

**City of Keene**  
**New Hampshire**

**ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES**

**Monday, March 6, 2023**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Joshua Gorman  
Joseph Hoppock, Chair  
Jane Taylor, Vice Chair  
Michael Welsh  
Richard Clough

**Staff Present:**

Michael Hagan, Plans Examiner/Staff Liaison  
Corinne Marcou, Zoning Clerk

**Members Not Present:**

*All Present*

**I) Introduction of Board Members**

Chair Hoppock called the meeting to order at 6:30 PM and explained the procedures of the meeting. Roll call was conducted.

**II) Minutes of the Previous Meeting: November 7, 2022 & February 6, 2023**

Chair Hoppock stated that there were problems with the audio of the November 7, 2022, meeting minutes. He asked if anyone could fill in some of the blanks or had suggestions. Mr. Welsh stated that given that there are so many “[inaudible]” points, he suggests this be a homework assignment for the Board members over the next month, to see if they can fill in some blanks. Chair Hoppock asked if others agreed. He continued that they would table the November 7 meeting minutes until the next meeting.

Vice Chair Taylor stated that regarding the February 6, 2023 meeting minutes, her name is noted at the end for having “reviewed and edited” the draft minutes. She continued that for clarification, she read the draft minutes and looked for missing words or typos. She did not edit the minutes by changing any text or content. Chair Hoppock asked if this is page 42 of 164 in the agenda packet. He suggested striking the words “and edited.” Vice Chair Taylor agreed.

Mr. Gorman made a motion to approve the meeting minutes of February 6, 2023 with the aforementioned edit. Mr. Welsh seconded the motion, which passed by unanimous vote.

**III) Unfinished Business**

**IV) Hearings**

Chair Hoppock stated that ZBA 23-03 and 23-04 will not be addressed tonight. Zoning Clerk Corinne Marcou stated that the Petitioner's representative could not be present due to illness, and the Petitioner has requested for ZBA 23-03 and 23-04 to be continued to the April 3 ZBA meeting.

Vice Chair Taylor made a motion for ZBA 23-03 and 23-04, regarding 32 Optical Avenue, to be continued until the April 3, 2023, regular meeting. Mr. Gorman seconded the motion, which passed by unanimous vote.

- A) ZBA 23-02: Petitioner, Hundred Nights Foundation, Inc., and represented by Jim Phippard of Brickstone Land Use Consultants, LLC, requests an Equitable Waiver for property located at 122 Water St., Tax Map # 585-027-000-000-000 and is in the Business Growth and Reuse District. The Petitioner requests an Equitable Waiver from Article 5 Section 5.4.2, front setback, to allow a roof overhang to extend 2.87 feet into the front setback.**

Chair Hoppock introduced the petition and asked to hear from Staff.

Mr. Hagan stated that 122 Water St. is .62 acres and in the Downtown [Business] Growth and Reuse District. He continued that it is currently a three-story building being constructed. In November 2020, ZBA 20-11 received a Variance for a homeless shelter and a resource center to be built on this property.

Chair Hoppock asked if Mr. Hagan wants to speak to the overhang or let the Applicant do that. Mr. Hagan replied that the Applicant can speak to that.

Mr. Gorman asked what the setback is in this district. Mr. Hagan replied five feet. Mr. Gorman stated that it is then about halfway into the setback. Mr. Hagan replied that is correct.

Vice Chair Taylor stated that when looking at the Ordinance she got confused because there is a front setback and a corner setback. Usually, you do not see a corner setback. She asked what the distinction is. Mr. Hagan replied that he needed a minute to look it up.

Chair Hoppock asked to hear from the Petitioner.

Mindy Cambiar, Executive Director of Hundred Nights, of 447 Park Ave. stated that Mr. Phippard (of Brickstone Land Use Consultants, LLC) is ill and cannot be here tonight. She continued that she was here to share what he had to say; she did not expect to be here tonight. Mr. Phippard told her that it (the extension of the roof overhang into the setback) was an honest mistake on his part, and no one noticed it until the building was built and the roof was where it was. Hundred Nights is addressing the safety issues by installing ice and snow guards on the roof and eliminating several of the solar panels they had planned to put there.

Chair Hoppock asked when the error was discovered. Ms. Cambiar replied that she thinks it was a few weeks ago when someone from the City came by. She continued that she does not know the exact details, but it was long after the roof was on. She thinks it was when there was the first major snowfall.

Mr. Gorman stated that the picture does not really tell everything about the application. He asked if the main roof is in the setback, or if it is the overhang. Ms. Cambiar replied that she thinks it is the overhang, not the actual roof.

