

City of Rochester Zoning Board of Adjustment

Wednesday August 9, 2023

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on September 13, 2023)

Members Present

Larry Spector, *Chair*

Lance Powers, *Vice Chair*

James Connor

Michael King

Members Absent

Matthew Winders, *excused*

Alternate Members Present

Brylye Collins

Stephen Foster

Laura Zimmerman

Staff: Shanna B. Saunders, *Director of Planning & Development*

Crystal Galloway, *Planner I*

These minutes serve as the legal record of the meeting and are in the format of an overview of the Zoning Board of Adjustment meeting. It is neither intended nor is it represented that this is a full transcription. A recording of the meeting is on file online at www.rochesternh.net for a limited time for reference purposes.

Chair Larry Spector called the meeting to order at 7:00 p.m.

The recording secretary, Crystal Galloway, conducted roll call.

3. Seating of Alternates:

Mr. Spector said the voting members for the meeting would be Mr. Powers, Mr. King, Mr. Connor, Ms. Collins, and himself.

4. Approval of Minutes:

A motion was made by Mr. Powers and seconded by Mr. Connor to approve the minutes from the July 12, 2023 meeting. The motion carried unanimously by a voice vote.

5. Continued Cases:

Z-23-17 SWD Property Management, LLC Seeks a *Variance* from Table 18-B to permit the construction of a 10,700 s.f. retail building in the R2 zone.

Location: 25 Old Dover Road, Map 132 Lot 39 in the Residential-2 Zone.

Attorney John Arnold of Orr and Reno, P.A. presented the variance application and gave the Board an overview of the property and surrounding area.

Property owner Steve Dumont said he purchased the Sherwin Williams building about 20 years ago. He said they have worked with the City well, over the years and have since purchased the Gonic Mill building, 20 acres of land, and Merchants Plaza. Mr. Dumont explained they have been trying to develop this parcel for a while, with a lot of interest. He said Dollar General picked this lot to develop a 10,000 square foot store in order to bring 25 to 30 new jobs to the city.

Mr. Dumont said the area was currently rezoned to residential-2, further explaining that they are unable to construct residential housing on the parcel.

Mr. Arnold read through the variance criteria. He said granting the variance would not alter the essential character of the locality. There are several existing retail uses on the property, and the properties to the south contain a mix of commercial and industrial uses. The abutting property to the north is a retail bank/credit union. There are currently no residential uses within the pocket of the R2 district. The spirit of the ordinance is observed because the property was recently rezoned from General Industrial to R2 zoning. The primary motivator this this rezoning was to facilitate the development of a nearby City-owned property for affordable housing, several parcels to the South. However, the spirit of the ordinance is to allow the reasonable use and development of property, the developable area at issue is not well suited for residential use. Substantial justice is done because a retail use is consistent with the historic use of the property, and the surrounding uses on the west side of Old Dover Road. In connection with the rezoning effort, some concern was expressed about continuing to allow industrial uses adjacent to the river. The proposed retail use does not pose the same perceived environmental threats as many industrial uses and is more aligned with the public interest in that regard. Granting the variance will bring new development, services and tax revenue to the City and its residents. The value of surrounding properties is not diminished because until a few months ago the property was zoned General Industrial, and all the uses on the west side of Old Dover Road are commercial/industrial. Although the properties have been rezoned to R2, the current uses are entitled to continue as pre-existing nonconforming uses. The proposed retail building will be less obtrusive and more fitting with the residential uses across the street. The addition of approximately 10,000 square feet of new retail space to a corridor already heavily developed with other industrial and commercial uses will not have any detrimental impact to the residences across the street. The developable area on the property cannot be reasonably used for the permitted uses in the R2 district. It is not a practical location for a single or multifamily residential use because it is sandwiched between the existing parking lot to the south and a retail drive-through bank to the north. Senior housing and daycares are equally poorly suited for the property for the same reasons.

Mr. Arnold gave the Board a letter from Enviro North American Consulting regarding environmental contamination that occurred. He said it has been determined both the ground water and soil have been impacted. One contaminant, TCE exceeds vapor intrusion standards which poses a risk of contaminating indoor air quality for any building that is put on the site. The report states due to TCE concentrations, future development would be better suited toward commercial or industrial uses.

Mr. Spector opened the public hearing.

