

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
May 23, 2006

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 23, 2006 at 6:30PM in the Auditorium at City Hall.

Jeff Anderson conducted the hearing.

Members present were:       Jeff Anderson, Acting Chair  
                                  Norm Tremblay, Acting Clerk  
                                  Robert Shaw

Also present, Carter Falk, Deputy Manager/Zoning

Mr. Anderson 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 nonconforming 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 Board would receive testimony as follows: Testimony will be first heard from the applicant. The applicant will have fifteen minutes to address the points of law just described. The applicant's formal request and other information will have been presented to the Board in advance in support of the application and testimony.

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. He said each speaker will be allowed five minutes to address the Board and to present additional written or formal information for consideration. 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. The Board may then ask questions of the person testifying.

The Board will then hear testimony from those in opposition or with questions or concerns. Each of these presenters will be

allowed five minutes. The timing light process will be applied as previously explained.

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 three affirmative votes are needed for granting a variance or special exception. He said there were only three members present tonight so anybody who wishes to delay their case until more members are present may do so.

Should the applicant or any of the public 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 they may appeal the case to the New Hampshire Superior Court.

He said all testimony given this evening is understood to be given under oath as in a court of law. Anyone who is out of order during this proceeding as deemed by the Chair will be asked to desist from any further interruptive or disruptive actions and if necessary will be directed to leave the proceedings.

**Postponed to 6/13/06**

1. **Joel C. & Stacie A. Sanborn (Owners) 48 Sawyer Street (Sheet 93 Lot 32) requesting the following two variances: Proposed Lot "A" 1) minimum lot width, 60 feet required, 51.40 feet proposed, and 2) Proposed new Lot 32: minimum lot width, 60 feet required, 51.65 feet proposed - both requests to subdivide one lot into two lots. RB Zone.**
  
7. **Christopher Dunn (Owner) L Kinsley Street (Sheet 87 Lot 196) requesting the following: 1) special exception to construct a two-family dwelling, and 2) variance for minimum lot area, 14,520 square feet required - 11,121 square feet proposed. RA Zone.**

10. **Aranosian Oil Company (Owner) 270 West Hollis Street (Sheet 122 Lot 575) requesting the following: 1) Use variance to relocate existing retail gas pumps and reduce number of pumps from 6 to 5 and replace existing gas station and 3-bay repair garage with convenience store, and 2) variance to waive the requirement of a 6 foot high solid perimeter fence or wall along the property lines abutting residentially zoned properties. LB Zone.**

**Appeal Lake Street/Ferson - Withdrawn by applicant**

None of the other applicants came forward to have their case postponed due to lack of a full Board.

2. **Richard J. & Linda J. Chauncey (Owners) 16 Shelburne Road (Sheet F Lot 489) requesting variance to encroach 5 feet into the 10 foot required right side yard setback to construct an attached 24'x26' garage. R9 Zone.**

Richard Chauncey, 16 Shelbourne Road, Nashua. Mr. Chauncey said their lot has 8/10 of an acre and their frontage is 84.65'. The width of the lot doesn't allow a lot of space to build a normal two-space garage and attached mudroom and stay within the guidelines of the zoning ordinance.

He said a garage on the lot will not threaten any of the items listed in the spirit and intent of the ordinance. This includes concerns with congestion, safety from fire, panic and other dangers, health and welfare, light and air, overcrowding, etc.

He said most of the homes in his neighborhood already have garages, many of them similar to what he wants to have. The neighbor to the side where he wants to build a garage has a garage almost identical to what he wants to build. The proposed garage will not affect his neighbor's view of living space in any way.

He said adding a garage onto his home is going to add to the average value of the homes in his neighborhood.

He said substantial justice will be served as he will be allowed to build a garage similar to many in the neighborhood, including the neighbors on both sides of his house and across the street from him.

Mr. Anderson asked Mr. Chauncey if it's the topography that keeps him from building the garage in the rear.

Mr. Chauncey said more than half of his lot is wooded. He has a lawn that's about 40' - 50' deep and about 40' - 50' wide as well. He said he would rather not build on his back lawn.

