

FINAL

**CITY OF LEBANON  
ZONING BOARD OF ADJUSTMENT  
Minutes, May 21, 2018  
City Hall—Council Chambers  
7:00 p.m.**

**MEMBERS PRESENT:** Vice Chair Jennifer Mercer, Jason Crowley (alternate), Dan Nash, Alan Patterson Sr.

**MEMBERS ABSENT:** Chair William Koppenheffer, Travis Griffin

**STAFF PRESENT:** Zoning Administrator Tim Corwin

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**I. CALL TO ORDER:**

The meeting was called to order at 7:04 p.m. by Vice Chair Mercer, who noted that if only three Board members hear an application, an applicant has an opportunity to change the hearing to a later date or go later in the agenda when there may be more members. An application needs three affirmative votes for approval.

Vice Chair Mercer appointed Mr. Crowley to sit for Chair Koppenheffer.

**II. APPROVAL OF MINUTES:** April 16, 2018

Page 1, line 29: fix the spelling of “Chair”

***Dan Nash moved to approve the minutes of the Lebanon Zoning Board of Adjustment meeting of April 16, 2018 as amended. Seconded by Jason Crowley.***

***\*The motion passed 3-0.***

**III. PUBLIC HEARINGS**

- A. JAMES & JENNIFER BARKLEY, 10 DULAC STREET (Tax Map 105, Lot 38), zoned R-3**—Request from a Variance from Article III, Section 310.3 of the Zoning Ordinance to permit an addition to an existing outbuilding to be located approximately 6 feet from the side lot line, where a minimum of 15 feet is required. #ZB2018-08-VAR

James and Jennifer Barkley appeared. Ms. Barkley said they realized that their garage is only six feet from the property line, as the line goes at a slight angle. Mr. Nash asked if the neighbor has any objection. Ms. Barkley said they have a new neighbor, and they have not spoken to her about it. Mr. Corwin said a notice was sent to the neighbor. Vice Chair Mercer asked if they found

surveying pins. Ms. Barkley said they found them in the front and back. There is two feet of grass between the driveways.

**Vice Chair Mercer opened the public hearing. Hearing no public comment, she closed the public hearing.**

Mr. Crowley said he would like to know what the new neighbor thinks.

**Dan Nash moved passage of the following:**

**On May 21, 2018, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Jennifer & James Barkley regarding 10 Dulac Street (Tax Map 105, Lot 38), zoned R-3. The applicants request a Variance from Article III, Section 310.3 of the Zoning Ordinance to permit an addition to an existing outbuilding to be located approximately six (6) feet from the side lot line, where a minimum of 15 feet is required. #ZB2018-03-VAR**

**I. FINDINGS OF FACT**

**Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:**

- 1. The property is improved with a one-family dwelling and an attached porch, the location of which conforms with the minimum yard requirements of the R-3 District.**
- 2. The applicant proposes to remove the existing porch on the east side of the home, and to construct a 20-foot x 28-foot garage approximately in its place. The proposed garage will be located approximately six (6) feet from the side lot line shared with 12 Dulac Street (Tax Map 105, Lot 39).**
- 3. A minimum side yard of 15 feet is required for Class 1 lots in the R-3 District. Therefore, a Variance is required to permit construction of the proposed garage, which will be located approximately six (6) feet from the side lot line shared with 12 Dulac Street.**
- 4. The Board previously granted a Variance to allow the proposed garage to be located 10 feet from the side lot line (#ZB2018-03-VAR, approved March 29, 2018). Since then, however, the applicant discovered that the porch will actually be 6 feet from the side lot line at its closest. Because of the discrepancy between what was approved – 10 feet from the side lot – and what the setback will actually be – 6 feet from the side lot line – a new Variance is required.**
- 5. To obtain the requested Variance, the applicant must demonstrate compliance with each of the five variance criteria set forth in §801.2 of the**

**Zoning Ordinance and NH RSA 674:33, I(b). The applicant has submitted testimony addressing the §801.2 Variance criteria in an application dated May 7, 2018.**