Ms. Saunders said she put a copy of an email received from Tyler Stone of Thompson Investment Casting at each member's place before the meeting.

There was no one further from the public to speak; Mr. Spector brought the discussion back to the Board.

Ms. Saunders said this variance request fails Criteria 1, Contrary to the Public Interest. The Planning Board and the City Council approved this zoning change because it was found to be in the public interest to increase land for residential uses, particularly multi-family and apartments. The purpose of the zoning ordinance is, in fact, to alter the character of the neighborhood. Were the ZBA to grant this variance, it would undermine the entire purpose behind the zoning change. “[T]he well established policy of zoning law is to carefully limit the enlargement and extension of nonconforming uses, and, ultimately, to reduce them to conformity as completely and rapidly as possible.” *Hurley v. Town of Hollis*, 143 N.H. 567, 571 (1999) (internal quotations and citations omitted). Granting this variance would do the exact opposite. It also fails Criteria 3, Substantial Justice because the benefit gained by the applicant would far outweigh the costs to the general public. As stated above, the Planning Board and the City Council made a policy determination that our City needs more residential units. This variance would damage the general public by denying area for increased residential units.

Ms. Saunders reminded the Board there is residential uses, including multifamily across the street from this site that had not been mentioned by the applicant.

Mr. Spector closed the public hearing.

The Board began deliberating the variance criteria.

Mr. King asked staff if anyone from the City has reviewed the document from Enviro North American Consulting. Ms. Saunders said this is the first time this has been brought to her attention. Mr. King suggested having the City Engineer review the document before moving forward with the variance.

Mr. Powers disagreed and motioned to approve case Z-23-17 as presented based on the applicant’s testimony. Mr. Connor seconded. The motion carried by a 3 to 2 roll call vote.

Z-23-22 MPG Corporation Seeks a *Variance* from Section 20.2.F(3) to permit fuel pumps and equipment to be 10 feet from the side lot line where 30 feet is required.

Location: 4 Little Falls Bridge Road, Map 216 Lot 12 in the Granite Ridge Development Zone.

Ms. Saunders let the Board know the applicant has requested a continuance to the September 13, 2023 meeting.

Z-23-23 MPG Corporation Seeks a *Variance* from Section 20.2.F(5) to permit a fueling canopy to be 6 feet from the side lot line where 20 feet is required.

Location: 4 Little Falls Bridge Road, Map 216 Lot 12 in the Granite Ridge Development Zone.

Ms. Saunders let the Board know the applicant has requested a continuance to the September 13, 2023 meeting.

6. New Cases:

Z-23-26 Christopher & Rebecca Bannon Seeks a *Variance* from Table 19-A to permit a two-family home without the required frontage.

Location: 155 Charles Street, Map 128 Lot 226 in the Residential-2 Zone.

Applicant Christopher Bannon read the variance criteria. He said the variance would not be contrary to the public interest because multi-family residences are very common on Charles Street, the vast majority of which include nearby properties and abutters do not conform to the current dimensional standards. 157 Charles

Street is a two-family home on a lot of identical dimensions. Allowing conversion to a two-family home suits the character of the neighborhood and serves the public interest through the creation of additional much-needed housing. The spirit of the ordinance would be observed because the ordinance exists to protect the character of our neighborhoods while promoting responsible development. Multifamily homes are very common on Charles Street, such that the use allowed by granting the variance would serve the most appropriate use of land in this case and encourage provision of high-quality housing for Rochester. Substantial justice would be done because granting the variance is in keeping with established dimensional precedents on Charles Street and the proposed use is in keeping with the essential character of the neighborhood. Housing stock will be increased and revitalized, the most appropriate use of this property will be supported, with no harm caused to the general public or other individuals. The values of the surrounding properties would not be diminished because multi-family residences on lots of non-conforming dimensions are already common here. Rather than diminish surrounding property values, the project we are seeking to undertake will substantially revitalize the current property, while also increasing its usefulness and value. This serves to increase rather than diminish the values surrounding properties. Denial of the variance would result in an unnecessary hardship because the 80-foot frontage requirement for two-family homes is fairly new, relative to the housing stock on Charles Street. Abutters and many other nearby properties do not meet the criteria, with no harm to the essential character or value of the neighborhood. Refusing to grant this variance will not encourage most appropriate use, preserve and enhance value, or encourage provision of high-quality housing while granting the variance will accomplish all of these public purposes of the ordinance. The proposed use is a reasonable one because it is in keeping with well established precedent, fitting with the essential character of the Charles Street neighborhood. The aim is to create housing for aging parents who are in the position of needing to move from out of state. In the midst of an unprecedented housing inventory crisis, proximity and affordability needs dictate that we pursue the creation of a dwelling unit as part of our property. The specific space needs of our parents will require more than the 800 square feet the accessory dwelling unit provisions established by state law. As such, the conversion of our property to a two-family dwelling would seem the most appropriate course of action, in the best interests of the public as well as for the long-term value of this property. At this time strict compliance with current dimensional standards prevent us from taking this course which is an unnecessary hardship given that we are surrounded by multi-family homes which are similarly short on the 80 foot frontage requirement.