Mr. Shaw asked how close the neighbor to the right (with the similar garage) is to the property line.

Mr. Chauncey said about 12' - 15' from the property line. He said they have a two car garage and a fairly wide mudroom. He said this neighbor has no objection to the proposed garage and mudroom that he wishes to build.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Tremblay to grant the variance to encroach 5' into the 10' required right side yard setback to construct an attached 24'X26' garage at 16 Shelbourne Road. 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 other than the area variance. 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. Shaw.

**MOTION CARRIED UNANIMOUSLY**

3. **Michael K. Branen (Owner) 26 Cox Street (Sheet 58 Lot 46) requesting variance to encroach 9 feet into the 25 foot rear yard setback to construct a 14'X20' addition. RA Zone.**

Mike Branen, 26 Cox Street, Nashua. Mr. Branen said he wishes to add a master bedroom to the rear of the home. He said the minimum setback is 25'.

He said the bedroom will be 14'X20'. Both his daughters reside at home and his youngest daughter is expecting a baby. They have a three-bedroom home and it's getting a little bit tight in the house.

He said the granting of the variance will not break the spirit and intent of the ordinance.

He said this will increase the property values.

He said granting the variance will help the general public.

He said substantial justice will be served by allowing a bigger bedroom.

Mr. Anderson asked the square footage of the existing house.

Mr. Branen said it's a single-story ranch house and the dimensions are 24'X40'. He said he added a 14'X22 garage on the left side a few years ago.

Mr. Anderson said there appeared to be a depression in the back yard. He asked if that helped with any noise abatement.

Mr. Branen said there is a little slope towards the highway. He said he is hoping that if this is granted he would do some sound board. He said the house isn't big enough to support both his daughters and his youngest daughter's new baby coming along.

Mr. Shaw asked if Mr. Branen has talked with the neighbors on either side of his house.

Mr. Branen said the neighbor on his left hasn't really chatted with him, but he knows he got the letter. It sort of affects the neighbor of the right. They have a big back yard and a high deck on the rear of their house. He said they talked with him yesterday and they said it sounded nice.

Mr. Shaw asked if Mr. Branen expected that he would have to go into the trees at all.

Mr. Branen said there are no trees in the back of his property. He has a stockade fence along the line and the trees on the other side of that belong to the City. He said there's 39' in the rear and he is hoping to go 20' so there will still be 19' left to the edge of his property line. He said he isn't eager

towards the Henry Burke Highway as it is kind of noisy there. He tried looking at putting a second floor addition, but it's too expensive and the cellar is full of "stuff".

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Anderson to grant the variance to encroach 9' into the 25' rear yard setback at to construct a 14'X20' addition at 26 Cox Street. 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 other than an area variance due to the proximity of the Henry Burke Highway and the topography of the back yard. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. In fact, it will increase the square footage of the existing home, which should increase the property values. It is not contrary to the public interest. Substantial justice is served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY**

4. Daniel & Irene Garuti (Owners) 10 Baymeadow Drive (Sheet H Lot 262) requesting variance to encroach 8 feet into the 20 foot front yard setback (on Oriole Drive) to construct a swimming pool deck. R18 Zone.

Daniel Garuti, 10 Baymeadow Drive. Mr. Garuti said they are on a corner lot. He said they have fenced in the what they consider is their back lot. They want to build an 8'X10' deck next to their pool. It would be towards Oriole Street. It is just accessory to the pool.

He said this should not affect the property values either way. It's just a small deck.

He said it would improve the appearance of the back yard. It's fenced in so no one is going to see it from outside the fence.

He said they are trying to do this to get the most out of the yard. The other side of the yard is shaded most of the day and in order to go on the other side of the yard he would have to cut down trees. They have common land behind them and he would not be able to touch those so even if he were to cut down his trees, he wouldn't cut down too much of the shade. It would also be terribly expensive to remove the trees from his lot.

Mr. Anderson asked Mr. Garuti if he had spoken to the neighbor at 8 Baymeadow Drive.