6. No one from the public spoke for or against this application.

## **II. CONCLUSIONS OF LAW**

**As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in §801.2 of the Zoning Ordinance:**

1. The variance will not be contrary to the public interest. (§801.2.A.1)
2. The spirit of the ordinance is observed. (§801.2.A.2)
3. Substantial justice is done. (§801.2.A.3)
4. The values of surrounding properties are not diminished. (§801.2.A.4)
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, owing to special conditions of the property that distinguish it from other properties in the area (§801.2.A.5.a):**
  - i. There is not a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (§801.2.A.5.a.i)
  - ii. The proposed use is a reasonable one. (§801.2.A.5.a.ii)

## **III. DECISION**

**Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 21<sup>st</sup> day of May, 2018, hereby GRANTS the requested relief, subject to testimony, plans, and materials submitted, and per the following condition:**

1. **The applicant shall obtain a building permit prior to construction of the addition.**

*Seconded by Jason Crowley.*

*\*The motion passed 3-0.*

- B. **BGP PROPERTIES, LLC, 90-92 MECHANIC STREET (Tax Map 106, Lot 51), zoned R-2**—Request from a Variance from Article III, Section 309.3 of the Zoning Ordinance to permit the subdivision of the property into two lots sized approximately 8,200 square feet (Lot 1) and 8,500 square feet (Lot 2), where 10,000 square feet is the minimum required, and to allow an existing home on

proposed Lot 1 to be located within the minimum required 20-foot rear yard setback, and to allow an existing home on proposed Lot 2 to be located within the minimum required 40-foot front yard setback. #ZB2018-09-VAR

Jeremy Katz, manager of BGP Properties, represented the applicant. He said they have owned this property for about 15 years. There are two homes on one parcel of land, and it is a non-conforming legacy use. He said the applicant proposes splitting this into two properties, each with a single-family home, dividing the property into equal portions. He said the setbacks will be the same as they are now. He said the surveyor came up with a larger parcel size than the City Assessor because there was a question regarding how to count the frontage versus the right-of-way, so the lots could be closer to conforming size. He said the 10 lots on Mechanic Street closer to downtown all have lots that are the same size or smaller than the proposed lots, and the split will eliminate the use non-conformity.

Mr. Nash asked Mr. Katz if he has considered moving the driveway to the bottom of the hill, where it would be safer. Mr. Katz said they looked at that, and it is not feasible. Vice Chair Mercer asked if the driveway would serve both houses. Mr. Katz said it would. There would be a shared right-of-way. He said it would be hard to sell one property with two houses, except to an investor; with the variance, he would be able to sell to two families. Vice Chair Mercer said a new owner could build a garage, but if the properties were split, the owner would be constrained by the setback. Mr. Corwin said it is already severely constrained because of the setbacks. Mr. Katz said they could not build there because of the necessary turning radius.

**Vice Chair Mercer opened the public hearing.**

Frank Mastro of Green Street said Mechanic Street will be widened, and that will make the driveway even more challenging. Mr. Katz said it would be the same driveway whether it is one parcel or two.

**Hearing no further public comment, she closed the public hearing.**

Mr. Nash said his concern is that in granting the variance, they would be changing from one non-conforming lot with a bad driveway to two non-conforming lots with bad driveways. Mr. Corwin said the Board is evaluating an existing non-conforming use versus a future non-conforming use, and the split is probably better. Vice Chair Mercer said the setbacks are already non-conforming. Mr. Corwin said there are a number of existing non-conformities on this lot, and three new dimensional ones would be created. It is possible that the lots will not be undersized, as the City Assessor has the current lot recorded at about 20,000 square feet. The Board discussed whether or not the State right-of-way is part of the lot. Mr. Corwin said typically, the Assessor will identify the area as not including the right-of-way area. Mr. Nash said surveyors generally do not consider that to be part of the lot. Mr. Corwin said one could argue that splitting the lots would result in only one non-conformity.

Vice Chair Mercer asked Mr. Nash if a survey confirming the larger square footage would sway him. Mr. Nash said it would not. He said he does not see any advantage to the City in granting

the variance, as there will be no improvement in compliance. Vice Chair Mercer said she would want information about the lot size.

