

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
Tuesday, December 9, 2025

A public hearing of the Zoning Board of Adjustment was held on Tuesday, December 9, 2025 at 6:30 PM, at City Hall.

Jay Minkarah, Chair, asked for a Roll Call:

Jay Minkarah, Chair
Josh Nehiley, Vice Chair
JP Boucher
Steve Lionel
Joseph Patry - Alternate

Carter Falk, Deputy Planning Manager

Mr. Minkarah explained the Board's procedures, stating that the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is zb@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mr. Minkarah identified the points of law required for applicants to address relative to variances and special exceptions. Mr. Minkarah explained how testimony we will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws.

- 1. City of Nashua (Owner) Division of Public Works (Applicant) 848 West Hollis Street (Sheet D Lot 54) requesting special exception from Land Use Code Section 190-112 to impact two "other" wetland areas (man-made drainage swales) totaling approximately 3,992 sq. ft to facilitate the construction of the proposed Department of Public Works Garage and Maintenance Facility project. R9 & R30/GMZ Zones, Ward 5. [POSTPONED FROM 11-25-2025 ZBA MEETING]**

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Steve Lionel
Joseph Patry

Attorney Andrew Prolman, Prunier and Prolman, 20 Trafalgar Square, Nashua, NH. Atty. Prolman said that there are a few Aldermen that he'd like to call up to provide testimony in support, as they have

their Alderman meeting downstairs shortly.

SPEAKING IN FAVOR:

Trish Klee, Ward 3 Alderwoman. Ald. Klee said that after reviewing this request, and talking to several people, the Conservation Commission has given a positive recommendation, and that is the Board that is important to keep the City on the straight and narrow for wetlands. She said that she was reassured that there are no living creatures in these areas that cannot survive anywhere else, there are none in these wetlands. She said that it is her understanding that it is a springtime wetland area. She said that she is in full support and the City needs this building.

Alicia Gregg, Alderwoman at Large. Ald. Gregg said that she is also the State Representative for Ward 7. She said she is in support, it is critical for the City. She said that the Administrative Office was phase 1, and this building is phase 2, which DPW desperately needs. She said that existing conditions for their garage are sorely outdated, to the point where she has serious concerns about potential health impacts on our DPW workers who work there every day. She said that DPW staff deserves a safe workplace, with a modern facility for operations. She said that the current location has no opportunity to expand, and their fleet has grown. She said that the Conservation Commission has reviewed this application thoroughly, and provided a favorable recommendation. She said that the Board of Public Works just approved this plan last night, recognizing the urgency to get this project moving to continue to provide essential services.

Rick Dowd, Ward 2 Alderman. Ald. Dowd said that this is a very important project for the City of Nashua. He said it will save hundreds of thousands of dollars in equipment, and currently they are kept outside in the inclement weather, they won't last as long, especially the salt trucks with salt. He said that the equipment will last longer with indoor storage, that will also have a wash bay, so this will save thousands.

Michael O'Brien, Alderman at Large. Ald. O'Brien said that this project will go a very long way in providing city services. He said that the Administration building is right there, and it would be great to have this building there, and executive decisions can be made on vehicles and equipment. He said that these vehicles are very expensive, and if they're stored inside, it will help with the longevity of these buildings. He said that this building

will be the best for the city, to have modern facilities that could last fifty years.

Atty. Prolman stated that he is also joined by Ethan Beals, Project Engineer, Lisa Fauteau, Public Works Director, Dan Hudson, City Engineer, and Brenden Quigley, Gove Environmental. He said that they are here for a special exception to fill two small manmade ditches, totaling 3,992 square feet, behind the existing Administrative building. He said that the proposed building needs one large, flat site, and these two wet areas are right in the middle of the area, noted on the plans as wetland "A" and "B". He said the wetlands are low quality, and this request has nothing to do with Teak Drive at all. This building will benefit the entire DPW fleet, and will be serviced by city utilities.

Ethan Beals, Project Manager, Hayner Swanson, Inc., 3 Congress Street, Nashua, NH. Mr. Beals said that these two wetlands are located in the northeastern portion of the project area. He said both of the wetlands are man-made drainage ditches, and their primary function is to serve as an outlet to an existing stormwater pond located on the southern portion of the project area. He said that a driveway culvert serves as an outlet to the pond, conveying water in a northerly direction into the first segment of wetland "B". He said that these wetlands are in a highly disturbed and active site, and do not serve any other function except to convey stormwater, and they are not valuable, they are man-made and act as stormwater features, and actually do not carry a wetland buffer requirement. He said that new infrastructure will be built to carry stormwater, providing qualitative and quantitative treatment, using best management practices. He said that they've met with the Conservation Commission three times, and have received their positive recommendation.