Mr. Spector opened the public hearing. There was no one from the public present to speak; Mr. Spector closed the public hearing.

The Board began deliberating the criteria. Mr. King stated he supports the application based on the testimony of criteria given.

A motion was made by Mr. Powers to approve case Z-23-26 as presented, citing all the criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

Z-23-27 Katie Hespelein & Matt Restivo Seeks a *Variance* from Table 19-A to permit the construction of a deck within the rear setback.

Location: 2 Pawtucketts Way, Map 257 Lot 30 in the Agricultural Zone.

Applicant Katie Hespelein explained they purchased the home about a year ago and during the inspection it was determined that the deck was in bad condition and should be replaced. She said they were made aware of the setback issue when they applied for the building permit.

Ms. Hespelein read the variance criteria. He said the variance would not be contrary to the public interest because the property line has an irregular shape that results in an impractical deck design due to limited space. The deck will not impact the privacy of neighboring properties. The previous deck was not up to code and was unsafe. The new deck will be built to code and poses no safety risk to the public. The spirit of the ordinance will be observed because building the deck will not infringe on another neighbor's privacy or view. The setback for the deck is against common land and does not infringe on a neighbor's property. Substantial

justice will be done because the deck will not impede on neighbor's access to common land. It does not cause any harm to neighboring properties. The house will not lose its property value. The stairs and deck are needed to safely access the side door in a reasonable manner in the event of an emergency. The values of surrounding properties will not be diminished because rebuilding the deck add property value which is beneficial to the owner and surrounding properties. It adds aesthetic appeal and would no longer be a safety hazard. As the new deck is replacing the original one, it will continue to align with the character of the neighborhood and be consistent with surrounding properties. Denial of the variance would result in an unnecessary hardship because the property line makes it unique and distinguishable from others in the area. Even with the approved variance. The deck would not interfere with neighboring properties. It would not affect their privacy, light, or views in any way. The variance would allow construction of the deck which provides a usable outdoor living area. Otherwise, the property is not able to be fully utilized. The house is just under 21-foot setback from the property line and with the current setback requirements, no construction can occur.

Mr. Connor asked if the deck is elevated or ground level. Ms. Hespelin said it is an elevated deck.

Mr. Spector opened the public hearing. There was no one from the public present to speak. Mr. Spector closed the public hearing.

Mr. Connor said the property lines make it a unique property. It is very oddly shaped unlike others in the neighborhood.

A motion was made by Mr. Connor to approve case Z-23-27 as presented, citing all criteria has been met. Mr. Powers seconded. The motion carried unanimously by a roll call vote.

Z-23-28 Ralph W. Torr Seeks an *Equitable Waiver* from Table 19-A to permit an existing structure to remain within the front setback.

Z-23-29 Ralph W. Torr Seeks an *Equitable Waiver* from Section 12.3 to permit an existing structure to remain within the 75-foot river buffer.

Location: 52 Little Falls Bridge Road, Map 209 Lot 15 in the Agricultural Zone.

The Board opened the two equitable waiver requests for this property to have one discussion.

Christopher Berry of Berry Surveying and Engineering explained the applicant has owned the property for quite some time. He said the property has some oddities as it is the remaining piece to a large tract of land that was subdivided long ago before the applicant owned it. Mr. Berry explained there has been an existing concrete pad on the parcel for many years which the applicant recently extended the pad and installed a new home. Mr. Berry said the applicant was required to provide a plan to the Building Department to ensure that it complied with zoning requirements. He went on to say that during the survey they discovered that Little Falls Bridge Road is a four-rod road, which means it is wider than the typical roadway.