**On May 21, 2018, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Jeremy Katz on behalf of BGP Properties, LLC, regarding 90-92 Mechanic Street (Tax Map 106, Lot 51), zoned R-2. The applicant requests a Variance from Article III, Section 309.3 of the Zoning Ordinance to permit the subdivision of the property into two lots sized approximately 8,200 square feet (Lot 1) and 8,500 square feet (Lot 2), where 10,000 square feet is the minimum required; and to allow an existing home on proposed Lot 1 to be located within the minimum required 20-foot rear yard setback; and to allow an existing home on proposed Lot 2 to be located within the minimum required 40 foot front yard setback. #ZB2018-09-VAR**

**I. FINDINGS OF FACT**

**Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:**

- 1. The property is improved with two (2) one-family dwellings. Each home constitutes a principal structure. Therefore, the property is non-conforming to Section 205 of the Zoning Ordinance which provides that “[t]here shall be only one principal structure on a lot in the residential districts[.]” The property is otherwise conforming to the minimum dimensional requirements set forth in Section 309.2 of the Zoning Ordinance.**
- 2. The applicant proposes to subdivide the property so that each one-family dwelling will be located on its own lot. Allowing the subdivision will remedy the non-conformity with respect to Section 205 of the Zoning Ordinance. However, other non-conformities will be created:**
  - (a) Each lot will be undersized. As depicted on the attached site plan, Lot 1 will be approximately 8,200 square feet, and Lot 2 will be approximately 8,500 square feet (Lot 2), whereas 10,000 square feet is the minimum lot size in the R-2 District;**
  - (b) The existing home on proposed Lot 1 will be located within the minimum required 20-foot rear yard setback; and**
  - (c) The existing home on proposed Lot 2 will be located within the minimum required 40-foot front yard setback (a 40-foot front yard setback applies since the property has frontage on a state highway).**
- 3. In order to create two undersized lots and to allow the existing homes to be within the minimum required yards of the proposed lots (as depicted on the attached site plan), the applicant requires a Variance from the minimum dimensional requirements of the R-2 District, set forth in §309.2 of the Zoning Ordinance.**

4. To obtain the requested Variance, the applicant must demonstrate compliance with each of the five variance criteria set forth in §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The applicant has submitted testimony addressing the §801.2 Variance criteria in an application dated April 20, 2018.
5. A plan was presented that indicated that the divided lots *may* be 10,000 square feet in size, but the plan was not confirmed by a surveyor.
6. Frank Mastro spoke concerning the future widening of Mechanic Street and that project's impact on an already steep driveway.

## II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in §801.2 of the Zoning Ordinance:

1. The variance will be contrary to the public interest. (§801.2.A.1)  
  
The proposal creates a number of additional and replacement nonconformities.
2. The spirit of the ordinance is not observed. (§801.2.A.2)
3. Substantial justice is not done. (§801.2.A.3)
4. The values of surrounding properties are not diminished. (§801.2.A.4)
5. Literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship. Owing to the following special condition of the property that distinguish it from other properties in the area (§801.2.A.5.a):  
  
Eight or more adjacent lots on Mechanic Street are equal or smaller in size.
  - i. There is a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (§801.2.A.5.a.i)
  - ii. The proposed use is a reasonable one. (§801.2.A.5.a.ii)

## III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 21<sup>st</sup> day of May, 2018, hereby DENIES the requested relief, subject to testimony, plans, and materials submitted.

*Seconded by Jennifer Mercer.*

*\*The motion passed 2-1.* Voting for the motion: Mercer, Nash. Voting against: Crowley.

- C. SALT HILL PUB (applicant) and COLONIAL PLAZA REALTY TRUST, 5 AIRPORT ROAD (Tax Map 114, Lot 8), zoned GC—Request for a Variance from Article VI, Section 607 of the Lebanon Zoning Ordinance to reduce the number of on-site parking spaces required for a proposed expansion of an existing restaurant use. #ZB2018-10-VAR**

Josh McGary of Salt Hill Pub, representing the applicant, said they are planning to add a deck to the front of the restaurant. Five of the existing parking spaces were not part of the parking plan; they were added during restriping. This will increase the seating capacity and require more parking. Mr. Nash asked if this will require site plan review. Mr. Corwin said it will not. Mr. Nash asked if they can use the mixed-use parking calculation. Mr. Corwin said that does not help a lot because of the mix of uses. Mr. Nash asked why the applicant does not update the parking plan for the entire LaValley's site with shared parking. He said he sees a surplus of 25 spaces, and Salt Hill only needs 22 more. Mr. Corwin said there are only 230 spaces on the site. Mr. Nash said he would need to see an updated plan before making a decision. Mr. Corwin said that is not an unreasonable request. He asked for one and got no reply.