Mr. Garuti said they have discussed this with a few of their neighbors right in that whole intersection and no one has told them not to do it.

Mr. Anderson asked if anyone driving by in a vehicle would be able to see the deck.

Mr. Garuti said they wouldn't be able to see the deck. They would be able to see anyone who would be standing on top of it. The deck will be lower than the fence.

Mr. Tremblay asked if the pool is above ground.

Mr. Garuti said it is.

Mr. Tremblay asked what the life of an above-ground pool is and whether the deck would come down if the pool is removed.

Mr. Garuti said the deck would be removed if the pool is removed. They have a twenty-year life on the pool.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Tremblay to grant the variance to encroach 8' into the 20' front yard setback (on Oriole Drive) to construct a swimming pool deck 10 Baymeadow Drive. The variance is needed to enable the applicant's proposed use of the property given the special conditions. The benefit sought by the applicant cannot be achieved by some other method. 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. Shaw.

**MOTION CARRIED UNANIMOUSLY**

5. City of Nashua (Owner) 2 Sawmill Road (Sheet 5 Lot 26) requesting the following special exceptions: 1) to construct a wet weather flow treatment facility, and 2) to allow for temporary and permanent work within the 75-foot prime wetland buffer of Salmon Brook. GI Zone.

Amy Prouty Gill, Division of Public Works, Engineering Department. Mrs. Gill said this proposed project will be constructed at the Nashua Wastewater Treatment Plant. She said the City is requesting two special exceptions. One is to operate the proposed wet weather flow treatment facility in a GI Zone and the other is to have temporary and permanent impact in the 75' buffer to the wetlands associated with Salmon Brook.

She referred the Board to the plans on display. She said the plan on the right represented the entire site. The green highlighted buildings represent the new facilities. The plan on the left represents a blow up of the area where they will be in construction. The wet area is shown in orange.

She said the City of Nashua is implementing the first major component of the City's consent order with the Environmental Protection Agency in order to mitigate combined sewer overflows in the City of Nashua.

She said the purpose of the project is to increase the capacity of the existing treatment plant from 50 million gallons per day during the day during dry weather to 110 million gallons during rainfall events.

Mrs. Gill said that this type of facility is listed in Table 26-1, Use #273 and requires a special exception when it's located in a GI Zone. The existing facility is located within the GI Zone.

She said a portion of the existing treatment plant does exist within the 75' buffer of Salmon Brook. She referred to the plan on the right that shows where the 75' buffer is delineated in

blue. She indicated some construction is going to take place in this already altered area of the prime wetlands.

She said there's a chain link fence that delineates the area of the wetland buffer and the entire project will stay within the chain link fence.

She said the Nashua Treatment Plant currently provides treatment to wastewater so that a clear clean affluent is discharged to the Merrimack River. She said the plant operates 24 hours a day and seven days a week with personnel varying from one person (on the weekend shift) twenty-five people a day during the Monday to Friday day shift. There are a total of 31 employees.

Mrs. Gill said during dry weather the treatment plant treats all flow that goes to the treatment facility. During rain events additional storm water runoff does become part of the wastewater flow. The plant can currently handle up to 50 million gallons per day during a storm event, however during larger storm events the City operates eight combined sewer overflows as part of the collection system - four on the Merrimack River and four on the Nashua River. During these large events, combined sewerage, which is a combination of raw sewerage and urban slum water does discharge to the Merrimack and Nashua Rivers.

She said the completion of the proposed project will greatly reduce the number of times the CSO's are activated. It will help to contain and treat the combined flow of raw sewerage and urban storm water runoff that would otherwise be discharged to the rivers. She said implementation of this project will have great water quality benefits to both the Nashua and Merrimack Rivers.

Mrs. Gill said they estimate the project will run about twelve times a year - when the rainfall will be large enough to activate the wet weather treatment facility. When it's not in operation the buildings shown in green will remain empty. She said they will be activated only in wet weather.

She said no additional personnel is required to operate the facility, therefore the project will not create undue traffic congestion or impair pedestrian safety. The project is located at the end of Sawmill Road and in an isolated area behind a residential area and close to the river.