Mr. Berry read the equitable waiver criteria. He said the structure was set on an existing concrete pad and extended to the east in a modest way. The applicant was requested to submit a structure placement certification from a Land Surveyor for finalization of the project. At which time Berry Surveying and Engineering was hired to conduct a survey. The survey results revealed the non-conformance after the structure had been placed and substantially completed on the lot.

Mr. Berry said the applicant proceeded upon previously perceived boundaries and a previously placed concrete pad. They built upon and expanded the pad for building using the established existing alignment. They did not expand toward the road, nor did they intentionally minimize setbacks while placing the building. Standing on site there is no way of knowing that the minor extension would impede on the setback given the slop and proximity to the river. Given the natural body of water and the shape it takes, at any given point along the wall of the structure the distance could be larger or shorter and without the benefit of a proper survey the distance appears to be equal along the way. This is especially true with regard to the front setback where the

road was not known to be 4 rods wide. If a measurement from the roads edge were taken it would have measured similar results between the existing concrete pad location and the extended corner. If the equitable waiver were granted, there would be no nuisance created. The structure as it sits on the lot is more conforming to the closest abutting parcel. The fact that the structure is slightly within the front setback, of a now surveyed right-of-way, and marginally closer to the river does not change the surrounding values. The use is permissible within the zone and its practical location on the ground when compared to the technical location within the parcels limits does not affect the use of or future use of any abutting parcel. To correct the mistake would require the existing home be removed and replaced with a smaller structure. There was a large investment made in this property to date and the removal would require further investment which would exceed 100% of the existing expenditures. There is not appreciable gain with the removal of the structure and is inequitable when compared to the investment made and the investment required to correct.

Mr. King asked where the septic system is located. Mr. Berry explained it is located in the upper left corner at the further point possible from the river's edge.

Mr. Spector opened the public hearing. There was no one from the public present to speak; Mr. Spector brought the discussion back to the Board.

Ms. Saunders explained the applicant moved forward in good faith on an existing slab, installed the septic system and then the unit. Because the work is already nearly complete staff recommends granting the equitable waiver.

Mr. Spector closed the public hearing.

The Board began deliberating the Equitable Waiver criteria. Mr. Powers said he supports the request based on the testimony given and the City's recommendation.

Mr. Powers made a motion to approve case Z-23-28 and case Z-23-29 as presented, citing all criteria have been met. Mr. Connor seconded. The motion carried unanimously by a roll call vote.

Z-23-30 Ralph W. Torr Seeks a *Variance* from Table 19-A to permit an existing structure within the front setback.

Location: 52 Little Falls Bridge Road, Map 209 Lot 15 in the Agricultural Zone.

Z-23-31 Ralph W. Torr Seeks a *Variance* from Section 12.3 to permit an existing structure within the 75-foot river buffer.

Location: 52 Little Falls Bridge Road, Map 209 Lot 15 in the Agricultural Zone.

Mr. Berry respectfully withdrew the Variance applications without prejudice for cases Z-23-30 and Z-23-31, based on the fact that the Equitable Waiver has been granted.

Z-23-32 Central Falls Realty & Echo Property Management, LLC Seeks a *Special Exception* from Section 30.5(B) to permit a single-family home be constructed on a parcel without the minimum lot requirements.

Location: 9 Lois Street, Map 115 Lot 8 Block 1 in the Residential-1 Zone.

Z-23-33 Central Falls Realty & Echo Property Management, LLC Seeks a *Special Exception* from Section 30.5(B) to permit a single-family home be constructed on a parcel without the minimum lot requirements.

Location: 8 Margaret Street, Map 115 Lot 8 Block 2 in the Residential-1 Zone

Z-23-34 Central Falls Realty & Echo Property Management, LLC Seeks a *Special Exception* from Section 30.5(B) to permit a single-family home be constructed on a parcel without the minimum lot requirements.

Location: 6 Margaret Street, Map 115 Lot 8 Block 3 in the Residential-1 Zone

Z-23-35 Central Falls Realty & Echo Property Management, LLC Seeks a *Special Exception* from Section 30.5(B) to permit a single-family home be constructed on a parcel without the minimum lot requirements.

Location: 4 Margaret Street, Map 115 Lot 8 Block 4 in the Residential-1 Zone

The Board opened the four Special Exception requests for this property to have one discussion.