Mr. Crowley said the restaurant is open until 10:00 or 11:00 p.m., and they can use the empty spots resulting because LaValley's is closed. Mr. Corwin said the restaurant is also open for lunch. Mr. Crowley asked if the majority of the restaurant's business was in the evening. Mr. McGary said the vast majority is from 5:00-9:00 p.m.. He said almost all of the other businesses in the plaza close at 5:00 p.m., and they have never had a parking problem. Vice Chair Mercer asked where the deck will end. Mr. McGary showed her, and he provided copies of a site drawing. Mr. Nash asked how big the deck will be. Mr. McGary said it will be just under 800 square feet, and the farthest it will come out from the building is 18 feet. Vice Chair Mercer asked if this is a fire lane. Mr. McGary said it is not his understanding that that is a fire lane, and it is his understanding that the Fire Department approved of the plan.

Mr. Nash said the applicant should provide a site plan. He said there needs to be 24 feet behind the straight-in parking spaces. Vice Chair Mercer said she needs documentation from the Fire Department that they are comfortable with the plan. She said the drawing provided should be superimposed on a site plan.

**Vice Chair Mercer opened the public hearing. Hearing no public comment, she closed the public hearing.**

***Dan Nash moved to continue this application to June 18, 2018 at 7:00 p.m. at Council Chambers, City Hall. Seconded by Jason Crowley.***

*\*The motion passed 3-0.*

**D. VISIONS FOR CREATIVE HOUSING SOLUTIONS (applicant) and F&A, LLC (property owner), 12 GREEN STREET (Tax Map 92, Lot 131), zoned R-2—Request for a Special Exception pursuant to Article III, Section 309.2 of the Zoning Ordinance to permit a group residence. #ZB2018-11-SE**

Sylvia Dowd, executive director of Visions for Creative Housing Solutions, and architect Sloane Mayor of U.K. Architects represented the applicants. Ms. Mayor said they are requesting a Special Exception to change this from multi-family use to a group residence. She said there are now two multi-family houses there. She said her understanding of a “group residence” is a shared home; these would remain as apartment units. She asked if they need a change of use to a group residence or if can remain multi-family. Ms. Dowd said they were advised to let the abutters know what they were doing, and they support individuals in their own apartments. The front building would be individuals in their own apartments; in the back building, there would be overnight staff, two residents who require 24-hour care, and a three-bedroom apartment with common areas. She said this is not a “group home”; it is supported housing.

Mr. Corwin asked if it is correct that there are now four two-bedroom apartments in the front building and two three-bedroom apartments in the back building. Ms. Mayor said that is correct. Ms. Dowd said they would add bathrooms in the front building. Mr. Corwin asked if the residents will be receiving services. Ms. Dowd said they will; they are supported for organization, cleaning, and household tasks. The amount of support depends upon the individual. In the back building, one of the apartments will have two residents who need 24-hour care and overnight staff in the third bedroom. The staff will operate in shifts and will not live there. The other three-bedroom apartment will have a communal kitchen/dining/living area, and they may offer respite support in the future.

Mr. Corwin asked if the respite would replace the common area. Ms. Dowd said it would not; it would be in addition. Mr. Corwin asked how the common area would be used. Ms. Dowd said it would mirror what they do in Enfield; the residents would eat dinner together. Mr. Corwin asked if that would involve all 10 residents. Ms. Dowd said some nights it would be all of them, and other nights there would be fewer. Vice Chair Mercer asked how this is funded. Ms. Dowd said everyone pays for room and board and support services. The organization has a contract with the State of New Hampshire and is certified by them. Some are private-pay if they do not meet the criteria for developmental services.

Mr. Corwin said this is closer to a group residence than a multi-family because of the communal nature and the fact that they pay for room and board. He said the respite aspect certainly pushes it more toward a group residence. Mr. Nash asked if they are licensed by the State of New Hampshire. Ms. Dowd said they are. Mr. Nash said that is one of the criteria of a group residence. Ms. Dowd asked that they not refer to this as a “group home,” because the residents have their own apartments. Mr. Nash asked if they are a non-profit organization. Ms. Dowd said they are. Mr. Nash asked if the City has commented on the financial burden, the loss of \$12,000 in taxes. Ms. Dowd said they have not asked for tax-exempt status yet because they have not yet purchased the property, but they would probably apply as a non-profit.