She said only a slight increase in deliveries is expected due to additional materials that will be needed for the new facilities.

The new facilities include a new pump station, an odor control facility, a sedimentation facility, and an expanded hypo chloride contact tank. The new pump station will be constructed in the existing parking lot, requiring replacement parking spaces to be provided. The odor control system will be provided for the new pump facility. The sedimentation building (the long rectangular building in the middle of the project) will be enclosed. The contact tank, which is closes to the Merrimack River, will provide the detention time needed to provide clean affluent. This is an open tank.

She said the treatment facility will not impair the integrity or be out of character with the current use of the site since the current use of the site is a sanitary treatment plant.

She said it would not be detrimental to the health, morals or welfare of the residents in the City.

Mrs. Gill referred the Board to the plan on display. She pointed out the Merrimack River. She said the parcel is bounded by the railroad tracks to the east, Salmon Brook to the north, the residential housing area to the west and the Nashua Country Club to the south.

She said the orange area on the plan is the wetland area. The hatched area is the existing paved parking lot. They will be in there constructing one of the facilities. It will be disturbed during construction. When the project is done, it will remain as pavement. A corner of the odor control building is going to be located in the buffer area.

She said the requested used would not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any development use in the immediate area or any other area of the City will unduly be subject to hazards affecting the health, safety or general welfare because, in fact, it improves the health benefits to the City by treating more of the raw sewerage and urban storm water runoff.

Mrs. Gill said the project was approved on May 2<sup>nd</sup> by the Conservation Commission with one stipulation that concerns meeting them each December 1<sup>st</sup> for the first three years while the project is ongoing. She said they are in the process of obtaining all Federal and State permits required to work in the wetland.

She said there is no significant impact on the habitat of rare or endangered species as listed by the State of New Hampshire or the Federal government.

She said the filtration of the storm water will be adequately provided for and controlled both during construction and after construction. The topography requires re-grading of the subject property and accounts for and adequately reflects the proximity of the nearby wetland area. The current facility is within the altered buffer and they will remain in the same area and not go beyond the chain link fence.

She said excess flow in the wetlands will not cause excessive ponding and retention or cause environmental damage to the existing flora or fauna. Also, the land is not being subdivided.

Mr. Anderson asked if the EPA has a date by which this has to be accomplished.

Mrs. Gill said the completion of this project is due January 2009. She said they are expecting to begin construction by July 31, 2006.

Mr. Tremblay asked if they will be encroaching further into the wetlands with the proposed project.

Mrs. Gill said "no". She referred to the plan on the right and referred to the yellow color, stating it represented an existing chain link fence. She said they will be putting their silt fence and hay bales within that chain link fence so they won't be going beyond the fence that's there today.

Mr. Tremblay asked if this facility would have handled the recent storm that the City had.

Mrs. Gill said for storm water treatment what they are really concerned with is the first flush because it's the first flush of rain that takes off the pollution off the land and the streets and gets into the catch basins. They would have treated the first flush, which is the most important, however, they would not have handled the increase in the storm water that was created by this last storm. The new project is expected to handle up to a two year storm.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITON**

No One.

**MOTION** by Mr. Anderson to grant the special exceptions: 1) to construct a wet weather flow treatment facility 2) to allow for temporary and permanent work within the 75' prime wetland buffer of Salmon Brook at 2 Sawmill Road. This is listed in the Table of Uses, Section 16-26, Table 26-1 #273 & 16-271, Table 271-1. It will not create undue traffic congestion or unduly impair pedestrian safety. There should be no traffic there other than employees of the facility. It will not overload public water, drainage, sewer or other municipal systems. In fact, it increases the capacity of the sewer system. Special regulations are fulfilled. They have appeared before the Conservation Commission and approved the plan with one stipulation. The stipulation is that they meet with the Conservation Commission December 1<sup>st</sup> of each year for the next three years. This stipulation is carried over to the approval by the Zoning Board. The use cannot reasonably be avoided. This is the least damaging and best practicable alternative proposed. Acceptable mitigation is incorporated to minimize loss. It is necessary to provide for the use of adjoining buildable land. There are no rare or endangered species. Adequate erosion and sedimentation control methods will be incorporated. 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.