Christopher Berry of Berry Surveying and Engineering gave an overview of the property and explained the parcels were originally created in 1903. He said the applicant purchased 5 Lois Street and rehabbed the existing structure. Mr. Berry said while doing the site survey they discovered there had been an involuntary lot merger at some point. He said the owners went through the lot restoration process to restore the original lots of record. Mr. Berry explained the lots do not comply with current zoning regulations and therefore need a Special Exception.

Mr. Berry read the Special Exception criteria. He said the site is an appropriate location for the proposed use because the lot is a lot of record in the R1 zone which permits the construction of single-family homes. The applicant is proposing to build a single-family home and stay within the required setback areas. The proposed single-family use, which is permitted within the zone is no more detrimental, injurious, obnoxious, or offensive than the other single-family homes in the neighborhood. The applicant can comply with all other zoning requirements. There is no obstruction or hazard created to pedestrian or vehicular traffic as the result of a single-family home being built within the R1 zone. The home is positioned so that there is an 18-foot driveway, 18 feet deep and is situated out of the public right-of-way. This is to ensure that year-round maintenance, construction, and re-construction can occur. This accommodates two parking spots on private property. The proposed use is permitted in the zone. This is a single-family neighborhood, and the applicant is proposing to build single-family homes.

Mr. Spector opened the public hearing.

Ms. Saunders read the following emails:

Joseph and Heidi Hansom of 1 Lois Street – As the lot next to the lot in question, we do not believe they should get an exception to the NH zoning laws. There are minimum requirements for lots and these should not be violated. This lot does not have the requirements for four new addresses and should not be allowed to build. Thank you.

Charlotte Turner of 9 Margaret Street – I absolutely do not want any of these homes to be built. This will significantly impact how I live and enjoy my home. I implore the Zoning Board to take mine and my neighbor's objections to this proposed project seriously and not just say you did you "due diligence" by notifying the abutters and letting it go through anyway. Again, I strongly object to the proposal. Do not grant the special exception. Thank you.

Ms. Saunders explained the lot restoration process to the Board, and further why these were before the board for Special Exceptions.

There was no one further from the public to speak; Mr. Spector closed the public hearing.

The Board began deliberating the Special Exception criteria. Mr. Connor clarified with staff that the setbacks would be met. Ms. Saunders said yes, the proposed homes do meet the setback requirements.

Mr. King asked what the square footage of the proposed homes is. Mr. Foster said they are approximately 900 square feet between a first and second floor.

Ms. Collins said the house located next to the lot at 4 Margaret Street would affect the setbacks because it appears the structure is built on the lot line. Ms. Saunders explained the city's GIS system has a margin of error and only shows approximate location of where structures are located, the applicant would be required to submit a surveyed plan.

A motion was made Mr. Connor to approve case Z-23-32 as presented, citing the criteria has been met. Mr. Powers seconded. The motion carried unanimously by a roll call vote.

A motion was by Mr. Connor to approve case Z-23-33 as presented, citing all criteria has been met. Mr. Powers seconded. The motion carried unanimously by a roll call vote.

A motion was by Mr. Connor to approve case Z-23-34 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

A motion was made by Mr. Connor to approve case Z-23-35 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

Z-23-36 68 Hemingway, LLC Seeks a *Special Exception* from Section 23.2.22(A)(2) to permit the installation of a rooftop solar array.

Location: 68 Hemingway Drive, Map 258 Lot 63 in the Residential-2 Zone.

Z-23-37 68 Hemingway, LLC Seeks a *Special Exception* from Section 23.2.22(A)(2) to permit the installation of a rooftop solar array.

Location: 72 Hemingway Drive, Map 258 Lot 63 in the Residential-2 Zone.

Z-23-38 68 Hemingway, LLC Seeks a *Special Exception* from Section 23.2.22(A)(2) to permit the installation of a rooftop solar array.

Location: 78 Hemingway Drive, Map 258 Lot 63 in the Residential-2 Zone.

Z-23-39 68 Hemingway, LLC Seeks a *Special Exception* from Section 23.2.22(A)(2) to permit the installation of a rooftop solar array.

Location: 94 Hemingway Drive, Map 258 Lot 63 in the Residential-2 Zone.

The Board opened the four Special Exception requests for this property to have one discussion.