Mr. Minkarah asked how the treatment of water comparing the existing systems would be with the new systems.

Mr. Beals said that the two drainage swales are really used for conveyance, they're not active stormwater treatment, the quality and quantity entering them is largely the same, but the proposed condition contemplates several larger subsurface stormwater practices, and will provide both qualitative and quantitative improvements, also, a large portion of water just flows on the site untreated, so the proposed project will be able to capture larger volumes of stormwater runoff from the project area, and get treated.

Atty. Prolman said that there would be a 30" pipe running from wetland "B" across the site towards where the whole area drains by the Trestle Brook area.

Atty. Prolman said for Land Use Section 190-134 (f), the use is the wetland impact, and its listed as a use in Section 190-112 and 190-115.

Atty. Prolman said that the use will not impact any traffic or unduly impair any pedestrian safety.

Atty. Prolman said that the requested use will not impact any public water, drainage, sewer or any other municipal systems, or harm the general welfare of the City.

Atty. Prolman said that all special regulations will be addressed, and this will not impair the character of the neighborhood, it is a landfill.

Atty. Prolman said that the nine special criteria are all met for wetlands, as these areas serve no wetland purposes, and don't even qualify to have buffer areas due to their man-made nature. He said that all the criteria have been and will be met, and they are fine with the Conservation Commissions stipulation.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Minkarah read a letter from Janice Arcand, 33 Teak Drive, Nashua, NH.

SPEAKING IN FAVOR - REBUTTAL:

None.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that this is a very well put-together presentation, and the Conservation Commission is in support, and the wetlands are low quality, and the water carrying dispersal will be improved from what it is now. He said that he is in favor.

Mr. Nehiley said that he is also in favor, and was very impressed with this application and submitted materials. He said that wetland "A" and "B" are wetlands in name only, the quality of water

going near Trestle Brook will be significantly better. He said that the Conservation Commission has supported, this, as well.

Mr. Minkarah agreed, and is in support.

MOTION by Mr. Boucher to approve the special exception as advertised on behalf of the applicant. Mr. Boucher said that it is listed in the Table of Uses, Section 190-112.

Mr. Boucher said that the use will not create undue traffic or unduly impair pedestrian safety.

Mr. Boucher said that there is no indication that the proposed use will overload public water, drainage, sewer systems or any other municipal systems.

Mr. Boucher said that the wetland special regulations set forth are fulfilled per testimony.

Mr. Boucher said that the proposed use will not impair the integrity or be out of character with the district or immediate neighborhood, and will not be detrimental to the health, morals or welfare of the residents.

Mr. Boucher said that on November 7, there was a favorable recommendation from the Conservation Commission with one stipulation of approval.

SECONDED by Mr. Lionel.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

2. Progress Realty Trust (Owner) 84 Lake Street (Sheet 102 Lot 4) requesting the following variances from Land Use Code Section 190-16, Table 16-3: 1) to exceed maximum number of stories, 2½ permitted - 3 proposed; and, 2) for minimum land area, 40,040 sq. ft existing, 261,360 sq. ft required - to construct a 30-unit multi-family building [ZBA approved a 3-story, 24-unit multi-family building on 5-24-2022]. LB/RB Zones, Ward 6. [APPROVED BY ZBA ON 1-9-2024, ABOUT TO EXPIRE, REQUESTING TWO-YEAR EXTENSION OF EXACT SAME REQUEST]

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Steve Lionel
Joseph Patry

Attorney Andrew Prolman, Prunier and Prolman, 20 Trafalgar Square, Nashua, NH. Atty. Prolman said that this is the exact same application, no changes to the plan or anything, and his client wants to keep the application active.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Nehiley said he is in favor of this application, and remembers it from the time they came before the Board. He said the existing building is outdated, and this property, for what is being proposed, is a better fit for this area, the buildings are getting a little bit taller in that area, 2½ stories, and right across the street is a 2½ story building. He said that there is a five-story building right up the street as well, and the existing office building use is having a hard time finding tenants, there is a higher vacancy rate, and the proposed housing stock is good for the City.

Mr. Minkarah said that he is in favor, it's the same application as before, with the same findings from January 9, 2024.

MOTION by Mr. Minkarah to approve the variance application on behalf of the owner as advertised. He said he is making the motion to approve it with the same findings as from the January 9, 2024 meeting.

SECONDED by Mr. Boucher.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

3. Southern New Hampshire Regional Medical Center (Owner) Justin

Parker, Classic Signs, Inc., (Applicant) 8 Prospect Street (Sheet 31 Lot 22) requesting variance from Land Use Code Section 190-108 (C)(6) to exceed maximum wall sign area per City right-of-way for the following three right-of-way's: 100 sq. ft allowed, 143.87 sq. ft proposed for Prospect Street; 2) 100 sq. ft allowed, 255.8 sq. ft for Dearborn Street; and, 3) 100 sq. ft allowed, 211.08 sq. ft proposed for Medical Center Drive. D-1/MU Zone, Ward 7.