Mr. Crowley said this does not sound like a multi-family if people are paying for services. Ms. Mayor said there are no current violations of the zoning ordinance, and this will not adversely affect the character of the area, which is a mix of single-family and multi-family residences. She said this will positively affect the character of the neighborhood, because there will not be an increase in activity, and there may be less. Many residents will not have their own cars and will use public transportation or shared vehicles. Community services will not be adversely impacted, and it will not expose the municipality to undue expense. She said it is compatible with the spirit of the Ordinance. It will function like a multi-family, except the residents will be supervised. They will be excellent residents. She said this will contribute to the diversity of the neighborhood.

Vice Chair Mercer asked how many live in their Enfield residence. Ms. Dowd said there are 10. Vice Chair Mercer asked how many staff there will be. Ms. Dowd said there will be one overnight staff person and 14 full-time and part-time staff to support the residents. Vice Chair Mercer asked what the maximum number of staff is that will be there at one time. Ms. Dowd said that depends upon whom the residents are. Vice Chair Mercer asked what the average is in Enfield. Ms. Dowd said it is two or three at a time. Vice Chair Mercer asked if they often call for emergency services. Ms. Dowd said they have never had a call in four years. She said they work closely with the emergency response team, which has met with the residents. They have a nurse-trainer who works with them.

**Vice Chair Mercer opened the public hearing.**

Doreen Schweitzer of Green Street said she lives next door to the subject property. She said she is very much in favor of this application. She said it is now a challenge to live next to these buildings. She said there may be 30 people living there now, with a lot of children, and the landlord does not take good care of the property. She said three or four years ago, neighbors talked to the property managers about cocaine in the house.

(Mr. Patterson arrived at 8:10 p.m.)

Ms. Schweitzer said this project would be a gift to the neighborhood, and the buildings will be better cared for. She said the Visions Enfield program is wonderful, and this will add diversity to the neighborhood. Vice Chair Mercer asked how they determined there was cocaine there. Ms. Schweitzer said the police were at the house quite a lot, but not so much anymore. There was charge of disorderly conduct. She said the police watched the houses often. Mr. Patterson said he is concerned when people make allegations like this, as it could be damning people without documentation. He said Ms. Schweitzer should show what the police were there for. Ms. Schweitzer thanked him and acknowledged she was condemning everyone, even though not everyone was involved.

Robin Carpenter, Ward 3, said he was not entirely comfortable with the answer to the question about the definition of the use. He said it is not really a group residence, but it is not simply a multi-family. Mr. Corwin said the Board can say it does not fit in any category, but then the applicant would require a variance. Vice Chair Mercer said she is comfortable with the Board's conclusion. A variance places a greater burden on the applicant. Mr. Carpenter said costs to the

City are implicit in this. He said it seems like that number is obtainable, and the Board should not take one member's word regarding the cost.

Mary Ann Mastro of Green Street said a shared home with developmentally challenged individuals appears ideal at face value, and Lebanon has been welcoming to non-profits. She said the subject property has had an absentee landlord, and some tenants have been less than desirable, resulting in periodic police visits. She asked if Visions plans to improve the building, and if there are specific code requirements for this population. She asked if the full-time support personnel will be consistent. She asked if they have the resources to maintain the program.

Mike Peterson said he is a tenant on Green Street. He said he lived two houses away from a sheltered workshop, and they were wonderful neighbors. He said as a reporter, he has reported on independent living, and it is a good thing. He said he called the police regarding domestic violence by former tenants, but the current tenants are wonderful. He said it is not overly crowded. He said he is concerned that Visions will be turning six families out of low-income housing, which is a huge problem in the area, but the stabilization this will bring to the neighborhood is a reasonable trade. Mr. Carpenter asked if Visions has specific tenants in mind and if they are Lebanon residents.

**Hearing no further public comment, Vice Chair Mercer closed the public hearing.**

Vice Chair Mercer asked if Visions plans to make improvements. Ms. Dowd said they do. Vice Chair Mercer asked if there are codes issues. Ms. Dowd said Visions is a vendor through Pathways of the Upper Valley and are part of the Medicaid program. They get regular visits from the State, and they have to keep up to code regarding cleanliness, safety, and the fire code. Vice Chair Mercer asked if full-time staff is there consistently. Ms. Dowd said they are. She said there is always an overnight staff person, working a 15-hour shift. During the day, there are a house manager and mentors. In Enfield, they have 10 residents, and all have paid employment. Many volunteer or take classes. Staffing depends on who is home.