**SECONDED** by Mr. Tremblay.

**MOTION CARRIED UNANIMOUSLY**

6. **Green Ridge Ventures, Inc. (Owner) City of Nashua, Division of Public Works (Applicant) 235 Daniel Webster Highway (Sheet A Lot 211) requesting the following two variances: 1) minimum open space, 20% required, 20.8% existing - 18.1% proposed; and 2) to allow an existing nonconforming ground sign to encroach an additional 9.7 feet into the 20 foot setback, 15 feet existing - due to acquisition of additional right-of-way for roadway and traffic signal improvements. HB Zone**

Ted Setas, Division of Public Works, Nashua. Mr. Setas said this is known as the Barnes & Noble site. He referred to the

plan on display. He said north is to the right and south is to the left. The portion they are looking at is the northwest corner of Spit Brook Road & Daniel Webster Highway.

He said the City is doing a taking as part of the widening of Daniel Webster Highway & Spit Brook Road for a Daniel Webster Highway signalization project. The project entails eleven takings - this one being the final one of the eleven. He said by allowing the variance, it will allow Spit Brook Road to be widened and a sidewalk will be allowed to be constructed on the Barnes & Noble site. They will be able to put in traffic signal improvements in that location.

He said in the big picture this will allow the City to move forward with the project, which will upgrade nineteen intersections beginning 300' south of the Mass. Line all the way up to Graham Drive along Daniel Webster Highway and also improving signals up to Oracle Drive on Spit Brook Road beginning from Daniel Webster Highway going west, going through the Route 3 ramps and west up to Oracle Drive. The improvements shown on the plan are the roadway improvements. The signalization project is much larger.

He said the City is looking to do this for the betterment of the entire area. Allowing them to widen Spit Brook Road allows them to improve the signals in the area and also to add more lanes along Spit Brook Road. They would be separating the lefts and the throughs on Spit Brook Road to allow for separate queue lanes. This will allow more people turning right to go onto Daniel Webster Highway from Spit Brook Road.

Mr. Setas said there would be no expansion of structures with this proposal. He said there's no need for additional on-site parking spaces. The effects on the surrounding traffic congestion would be positive as they would then be allowed to construct the improvements. He said the public interest would be better served.

Mr. Anderson said that what it boils down to is that the City is acquiring right-of-way and Barnes & Noble isn't changing anything. By acquiring the additional right-of-way they are reducing the open space on the Barnes & Noble site by less than 3% and the Barnes & Noble sign isn't being moved, but the road is moving toward the sign.

Mr. Setas agreed that this is correct.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Tremblay to grant the variances: 1) minimum open space, 20% required, 20.8% existing, 18.1% proposed 2) to allow an existing non-conforming ground sign to encroach an additional 9.7' into the 20' setback, 15' existing due to acquisition of additional right-of-way for roadway and traffic signal improvements at 235 Daniel Webster Highway. The variance is needed to enable the applicant to expand the road and add sidewalks. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue other than the area variance. 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.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY**

8. **Pedro P. & Maria Cardona Quintero (Owners) 20 Fairmount Street (Sheet 68 Lot 80) requesting variance for minimum lot area, 6,970 square feet required, 5,975 square feet proposed, to convert a single-family dwelling into a two-family dwelling unit. RC Zone.**

Carlos Quintero. Mr. Quintero said he is speaking on behalf of his father.

He said that the lot is short about 1,000 square feet to convert it to a two-family dwelling and there is plenty of room for parking. He said there are other multi-family homes in the area. The use is a permitted use.

He said that there is no impact to the property values. The house will look exactly as it does today.

He said the public benefit is that it provides housing and additional taxes.

He said this was a two-family home until 1950. The current use is single-family.

Mr. Anderson said the plot plan that came with the application shows a proposed addition. He asked if this is from a prior time and it's already there.

Mr. Quintero said there is a garage. On one side of the house there is parking for another two cars. There are not going to be any additions to what is already there.