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Steve Lionel
Joseph Patry

Justin Parker, Classic Signs, 13 Columbia Drive, Amherst, NH. Mr. Parker said that he wanted to bring up a correction on the notice, he said the numbers listed for Prospect Street and Dearborn Street are the new signs, there are existing signs there. He said the total proposed for Prospect Street is 238.32 square feet, there's already 94 square feet existing, and for Dearborn Street, the total signage would be 271.55 square feet and 15.75 square feet exists.

Mr. Parker said that the main goal for this project is to increase the visibility of the hospital signage, and to aid in emergency vehicles finding their way, one is an emergency sign on Medical Center Drive, where the emergency center is, and on Dearborn Street, it signifies that you're in the right area, and the main entrance on Prospect Street.

Mr. Parker said that granting the variance will not be against the public interest because these signs advertise for the hospital, and in an emergency, these signs will help for emergency services and to find where you're going faster.

Mr. Parker said that the hospital is a public institution, and provides essential services to the community, and this will benefit the public health and safety and welfare of the community, and substantial justice will be done, as the hospital and emergency room will be easier to find with better signage, and the signage will outweigh any harm to the public. He said that this will not diminish the property values of surrounding properties, and the signs will not block any views. He said for hardship, it is

necessary to find exactly where you need to go in an emergency, and the proposed signage is reasonable, they advertise the hospital and the emergency room.

SPEAKING IN FAVOR:

Scott Cote, Vice President, Facilities, Southern New Hampshire Regional Medical Center, 8 Prospect Street, Nashua, NH. Mr. Cote said that they need to update the signage for the main campus, and recognize the need to improve the site wayfinding to the campus. He said that there was a recent law, Laura's Law, where an individual had trouble finding the emergency room, and there is a mandate to improve that. He said that gave the hospital a chance to review existing signage, and make sure it is easily identified. He said that when you look at the campus, it is about eight city blocks in size, and also surrounded by several different zoning districts, D-1/MU, D-3/MU, RC, GI, all around the campus, all of which allow different sign requirements. He said that the signs have been well thought-out from an operational point of view.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel asked if there is a problem with the discrepancy of the sizes advertised.

Mr. Falk said that staff advertised the new sizes for the signs, and have all the numbers on drawings identified by Mr. Parker, and said that he believes it was advertised correctly.

Mr. Lionel said that he is in favor of the application.

Mr. Nehiley said that he is also in favor, and said that this is a large public campus, and this is a safety matter, and it may not be super easy to find the emergency room, and this is a great application, and some valid points were made. He said that this probably should be looked at as its own district, but anything to increase the visibility of people driving here, as people may be coming here during inclement weather trying to find where to go, and there are multiple doors, so the proposed signage makes sense.

Mr. Minkarah said that he agrees, and the hospital has frontage on

four roads, and the need for this signage is critical.

MOTION by Mr. Lionel to approve the variance application on behalf of the owner as advertised. Mr. Lionel stated that the granting of the variance would not be contrary to the public interest, because this is wayfinding for a medical center to help emergency vehicles and patients to find the necessary entrance to this very large campus.

Mr. Lionel said that the request is within the spirit and intent of the Ordinance because the signs do not detract from the public, and this will enhance safety.

Mr. Lionel stated that substantial justice will be served to the owner, because it will improve wayfinding to this large hospital, and as noted, there have been issues in other areas where signs were inadequate, causing loss of life and other serious problems, so this would allow for substantial justice.

Mr. Lionel stated that the Board did not have any testimony about the value of surrounding properties being diminished.

Mr. Lionel stated that for unnecessary hardship, owing to special conditions of the property, this is a large and complex building, sprawling over many city blocks, with many entrances, and people needing to find the correct entrance in an emergency is useful. He said that there is a fair and substantial relationship between the general public purpose of the ordinance, and the proposed use is a reasonable one because it improves the wayfinding signage.

SECONDED by Mr. Patry.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

4. Joshua Naughton, Trustee of the 169 Daniel Webster Revocable Trust (Owner) Optima Dermatology (Applicant) 169 Daniel Webster Highway (Sheet A Lot 228) requesting the following variances: 1) from Land Use Code Section 190-108 (C)(8), to allow a second wall sign of 32 square feet, where no wall sign is permitted, but one wall sign exists of 32 square feet, approved by variance on 9-27-05; and the following variances from Land Use Code Section 190-101, Table 101-7; 2) to exceed maximum ground sign size, 10 sq. ft permitted, 64 sq. ft exists from 9-27-05 variance - 93.25 sq. ft proposed; and, 3) to exceed maximum ground sign height, 8 feet permitted, 12'-

6" existing from 9-27-05 variance - 15'-9" proposed. RC Zone, Ward 8.