Vice Chair Mercer asked if Pathways has financial stability. Ms. Dowd said funding comes through the State via Pathways. All of the staff is employed by Visions. Vice Chair Mercer asked if they have specific tenants in mind. Ms. Dowd said they do. She said 60% of their clients are Lebanon residents. Vice Chair Mercer asked if most are independent. Ms. Dowd said it varies; at least one needs overnight support. Mr. Nash asked if Visions plans to operate this residence in addition to the one in Enfield. Ms. Dowd said they do, as there is a great need. Some clients' parents are aging and need help with adult children; Visions helps them become more independent. They have a long wait list.

Vice Chair Mercer said there are probably costs to the City in tax exemptions, but there may be less of a burden on emergency services. She said the Board does not have enough information to weigh the trade-offs. She asked why Visions chose Lebanon and whether they looked at other communities. Ms. Dowd said they did. They have an agreement with Twin Pines Housing Trust, and Visions will have four clients at the Tracy Street residence. The Affordability Council of Hanover would like to try a small model. She said these are people who want to live in Lebanon; Visions partners with the Lebanon Opera House, and residents can walk to the Advance Transit

bus stop to get to work. Almost all are CCBA members. Some can do independent grocery shopping, and they go to AVA Gallery.

**Vice Chair Mercer reopened the public hearing.**

Mr. Nash said he received an anonymous letter regarding this project. Mr. Patterson said the Board has already established that they will not read letters without names. It could be from someone who does not live in the community. The Board agreed by consensus not to read the letter.

Mr. Corwin asked if there will be an on-site office for the house manager and what he will be doing. Ms. Dowd said he will have an office in the main building, and he will be in the apartment with the common area.

**Vice Chair Mercer closed the public hearing.**

Mr. Crowley said it is unfortunate that affordable housing will be lost, but it will still be affordable housing for people who need it. He said this is a very good use, and he is in favor of it. Vice Chair Mercer said the current owners rent it out as affordable housing, but it could turn into a single-family; the Board has no control over that. Mr. Nash said the cost to the taxpayers has not been quantified. He said based on the City Assessor's records, he calculated the taxes at \$11,894 per year. Mr. Corwin said it would be good to know what the other trade-offs are. Vice Chair Mercer said it will be hard to calculate offsets, and Visions could make improvements to the property, increasing property values around it.

Mr. Mastro said he agreed about the exemptions, but he said he is on the Board of Assessors, and he said at their last meeting, they granted thousands in exemptions, and the City is in negotiation with DHMC. He said this building "isn't even a raindrop." Ms. Schweitzer said this could increase her taxes, and that is fine with her. Vice Chair Mercer said this could be a challenge for the residents of the city. Mr. Patterson said as a taxpayer, it concerns him when the City grants exemptions. He said \$12,000 is not a "drop in the bucket," as every little bit adds up. He said this is a great opportunity and a good project, but as a taxpayer, he would not be happy with the financial burdens. Vice Chair Mercer noted that the Zoning Board does not grant tax exemptions; if they grant the Special Exception, that could set up a tax exemption.

Mr. Corwin said the Board could continue the hearing and ask the applicant to present how to offset the costs. Mr. Nash said now, this has the potential to be a burden. Mr. Crowley said there is too much emphasis on the financial aspect; he said there is a human aspect. He said he pays school taxes even though he has no children. Vice Chair Mercer asked Mr. Nash if he cannot support this application. Mr. Nash said he cannot. Vice Chair Mercer said only three Board members can vote, and it would not be unanimous. She said they can continue the hearing for more information about the financial offset, or they can vote, and the motion to approve would fail, and the applicant would automatically be entitled to a rehearing. Mr. Corwin said there is not much benefit to not continuing the hearing. Vice Chair Mercer said Mr. Patterson could vote after listening to the recording of what he missed.

**Dan Nash moved to continue this application to June 18, 2018 at 7:00 p.m. at Council Chambers, City Hall and asked the applicant to present evidence that this project will offset the apparent cost to taxpayers in loss of tax money, and the benefits residents provide to the community. Seconded by Jason Crowley.**

Ms. Dowd asked if the Board wants dollar numbers. Vice Chair Mercer said quantitative information is the best.

**\*The motion passed 3-0.** Mr. Patterson did not vote.

(The meeting was recessed from 8:50-8:57 p.m.)