Mr. Anderson asked if the curb cut on Highland Street is for a parking space on the grass.

Mr. Quintero said it's for two cars.

Mr. Anderson asked how much parking there is on the garage side.

Mr. Quintero said two cars in the garage and two in the driveway.

Mr. Anderson asked how many total bedrooms are in the house.

Mr. Quintero said there are three on the first floor and two upstairs. He said the home was built as a two-family.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

Mr. Tremblay asked if the house has two entrances and meets all other requirements.

Mr. Quintero said it has two entrances and everything is separated.

Mr. Tremblay asked if there is one family living there now and they are using the two apartments or if one of them is just empty.

Mr. Quintero said one of them is empty. He said he is getting married soon and wants to live upstairs.

Mr. Anderson asked if there are separate electrical meters.

Mr. Quintero said they are separated, but they have to receive permission from the Board.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Anderson to grant the variance for minimum lot area, 6970 square feet required, 5975 square feet proposed to convert a single family dwelling into a two-family dwelling unit at 20 Fairmount Street. The variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. It was built as a two-family. There is no other reasonably feasible method to pursue. It is within the spirit and intent of the ordinance. It will not adversely affect the property values of surrounding parcels. There will be no outward change in appearance or aesthetics. It fits in with several other multi-families in the immediate area.

Its not contrary to the public interest. Substantial justice will be served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY**

9. **Otis C. & Susan A. Gorman (Owners) 60 Dexter Street (Sheet 102 Lot 167) requesting variance for minimum lot area, 12,445 square feet required, 10,000 square feet proposed, to convert a single-family dwelling into a two-family dwelling unit. RB Zone.**

Susan Gorman, Owner - 60 Dexter Street. Mrs. Gorman said this house has been a two-family unit since the 1940s. Her grandparents lived upstairs and her parents lived downstairs. It has two kitchens and two porches - it has everything. She needs to have it legalized.

She said there are some abutters and relatives & friends present tonight who are able to state the existence of the house these many years.

She said there will be no additions to the building, other than a 3' stairway off the porch to provide an exit. There will be no problems with traffic congestion.

Mrs. Gorman said it will increase the value of the neighborhood. She said her father passed away a couple of months ago when he was 92 years old and he never did a lot of repair. She said she is using her savings to repair the house so it will look decent and up to date with the rest of the property around the area.

She said the taxes on the property are over \$4,000. The property will look better. It's always been a two-family, but no legal until she was old enough to realize it had to have a second exit. She told her father, but he was a survivor of the depression era and wasn't about to spend a dime.

Mr. Tremblay asked Mrs. Gorman if she lives at this address.

Mrs. Gorman said she does not. She said she is a landlady. She said the upstairs in the house is looking very nice.

The downstairs needs work done to it as when everything is done she plans to live there. She said in old homes there are small bedrooms and she needs to probably take two bedrooms to make one bedroom for her things. Right now she is in a 2,000 square foot condominium and has "fat" furniture.

Mr. Tremblay said that he understands that it's been a two-family forever. He asked if Mrs. Gorman was going to bring everything into code for a two-family dwelling along with the other improvements to the home.

Mrs. Gorman said she is. She said it's going to take her to the end of the summer to do all the work. What has held her up is the ability to put in the stairway for the exit. She said she had to evict her niece.

Mr. Tremblay asked if there is adequate parking.

Mrs. Gorman said there is a garage and room for three cars in the driveway. She said she isn't sure if you can park in the street.

Mr. Anderson asked how many bedrooms there are downstairs and upstairs.

Mrs. Gorman said there are two bedrooms downstairs and two upstairs. There is also a living room, dining room, kitchen downstairs as well as a cellar. Upstairs there is also a living room, kitchen and a big glassed in porch.