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Steve Lionel
Joseph Patry

Attorney Morgan Hollis, Gottesman and Hollis, 39 East Pearl Street, Nashua, NH. Atty. Hollis described the property location, basically across from the exit lanes from the highway. He said it is zoned RC, in that in this area, there are two existing buildings which are office buildings. He said it's RC because right in back of this building, there are multi-family units, and immediately to the southwest as well. He said it's an unusual situation, and a variance was granted to allow this building, and the building next to it.

Atty. Hollis said that signage in the RC Zone is pretty limited. He said there is a limiting size of ground sign, and depending on the setback, you may not be allowed any wall signage. He said that the Zoning Board found relief in 1999 for a ground sign, in addition to a wall sign, with it being 32 square feet, and in 2005, there were variances to exceed the ground sign size, up to 64 square feet, and to exceed the maximum ground sign height, where 8 feet is permitted, and 12'-6" was proposed. He said that there has been this incremental increase in the size of the signs, so that is how they got to this point.

Atty. Hollis said that his client just recently received a Conditional Use permit to occupy this building for medical services, and patients can come from a considerable distance, and on Daniel Webster Highway, it is important to have proper signage.

Atty. Hollis said that he submitted several pictures of the site. He said that his client will occupy the third floor in the building, and the existing sign on the third floor would be relocated to the second floor. He said that the ground sign would have a panel added to the top of the existing sign. He said that the pictures really show how much these signs are needed.

Atty. Hollis said that for the public interest, there is no real

change, the request is for an increase in signage, but not substantially, and the character of the neighborhood would not change. He said that the extra signage does not block anything, and does not harm the public health and welfare.

Atty. Hollis said that the request is in keeping with the spirit and intent of the ordinance, it will not alter the essential character of the neighborhood, and will allow for proper direction in locating the business.

Atty. Hollis said that the request will not adversely impact the property values of surrounding parcels, this small area has two small office buildings, and the signage will not impact property values.

Atty. Hollis said that substantial justice will be served, if this were a commercially zoned property, the signage would be permitted.

Atty. Hollis said that for hardship, the Zoning Board has found that this property is unique, variances have been granted in the past, it is zoned in such a way that it doesn't make sense that the zoning is residential when there are basically two office buildings at this location. He said that it doesn't make sense to use the RC zoned signage requirements for this building at this location, the use and the signage is reasonable.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said that he is in support of the application, the applicant has made a good case to support the criteria, and there is challenge with the zoning, and the building is several hundred feet back from the street, the signage will not impede any drivers, and the scale and size of the signage is proper, and most drivers in this location are paying more attention to the traffic, as it can be moving fast.

Mr. Minkarah said that he agrees, it's a heavily travelled

corridor, and if you miss the driveway, it would contribute to more congestion on the street.

MOTION by Mr. Nehiley to approve the variance application on behalf of the owner as advertised, with all requests considered collectively. Mr. Nehiley stated that the granting of the variance would not be contrary to the public interest, as discussed by the Board, there is quite a bit of traffic in this area, and it's a very unique location, having not only Daniel Webster Highway traffic, but two highway inbound lanes, so by adding this signage, it should add to the safety.

Mr. Nehiley said that the request is within the spirit and intent of the Ordinance, due to safety and the design of Daniel Webster Highway, and the location of the building, it does make sense to have signage on the building, as well as a larger ground sign to make the business easily identifiable.

Mr. Nehiley stated that substantial justice will be served to the owner, because this is a new business, and they should be allowed to advertise their services.

Mr. Nehiley stated that the Board did not have any testimony about the value of surrounding properties being diminished, but there is no reason to believe that property values would be diminished with the proposed signage.

Mr. Nehiley stated that for unnecessary hardship, this property, several times, has been to the Zoning Board for variances, and due to its location in a zone that may not really be indicative of the uses there, Daniel Webster Highway has a unique set of traffic down there, and the Board believes there would be a hardship if the applicant were not allowed to advertise their business, and it is critical for the safety of Daniel Webster Highway to allow these larger and proposed signs.

SECONDED by Mr. Patry.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

5. Jacob Diamond (Owner) 13 Fulton Street (Sheet 100 Lot 13) requesting variance from Land Use Code Section 190-32 (B) (1) to exceed maximum size of accessory dwelling unit, 750 sq. ft permitted, 1,000 sq. ft proposed for an accessory dwelling unit on first floor of existing house. RC Zone, Ward 6.