Megan Ulin of Revision Energy gave an overview of the project. She explained phase one of the project has been completed however, because of the change and adoption of the Solar Ordinance they are now required to get a Special Exception. Ms. Ulin said Country Brook Apartments is being renovated by 68 Hemingway, LLC for low-income housing for which they have received grant funding to take over the electricity meters for the property. She explained the solar project will off-set the electricity usage for the apartment buildings. Ms. Ulin said each solar array on each rooftop is 27.135 kwdc, and the layout of the arrays are identical to arrays that were installed on the opposite side of the roof.

Ms. Ulin read the special exception criteria. She said the site is an appropriate location because solar will serve the onsite electricity needs of the facility. The proposed projects are roof-mounted and will not cause any ground disturbance. The roof structures have passed a structural evaluation for solar. The solar arrays are not readily visible from the road or neighboring properties due to existing trees surrounding the property. The proposal is not detrimental, injurious, obnoxious, or offensive to the neighborhood because solar will not

produce noise, emissions, or significant visual impacts on the neighborhood. It will produce clean solar energy to advance to renewable goals of the property. The modules are coated with an anti-reflective surface and will not produce significant glare. There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic because solar will not cause any impacts to pedestrian or vehicular traffic installation will take 3 to 4 weeks during which time all pertinent safety considerations for tenants, the public, and the solar installers will be made. Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure because solar arrays will be installed to code and will undergo a review with the interconnecting utility to ensure the grid infrastructure can support the addition of the proposed solar projects. The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan because installation of solar electric system benefits the community with the generation of clean renewable power, and reduction in fossil fuel usage. It is designed to have minimal visual impacts, meet noise requirements of the ordinance, and all applicable codes and criteria.

Mr. Spector opened the public hearing. There was no one from the public to speak; Mr. Spector brought the discussion back to the Board.

Ms. Saunders explained the Planning Board felt larger arrays such as this should have a Special Exception in place. She said the City feels all four applications meet the criteria.

Mr. Spector closed the public hearing.

A motion was made Mr. King to approve case Z-23-36 as presented, citing all criteria has been met. Mr. Powers seconded. The motion carried unanimously by a roll call vote.

A motion was made by Mr. Connor to approve case Z-23-37 as presented, citing all criteria has been met. Mr. Powers seconded. The motion carried unanimously by a roll call vote.

A motion was made by Mr. Connor to approve case Z-23-38 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

A motion was made by Mr. King to approve case Z-23-39 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

Mr. Spector called a recess at 8:24pm.

Mr. Spector called the meeting back to order at 8:29pm.

Z-23-40 Robert Lee Seeks a *Special Exception* from Table 18-A to permit an accessory dwelling unit in an existing garage.

Location: 5 Edgewood Lane, Map 126 Lot 28 in the Residential-1 Zone.

Applicant Robert Lee explained he purchased the home and would like to add an accessory apartment in the space above the existing garage.

Mr. Lee read the Special Exception criteria. He said the site is an appropriate location for the proposed use because adding a single bedroom accessory apartment will provide workforce housing within walking distance of Rochester Manor and Frisbie Memorial Hospital. The proposal is not detrimental, injurious, obnoxious, or offensive to the neighborhood because the apartment can be added with a shed dormer, deck and stairs which will not substantially change the outline or character of the existing garage from the road. There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic because the property already has driveways on Edgewood Lane and Whitehall Road. A single bedroom apartment will not add more than two cars and limited traffic. The house has city water and sewer, and electricity is sufficient to support a one-bedroom apartment. The house already has two driveways, sufficient to cover one or two cars. The proposed

use is consistent with the spirit of the ordinance and the intent of the Master Plan because adding an accessory apartment that will provide desperately needed affordable workforce housing in walking distance of Rochester Manor and Frisbie Memorial Hospital. The addition will not substantially change the residential nature of the property.

Mr. Connor asked what the size of the proposed apartment will be. Mr. Lee said it will be approximately 625 square feet.

Mr. Spector asked if the apartment would have separate utilities. Mr. Lee said would like the electricity metered separately.

Mr. Spector opened the public hearing. There was no one from the public present to speak; Mr. Spector brought the discussion back to the Board.

Mr. King asked if he will be occupying one of the units. Mr. Lee explained the house is currently being renovated before his family moves into it.

Mr. Spector closed the public hearing.

