He said this is zoned "Park Industrial." He said the house looks like a fish out of water.

Mr. Currier asked if the house is strictly for the use of employees.

Atty. Prunier said right now that is the plan, but he doesn't know what's going to happen in the future. He said at one time there were single-family houses on Mercier Lane further down. The State took those homes. The City re-zoned the land "Park Industrial."

SPEAKING IN FAVOR

No One.

SPEAKING IN OPPOSITION

No One.

Mr. Currier said Mr. Labonte wants to have the duplex for the use of his employees. He said it almost looks like "spot zoning." He asked if the Board is okay with this.

Mr. Coffey said he didn't necessarily see this as "spot zoning" in the sense that there are dwellings there now. He said it's a busy area, but since there's no access from the highway any more it may not be too bad for somebody who wants to live there.

He said the buildings that are there are pretty dilapidated and this will improve the aesthetics of the property.

MOTION by Mr. Coffey to approve the use variance to allow a two-family dwelling at 450, 454, & 456 West Hollis Street & 14 & 18 Mercier Lane. The zoning restriction as applied interferes with the landlord's reasonable use of the property considering the unique setting of the property in its environment. No fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property. The property is adjacent to the highway. The applicant owns all the surrounding property. This gives him reasonable use of his property. There are two, single-family dwellings currently on the parcel and it will go down to one, two-family dwelling. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of

surrounding parcels. It's not contrary to the public interest. Substantial justice will be served by granting the variance.

SECONDED by Mr. Jenkins.

MOTION CARRIED UNANIMOUSLY

MOTION by Mr. Coffey to approve the following variances: 1) to encroach 13' into the 30' front yard setback to construct a second story addition on an existing building, 2) to exceed the maximum number of principal structures on one lot, one permitted - one warehouse and one two-family dwelling proposed, and 3) to allow light trespass to exceed 0.2 foot-candles at property boundary lines and to allow the height of the luminaries to exceed 3' at property boundaries at 450, 454, & 456 West Hollis Street & 14 & 18 Mercier Lane. The variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. The benefit sought by the applicant cannot be achieved by some other method. The applicant owns all the parcels. The adjacent parcel is also owned by the applicant where the light will go over the boundary. It will give the applicant reasonable use of his property. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served.

SECONDED by Mr. Jenkins.

MOTION CARRIED UNANIMOUSLY

Postponed to 8/9/05

11. Therese G. Trottier (Owner) Richard C. Raisanen (Applicant) L Catherine Street (Sheet 126 Lots 148, 152, 155 & 158) appealing decision of the administrative officer that

a building permit should be granted to allow two single-family homes on a paper street. RA Zone.

12. Therese G. Trottier (Owner) Richard C. Raisanen (Applicant) L Catherine Street (Sheet 126 Lots 148, 152, 155 & 158) requesting the following variances: 1) minimum lot frontage, 60 feet required, 0 feet proposed; and 2) minimum lot width, 75 feet required - 0 feet proposed, to construct two single family homes on a paper street. RA Zone.

MINUTES

6/28/05

MOTION by Mr. Currier to accept the minutes of 6/28/05 meeting, waive the reading, and place them on file.

SECONDED by Mr. Coffey.

MOTION CARRIED 3-1, Mrs. Douglas abstained.

Request for Rehearing

None

Regional Impact

The Board discussed items on the agenda that had previously been postponed, but they did not find any items of regional impact.

ADJOURNMENT

Mr. Jenkins called the meeting closed at 9:05PM.

Susan Douglas

Clerk

It

Taped