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Steve Lionel
Joseph Patry

Jacob Diamond, 13 Fulton Street, Nashua, NH. Mr. Diamond said that he's owned the property for almost a decade now. He said that the size of the ADU is actually 860.55 square feet, not 1,000 square feet as advertised. He said it will not be against the public interest, because the accessory dwelling unit does not alter the exterior appearance, or change the character of the neighborhood in any way, all the work is interior, and there will be no impact on traffic, as the new Codes for ADU's that were approved this summer allow ADU's, and the available parking supports the proposed plan. He said that it will meet all building and safety regulations, it will preserve the look of the neighborhood.

Mr. Diamond said that the intent of the ordinance is to allow for a small accessory dwelling unit in the house, and since there are no modifications proposed to the exterior, it will still look like a residential building. He said that it is not a run-down building, and has been before the Board before. He said it is somewhat of an awkward spot, it's a corner lot, and the building was built in 1922, and substantial upgrades have been done, such as roofing, doors, windows, siding and plumbing. He said that he works for a roofing/solar company, and can do a lot of work around the house.

Mr. Diamond said that the top section already has a kitchen up there, there's already a washer and dryer upstairs, and a small room on the right has a living room there, and the reason for this is because this structure has three entry doors, three chimneys, and four staircases, it's just an awkward building, and it looks like it's been three different additions that have been stacked up. He said the exterior wall, where it's labeled as bedroom #2, if you move that over, it eliminates a staircase to the basement. He said the reason for this is that he has a growing family, and around the holidays, it's a nice place to have the in-laws stay. He said it will not have any overcrowding or disruption to the neighborhood, and there are three entry doors to the

building, and there is no way to relocate any of them.

Mr. Boucher asked if the second and third floor is one unit, and if he is occupying it.

Mr. Diamond said that is correct.

Mr. Nehiley asked what the parking situation is, and how many spaces are available in the driveway.

Mr. Diamond said that there are concerns in the neighborhood around parking, and he parks cars on the grass at times, and can squeeze four, and there is a patio in the back, and can fit six cars, but using the curb-cut, it's three and a half cars.

Mr. Nehiley said it's a unique site, and originally thought the ADU would not be on the first floor. He said in looking at the plans, there was a label that said apartment, and asked to clarify if this is an ADU.

Mr. Diamond said that perhaps the architect was confused on that.

Mr. Nehiley asked to confirm that the person putting the plans together wrote apartment instead of ADU.

Mr. Diamond said that if he was good at CAD, he would have drawn the plans himself. He said it's an ADU.

Mr. Nehiley asked to confirm that it is 860 square feet, and it wouldn't include the staircase, which may have been included in the 1,000 square feet.

Mr. Diamond said that if the Board wants to include the staircase, it would be, but the real living area is 860 square feet, but the total area is 1,000 square feet.

Mr. Boucher asked if he meets all the accessory dwelling unit criteria.

Mr. Diamond said that the only one he doesn't meet is the 750 square feet, but is 860.55 square feet.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Rick Markiel, 7 Brook Street, Nashua, NH. Mr. Markiel said that he sent a letter of concern. He said that even though he has good intentions, it seems like the second and third floor have had tenants, but maybe not currently. He said it's not in character with a single-family house, and this is what they've observed. He said that he's been absent a lot, and over the past six years, he's like an absentee landlord. He said that for parking, the curb-cut can accommodate two cars, and said that he sees four cars there, it just doesn't meet the single-family profile, and questions whether he lives there as a primary residence.

Guy Patierno, 25 Fulton Street, Nashua, NH. Mr. Patierno said that he always thought the house was a three-family house, as the second and third floor were occupied.

Michael Patten, 14 Fulton Street, Nashua, NH. Mr. Patten said that the parking there always has four in the drive area, and two on the sides, so six cars occupy it. He said that the owner is there now, however, and there definitely were renters there, and said he hasn't seen him there much.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Diamond said that the intent of parking on the lawn is just to alleviate any stress from parking on the street from the neighbors. He said that he works remotely, and operates offices out of New Jersey, Connecticut, Rhode Island, Pennsylvania, and is usually on the road, and the curb-cut allows what is there for parking. He said that the purpose of this is for the growing family, and has no intent on moving.

Mr. Minkarah asked if he can confirm if he is a resident of the property.

Mr. Diamond said yes.

Mr. Minkarah asked to confirm if it is a single-family home.

Mr. Diamond said that it is a single-family home, and there is a permit to put a stove on the third floor, as there is no kitchen on the third floor.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Markiel said he owns two properties that abut 13 Fulton Street. He said that the applicant is trying to satisfy the Board to get approval, and things have changed after the Board granted him the first permit in 2019 for the third story. He said that there have been other people living in there, but perhaps it's not the case now. He said that it may go back to three units sometime in the future.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Minkarah said that he checked the Assessing records, and it is listed as a single-family residence.