- E. WILLIAM & LORI GRIZZAFFI, 351 MERIDEN ROAD (Tax Map 167, Lot 16), zoned R-1—Request for a Variance from Article III, Section 312.2 of the Zoning Ordinance to allow a towing business and vehicular impound yard. #ZB2018-12-VAR**

Mr. Patterson noted that he knows the Grizzaffis well. There were no objections to his sitting for the application.

William Grizzaffi and Michael Mason of Poverty Lane, who works with Mr. Grizzaffi, represented the applicant. Mr. Mason said the Grizzaffis are requesting a variance to continue their towing and impound operation. He said permits were requested in 1996, but that information was lost in the flood. The Grizzaffis were called in because there was a complaint. Mr. Nash asked if this site has gone through site plan review. Mr. Corwin said he is not aware of any legal, non-conforming use. He said no commercial use of this property is permitted. Mr. Mason said the property has been used that way since 2003. Vice Chair Mercer asked who complained. Mr. Mason said it was a competitor.

Mr. Nash said he drove by the property, and it looks one step short of a junkyard. He said it does not look like a rural residential property. He said it looks like there are vehicles on the property line, a building on the property line, and no fencing or screening. He said the Board should see a site plan with setbacks. Mr. Corwin said he did not find a permit on file for that building. Mr. Grizzaffi said those cars usually are not there, as he does not do transport anymore. Some are employees' cars, and some are his. He said the block building moves; he keeps sand in it. Most of the impounds go to the Main Street location. Mr. Patterson said he went by there last week, and it looked nothing like what Mr. Nash described. He said it looked well manicured and pretty vacant. He said he has not seen any documented complaints from neighbors; he asked if neighbors have approached him with complaints. Mr. Grizzaffi said they have not.

Mr. Nash asked how many employees he has. Mr. Grizzaffi said there are four vehicles there when his employees are on the road, and two cars are his. Mr. Nash said the document shows a wetland buffer, the block building is in the setback, there is grading in the wetland, and cars are parked to the property line. He said he would like to see a vegetated buffer and maybe a fence. He said the Board has to be aware of public concerns. He said they do not have a plan regarding

how Mr. Grizzaffi intends to use the property. Mr. Mason said the building can easily be removed. Mr. Nash said he is more concerned with the setback.

Vice Chair Mercer asked what is behind the property. Mr. Grizzaffi said that is a neighbor and a wetland. Mr. Nash said he would like to see a site plan. Mr. Crowley said he is concerned that the property has been used improperly for 15 years. He said he is concerned about run-off into the wetland. Vice Chair Mercer asked about a wetland buffer. Mr. Corwin said he cannot tell if there is activity in the wetland. He showed the area of the wetland buffer. He said there are restrictions 100 feet from high and very high value wetlands, and anything that is not a permitted use needs a variance. He said staff recommends that if the Board grants the requested use, that it be restricted to outside of the buffer area. He asked when the large building was built. Mr. Grizzaffi said it was built in 1996. Mr. Corwin said that is not a code issue.

***Dan Nash moved to continue this application to June 18, 2018 at 7:00 p.m. at Council Chambers, City Hall and requests that the applicant bring a site plan indicating the area of operation he wants for his towing and vehicle impound business showing setbacks, screening of abutting properties and the street, and his intentions regarding the wetland buffer. Seconded by Jason Crowley.***

Mr. Patterson asked Mr. Grizzaffi if he is using pads under the vehicles. Mr. Grizzaffi said he is.

***\*The motion passed 4-0.***

#### **IV. STAFF COMMENTS**

Mr. Corwin said he had no comments. Vice Chair Mercer said she and Mr. Nash have not yet completed a draft rule regarding submitting supplemental material in a timely way.

Vice Chair Mercer thanked Mr. Crowley for his service on the Board and said he has made a great contribution in a short time.

The Board discussed changing the meeting day. Mr. Patterson said he may have to step down if it is not changed; Vice Chair Mercer said she may have to step down if it is moved to a different day. Mr. Nash said Board members should be reaching out to other potential members.

#### **V. ADJOURNMENT**

***Alan Patterson moved for adjournment. Seconded by Dan Nash.***

***\*The motion passed 4-0.***

The meeting was adjourned at 9:32 p.m.

Respectfully submitted,

Charles Glazer  
Recording Secretary