**SPEAKING IN FAVOR**

No One.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Tremblay to grant the request for minimum lot area, 12,445 square feet, 10,000 square feet proposed to convert a single-family dwelling into a two-family dwelling unit at 60 Dexter Street. 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. They are legalizing an existing situation. It is within the spirit and intent of the ordinance. It will not adversely affect property values of surrounding parcels. It's not contrary to the public interest. Substantial justice is served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY**

11. **3 Bud Way, LLC & Wild Blue Yonder, Inc. (Owners) 28 Charron Avenue (Sheet E Lot 1350) requesting variance to allow a hair/nail salon in which less than 75% of the building is used for industrial or manufacturing uses. AI Zone.**

Atty. Gerald Prunier, 20 Trafalgar Square, Nashua. Atty. Prunier passed some materials out to the Board. He said this building is "U" shaped. He pointed it out on the plan. He said the Airport is at the end. He said the units in the building are under condominium ownership and his client has purchased one of the units.

He said the zoning district for the area this building is located in is Airport Industrial. He said it is an allowed use

in this zoning district. He referred the Board to the handout. He said #35 - barbershops, hair salons - and follow it across to the Airport Industrial they will see "C1". This is allowed as a conditional permit from the Planning Board, which is where they thought they had to go in the beginning, however, when you go to the conditions for "C1" shown on page 2 of his handout it states that it is only permitted as part of a site plan in which at least 75% of the gross floor area is reserved for uses listed in the industrial and manufacturing category. Under Page 3 and 4 of his handout it shows the uses that meet that criteria. He said most of the uses shown are much larger than what would be anticipated in this building and in these type of condominiums.

He said there is a problem in the new zoning ordinance that has to be addressed. He said the description of the use having to be in a building where at least 75% of the floor area is manufacturing/industrial can't be met. Most of the uses listed in the handout can't be put in the building so they can't meet the criteria even though the use is permitted.

He said if the variance is granted by this Board, he still has to go to the Planning Board for the conditional use permit. This is one of two cases that he now has and he thinks that there will be more.

He said there is a hardship because the use is allowed in the district. He referred the Board to the list of other uses that might make up the 75% industrial/manufacturing needed in the building before this use would be allowed in it. There are things like chemical plants, machine shops, etc. These things aren't going to fit into this building.

He said the use is not going to adversely affect any other properties. There are no exterior changes.

Mr. Anderson asked Atty. Prunier if the condominium units are uses other than residences.

Atty. Prunier said they are commercial condominiums.

Mr. Tremblay asked if there was any manufacturing in this building.

Atty. Prunier said there wasn't any. There used to be a construction contractor that had some backhoes outside. Most of the units were office space for the local television station, an

ink place, etc. They are mostly small uses. Most of the uses are grandfathered.

**SPEAKING IN FAVOR**

Carol Hallenback, 33 Tanglewood Drive, Nashua. Mrs. Hallenback said she and her husband are Wild Blue Yonder, LLC and she is also Shining Image, LLC, the potential tenant for Unit 16.

She said her current business is located in Hudson and she needs to relocate. She employs three people. She said the location for the business would be a real asset to the area. A lot of their customers already live in the area.

Mr. Anderson asked where the entrance is located.

Atty. Prunier pointed this out on the plan and Mrs. Hallenback said there is a back entrance as well.

**SPEAKING IN OPPOSITION**

No One.

**MOTION** by Mr. Anderson to grant the variance to allow a hair/nail salon in which less than 75% of the building is used for industrial or manufacturing uses at 28 Charron Avenue. The zoning restriction as applied interferes with the 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 zoning ordinance and the specific restriction on the property. The variance will not injure the public or private rights of others. It will make it more convenient to utilize the hair salon. It is within the spirit and intent of the ordinance. It will not adversely affect property values of surrounding parcels. It is not contrary to the public interest. Substantial justice will be served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY**

**Minutes**

None

**Regional Impact**

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Mr. Falk said the agenda for the June 13<sup>th</sup> meeting is being finalized. The deadline for filing was just last week. He said right now they have about eleven cases plus the three that are postponed from tonight. He said he didn't see anything with regional impact.

**ADJOURNMENT**

Mr. Anderson called the meeting closed at 755PM.

Lt

Taped Meeting

Norm Tremblay  
Acting Clerk