Mr. Lionel said that whether the building in the past was used by renters, or whether it might be in the future, is not in the Board's purview. He said that the ADU's were dramatically simplified by the State Legislature earlier this year, so there is a lot less than the Board can do, and this is simply to review a rather small overage for the ADU, and doesn't see any reason to oppose that.

Mr. Boucher said that he agrees with Mr. Lionel, on the face of this, doesn't see any reason to deny this, he said that going forward, the neighbors can contact Code Enforcement. He said it's a very reasonable request.

Mr. Nehiley said that he appreciates Mr. Markiel's testimony, and believes the applicant has some fences to mend with the neighbors, and understands what is driving the angst in the neighborhood, there are narrow streets there. He said based on the application and testimony, the Board has to go on that, and it is easier to get an ADU than it was a year ago. He said that it's not normal to see an ADU on the first floor, with the primary residence on the second and third floor. He said he is in favor of the application.

Mr. Minkarah said that he agrees, and struggled with this one, but the Board sees this challenge when an ADU is submitted in an existing footprint, you have the existing square footage, and it can be challenging to adapt it in another way. He said that he appreciates the concern by the neighbors. He said that the applicant has stated that it is a single-family home, and so do the Assessing records.

MOTION by Mr. Nehiley to approve the variance application on behalf

of the owner as advertised. Mr. Nehiley stated that the granting of the variance would not be contrary to the public interest, it is a single-family home per the records of the City, and an ADU is permitted under relatively new State rules, and for the extra 110 square feet, the Board does not find that egregious over the 750 square feet allowed.

Mr. Nehiley said that the request is within the spirit and intent of the Ordinance, the City has been looking for more housing stock, particularly ADU's, and while most are under 750 square feet, the Board finds that the 110 square feet over is not egregious.

Mr. Nehiley stated that substantial justice will be served to the owner, as the applicant noted under State law that they have the right to build the ADU, and it will be used for family housing needs.

Mr. Nehiley stated that the Board did not have any testimony about the value of surrounding properties being diminished, but in the Board's opinion as seen in the past, there is no reason to believe that property values would be diminished.

Mr. Nehiley stated that for special conditions of the property, there was some discussion about this ADU being on the first floor, and the owner did note that there is three stairwells as well as three chimneys, that cause some interesting angles in the building, it does not make sense from the Boards point of view to put up some sort of partition to take away 110 square feet, and the Board often sees properties where it makes sense to go to a different amount of square footage due to the footprint of the house, and it would be egregious to make them put up a wall to take out 110 square feet.

SECONDED by Mr. Lionel.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REGIONAL IMPACT:

Mr. Falk said that there is no Agenda for the next meeting, as there is only one meeting in December, and Staff still has time to accept applications. He said that he'd provide the Board with a copy of the Agenda when it becomes available.

MINUTES:

November 25, 2025:

Mr. Patry said on page 1, there is a block of voting members, he said his name is listed and he wasn't voting, and that case was actually postponed.

Mr. Patry said on page 19, the fourth paragraph, where it begins with "Mr. Minkarah stated that", believes it should state that there will be no significant impact to the habitat, and endangered species, and strike "will result" and in the last sentence, it would state that there was no testimony about that as it clearly is a residential lot.

MOTION by Mr. Patry to approve the minutes with the proposed changes, waive the reading, and place the minutes in the file.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0.

36 Granite Street - Public Meeting:

Mr. Minkarah said that the Board is being asked to provide meaningful findings of fact from the Housing Appeals Board (HAB) based on only the certified record as existed before the ZBA hearing on 9-26-2023. He said that Staff has provided a packet of information of prior meeting minutes and application materials. He said that the charge before the Board is to articulate for the Court what the Boards findings are, specific to each criteria, based solely on the record.

Mr. Nehiley said that when the Board gets to the point when they will make a motion, it would go over the full five points.

Mr. Minkarah said yes.

Mr. Lionel said that as he understands it, the Board is supposed to ignore what happened at the last meeting, and nothing that he's heard at that last meeting would change his view on any of the materials, he said that he believes that the Board made the correct decision multiple times, and would be in favor of repeating what the Board said the last time. He said in reading the HAB ruling,

his interpretation is that there is this view that the Board somehow allowed the additional testimony to influence the decision, and didn't see any evidence of that. He said that the lawyer said that the Zoning Board isn't supposed to suggest other ways of doing what the applicant wants to do, but that's exactly what the Board does in many cases, for example, the recent case of the homeowner requesting to put a ground solar array in their front setback, and the Board suggested at least two other ways they could accomplish that without violating the ordinance, and that variance was denied. He said that this is the same thing, the owner wants to do a particular thing, and doesn't want to do it the way that the Board suggested. He said that one of the criteria is if there is any other reasonable way to do what he wants, and there is, and the Board said that.