The Board began deliberating the criteria. Mr. Spector expressed his concern the applicant is currently not residing at the property. Ms. Saunders said one of the requirements for an accessory apartment is the property owner must occupy one of the units.

A motion was made Mr. King to approve case Z-23-40 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried by a 4 to 1 roll call vote. Mr. Spector opposed.

Z-23-41 Carol Zink-Mailloux Seeks a *Variance* from Table 19-A to create two separate lots without the minimum lot requirements.

Location: 452 & 456 Pickering Road, Map 263 Lot 5 in the Agricultural Zone.

Applicant Carol Zink-Mailloux explained they would like to subdivide the lot in order to allow each dwelling on it's own parcel however, the lot does not meet the minimum square footage needed.

Ms. Zink-Mailloux read the Variance criteria. She said granting the variance would not be contrary to the public interest because the properties would improve from their current state, improving the area and would allow two families to each enjoy home ownership. All other homes in the area are single building on a single lot. The spirit of the ordinance would be observed because there wouldn't be an impact on the ordinance, it would be making two parcels with an existing structure separate. Substantial justice would be done because the variance would allow for a positive outcome for the town and surrounding area as well as the new homeowner once the lot has been subdivided. The values of the surrounding properties would not be diminished because the subdivision will increase local values and aesthetics because a new home can be built to replace the current structure which would allow a new family to move in.

This lot is different from surrounding properties because it is a large lot with two existing structures. If the variance is not granted the hardship is not being able to have a home lived in by a family. There is sufficient land for each structure to be on it's own lot separately based on many of the surrounding homes and lot sizes. The inability to separate the lot into two separate parcels each encompassing the home sitting on it will create a hardship because it will diminish homeownership for one of the two families.

Mr. Spector opened the public hearing. There was no one from the public present to speak; Mr. Spector closed the public hearing.

The Board began deliberating the criteria. Mr. Foster asked if both lots would be equal in size. Ms. Saunders explained that would be looked at during the subdivision phase.

A motion was made by Mr. Powers to approve case Z-23-41 as presented, citing all criteria has been met. Mr. Connor seconded. The motion carried unanimously by a roll call vote.

Z-23-42 Richard Hartford Seeks a *Special Exception* from Section 23.2.A(1)(a) to permit an accessory dwelling unit located in an existing detached garage.

Location: 92 Hansonville Road, Map 259 lot 58 in the Agricultural Zone.

Applicant Richard Hartford read the Special Exception criteria. He said the site is an appropriate location for the proposed use because the accessory dwelling will be for his daughter as she will be returning from Ohio next June. The proposal is not detrimental, injurious obnoxious or offensive to the neighborhood because it will be a good fit in the neighborhood as one of the houses down the street also has an accessory dwelling unit. There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic because the dwelling will be 120 feet off Hansonville Road, and there is plenty of parking for 4 to 5 vehicles. There will be appropriate facilities and utilities to ensure proper operation, the electrical utility for the garage and the dwelling is underground. All building codes have been and will be adhered to. The proposed use is consistent with the spirit of the ordinance and the intent of the Master Plan because when the property was purchased three years ago, the intent was to grow fruit and share it with family and neighbors. He said he is now growing apples, blueberries, raspberries, strawberries, and a small vegetable garden.

Mr. Spector opened the public hearing.

Ms. Saunders read the following email:

We are the Landry family who live at 95 Hansonville Road, across from Richard Hartford who is seeking a special exception to permit an accessory dwelling unit located in an existing attached garage at 92 Hansonville Road (case number Z-23-42). Mr. Hartford has done a wonderful job building the garage on his property for the past year. We have no issues with a dwelling unit inside the garage. We simply request that Mr. Hartford use discretion if/when selecting tenants that would be good neighbors (although we are certain he would as he of course would be their new neighbor too).

Best,
The Landry Family

There was no one further from the public to speak; Mr. Spector closed the public hearing.

A motion was made Mr. Connor to approve case Z-23-42 as presented, citing all criteria has been met. Ms. Collins seconded. The motion carried unanimously by a roll call vote.

7. Other Business/Non-Scheduled Items:

There was no other business to discuss.

8. Adjournment:

A motion was made by Mr. Connor and seconded by Mr. Powers to adjourn at 8:50 p.m. The motion carried unanimously.

Respectfully Submitted,

Crystal Galloway,

and

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