Mr. Minkarah agreed, and doesn't understand what this is accomplishing. He said nevertheless, this is what the Board has to do. He said that his approach is that he went through primarily the minutes, and took this very narrowly, in the sense of not only do we have to find specific findings for each criteria, based on the record before the Board at that time, but even if he had a different thought today, didn't think he could apply it if it's not actually in the record. He said he looked at it very much based on what is in the minutes what the Board said, and the testimony that was made. He said where this goes after this, he doesn't know.

Mr. Patry asked if it would be helpful if one of us came up with a draft of proposed findings of the specific language of the specific pages of the minutes, so we can ensure that we're meeting all the points of law, and that they're all adequately supported.

Mr. Minkarah said that he did. He said that he didn't cite lines in the minutes, but would be happy to go over what he found.

Mr. Minkarah said that the first finding is that granting the variance would not be in the public interest because it would alter the essential character of the neighborhood.

Mr. Patry asked if the Board should make a motion so that we can have all this incorporated into our findings, before we start going over them.

Mr. Nehiley said that he also has some points to add to this. He said that he wants to put in the record that he is still

flabbergasted that this has come back to the Board again. He said that the Board was very clear, multiple times, and doesn't know why the HAB and the Court has come back to us, and feels that they have kicked it back to the Board because they did not want to make a decision. He said that as Mr. Minkarah was talking about, it was critical to go through the original minutes, but also thought it to be very instructive to go to the letter provided by Devine Millimet, and believes that Attorney Swiniarski was making statements that we have not always seen as the rule of law here, and he was taking some licenses to make some assumptions, and obfuscating the whole thing, talking about the breezeways, that was just a lot of chafe thrown out there. He said that he went through the letter today, and wants to point out one thing that he does not believe was brought forward properly during the testimony from him originally when it came back the second time. He said that on page 4 of the letter, the November 1, 2024 letter, under the proposed use is a reasonable one, he had noted in the letter that the property is relatively unique from others in the neighborhood because it has separate access points from two public rights-of-way, Granite Street and Davis Court, and said that he would argue that this is not unique because there are at least three properties that have that same criteria, and Mr. Falk, in his statements, said that there is a fourth. He said that this is not a specifically unique property in his opinion.

Mr. Nehiley said that the applicant stated that they can better utilize the property in conformity with the urban residential setting in which it lies by providing an additional single-family structure. He said in his opinion, it is not consistent with the neighborhood, the Board did not find anything in blocks around that where there are multiple residences that were not one building, and that's really the crux of the matter here, as Mr. Lionel alluded to, and at the end of the day, any of the other multi-family structures in blocks around this are all one building, while there were some out-buildings, none were habitable for humans, such as barns, so for this to move forward, it is very much not consistent with the neighborhood in any way, and that is a key part of why the Board ruled against it. He said that this is an older, established neighborhood, and while it's not specifically in a historic district, they are older houses, larger, longer lots, and when you take a look at the map, it's a fascinating neighborhood in that specifically this property and several on either side are long and thin, and the conversation we had to stick another residence in the middle where they're proposing, that would kill the sight lines for everybody else, and does think that it

would lead to a lack of substantial justice for all the neighbors, who, by the way, came out and opposed this, partially for that reason. He said that as he read the record again, and as Mr. Minkarah was talking about, he really tried to get his focus down, there was a lot of testimony from Davis Court that took us in the weeds a little bit, but a couple members of the Board brought us back, and it wasn't so much about the paper street on Davis, or the amount of traffic, the Board can't get into people moving snow, but it came down to Granite Street, specifically, in his opinion, was the neighbors all along Granite Street that said that they're all living in harmony here, and don't need another building plopped down at the end of their yards here. He said that Attorney Swiniarski did state that he thought everybody was accessing their yards from Davis Court, but one neighbor said that is not the case, and was not driving in her back yard, and there is no evidence of doing that, so Attorney Swiniarski was mistaken.

Mr. Nehiley said that on page two of that letter, one of the statements from Attorney Swiniarski said that granting of the variance would not alter the essential character of the neighborhood, but instead, would make the property be more harmonious and compatible with the neighborhood. He said that is not harmonious at all, in fact, it would be the opposite, and finds that statement in here to be absolutely one of the reasons that the Board could not move forward to granting this variance. He said it was apparent to him that the Board could not take all this information as gospel, he was taking some liberties and making some assumptions that the Board could not agree with, and as the neighbors were discussing. He said it is a unique neighborhood, and gave them a great option to build onto the back of the house, and knows that the Board was a little upset when Attorney Swiniarski was talking about breezeways and that the Board was trying to avoid variances, at the end of the day, the thought process needs to be that we don't want folks to come here and get variances, variances mean something has gone askew or there's something with the property that needs to be looked at, and our base opinion was that there is nothing special about this property that necessitated the need to have a second residence at the end of their property.

Mr. Minkarah said that he'll go ahead and make this into the form of a motion, and said that the Board is free to make amendments to make sure we capture everything.

MOTION by Mr. Minkarah to clarify findings of fact made by the

Zoning Board of Adjustment at its hearing on September 26, 2023 and to amend those findings and clarify them as follows.

Mr. Minkarah said that granting the variance would not be in the public interest because it would alter the essential character of the neighborhood by adding an additional dwelling unit at the end of a small, narrow dead-end street and creating two principal uses on a single lot.

Mr. Minkarah stated that granting the variance is not consistent with the Spirit and Intent of the ordinance for the reasons cited above, in that it would alter the essential character of the neighborhood by adding an additional dwelling at the end of a small, narrow dead-end street and would create two principal uses on a single lot where the ordinance permits only one in this district, and the Board finds that having two principal uses on a single lot is fundamentally different than one principal use on a lot, even though that principal use consists of multiple units.

Mr. Minkarah stated that substantial justice could be done in that granting the variance would allow the applicant to realize a more Intensive use of the property.

Mr. Minkarah said that there is no evidence that the value of surrounding properties would be diminished, and the Board received an opinion from a licensed realtor that it would not diminish surrounding property values.

Mr. Minkarah said that there are no special conditions distinguishing the property from other properties in the area, though the property is relatively large and has frontage on two streets, multiple properties in the area, including the immediate vicinity of the subject parcel, are as large or larger and/or have frontage on two streets; and that literal enforcement of the ordinance would not result in unnecessary hardship because there are alternative ways that the applicant can create an additional unit on the property.

Mr. Lionel said that what he noticed is that Mr. Minkarah is taking out of the motion, the discussion about the paper street and turning it into a private driveway.

Mr. Minkarah said that he can add that in.

Mr. Lionel said that he doesn't think he needs to, as it kind of

blurs things a bit, and it's not necessary to the Boards argument.

Mr. Minkarah said that was his concern, and was going to mention that it could impact the private rights of other people to access that street, but also figured it could blur things as well, and didn't mention snow and turning around of vehicles.

Mr. Lionel said that gets into the weeds.

Mr. Minkarah said that he did think about it.

Mr. Patry said that it's fair to exclude that and didn't think that most of the neighbors mentioned that, maybe one or two. He said he might add to the motion that the Board is making these findings explicitly on the record and the minutes of the September 26th meeting, and thinks there is ample support in the minutes for all those findings.

Mr. Minkarah said that he would accept that amendment.

Mr. Nehiley said that he'd like to make a statement that that the Board finds that the request for this second principal residence is not consistent with the neighborhood, and cannot find other properties in the area that have two residences on one lot. He said that this is an older, established neighborhood, which there are larger lots that are designed to have larger lawns, and the Board does think that this gentlemen putting this residence in the back would potentially affect the enjoyment of the neighbors with their sight lines.

Mr. Lionel said he wouldn't put that in there, because the Board often grant variances that have that, and doesn't ever recall granting a variance for more than one unit on a lot, except for condominium developments in the City.

Mr. Minkarah said that the Board did allow a conversion of a barn, and in that case, there was an immediately abutting property that also had a detached unit. He said he'd be happy to add to both criteria one and two, and the Board has found no other properties in the neighborhood or the area that had a second principal dwelling.

Mr. Nehiley asked if we could put in that this property is not unique from others in the neighborhood.

Mr. Minkarah said that he thought he had that, and just put it in the context of there are no special conditions distinguishing it from others in the area.

SECONDED by Mr. Patry. Mr. Patry said that he is good with the amendments.

Mr. Falk said that he'll do very detailed minutes, watch this again on YouTube, and the draft minutes will be available within five business days as required.

Mr. Lionel said that what Mr. Minkarah has, the simpler the better, it's clear that this does not meet all five points of the law, and that is why the Board denied it.

Mr. Minkarah said that in the minutes, there could be an error in who voted, it notes that three people voted on this, and he was there.

Mr. Falk said that both Mr. Minkarah and Ms. Booras were actually on zoom for that meeting, and while they could partake in discussion, could not vote since they were not physically there.

Mr. Minkarah said that makes sense.

Mr. Falk said that Ms. Booras used to attend on zoom a lot, she was very busy.

Mr. Falk said that Mr. Durfee found that out.

MOTION CARRIED UNANIMOUSLY 5-0.

ADJOURNMENT:

MOTION by Mr. Lionel to adjourn the meeting at 8:31 p.m.

Submitted by: Mr. Falk, Clerk.

CF - Taped Hearing