Mr. Hagan asked if Vice Chair Taylor was referencing what is on the form that was provided, the corner side setback, or if she is referencing out of the 4.3 section of the Downtown [Business] Growth [and Reuse] District code. He continued that he thinks Mr. Phippard is identifying that it is the corner side of that, but in the Zoning Ordinance it would be considered a side setback. They provided ten feet on that side.

Vice Chair Taylor replied that for some reason she thought it was five feet on both sides. Mr. Hagan replied that it is. He continued that for a corner lot, and this gets into the Building Code a bit, they added that additional setback for fire separation purposes. Anything within five feet of a property line is required to have fire rating on the wall to avoid having to do all of those penetrations going down. There are no doors or openings on the front side, so they have tucked that one up nice and close and are fire rating that completely up and through. Looking at it from the front, there are two exits from the left-hand side/Community Way side. To avoid some of the Code requirements and to be able to get down and around, they tucked it on that.

Vice Chair Taylor stated that she is still confused. She asked if only the Water St. side is into the setback. Mr. Hagan replied that is correct. He continued that it is a crown on the building. The roof edge does come to that crown, but it comes out as an “eave overhang crown detail.”

Mr. Gorman stated that the building itself is within the setbacks. He continued that it is just the roof overhang that is hanging out a couple feet. Mr. Hagan replied that is correct. Mr. Gorman asked, regarding the side setback, if it is correct that the Zoning would only call for five feet and it is the Building Code and their preference that has set them back to ten feet. Mr. Hagan replied that is correct.

Mr. Welsh stated that regarding the modifications made to the plan since the discovery of this encroachment, Ms. Cambiar mentioned that solar panels would no longer go on and the ice and snow guard would be placed along the roofline. He asked if that is a railing or some sort of barrier that keeps the snow from falling off. Ms. Cambiar replied that she does not know the specifics; all she knows is that they are putting fancy ice and snow guards on the roof of the building, and they had to eliminate about 25% of the solar panels.

Chair Hoppock stated that on the application, the (response to the second criteria) says, “*While the site plan shows the building located at the front setback, they did not include the overhang on that side of the building.*” He asked if Ms. Cambiar knew why the site plan did not include that. Ms. Cambiar replied that all she knows is what Mr. Phippard told her to say: it was an honest mistake on his part, and no one noticed it. She continued that she does not have any other details.

Mr. Welsh stated that his question is for the Applicant and City Staff. He continued that in the testimony so far, he is not hearing any disagreement about the sequence of events, regarding how this (error) was discovered, or any contestation about whether it was a mistake or not a mistake.

Mr. Hagan replied that speaking for the City side, this went through all the review processes, and eight different sets of eyes looked at this on many levels of construction and did not see the roof overhang. He continued that he could say it was an honest oversight in the review process, and certainly nothing that was concealed. It was just one of those things that was missed.

Chair Hoppock asked Ms. Cambiar to describe the level of completion of the building project. Ms. Cambiar replied that it is currently between 70 to 75% complete. She continued that the exterior is nearly finished, other than some siding. Some of the siding is on, and some is not.

Mr. Gorman asked if the roof is asphalt shingles. Ms. Cambiar replied yes.

Chair Hoppock asked if there were any further questions from the Board. Hearing none, he asked if members of the public had any questions, or comments for or against this application. Hearing none, he closed the public hearing and asked the Board to deliberate on the Equitable Waiver criteria. He read them aloud.

Vice Chair Taylor asked Mr. Hagan if she is correct in her understanding that given the way the building is constructed, if eaves were to be cut back, they would essentially have to replace the entire roof. Mr. Hagan replied that it would take some substantial reengineering as these are roof trusses on the building, making this a rather large undertaking to correct.

Mr. Gorman stated that he thinks it is safe to say that the very reason they have a process for Equitable Waivers is a case like this, where there is an oversight that was unintentional from both parties. He continued that as a result, what they have now is beyond the point of repair. His only concern is the same concern that the City and Applicant both have – snow load onto sidewalks and it seems that the Applicant has taken steps to address that. The fact that it is an asphalt roof will prevent any type of real snow slide, such as a metal roof or solar panels. This (application) seems like a reasonable request to him.

Chair Hoppock stated that he agrees. He continued that given the fact that construction is now 75% complete, asking them to redo the roof is not a cost worth the benefit; it is too costly for the minimal benefit.

Chair Hoppock stated that regarding criterion C., *“The physical or dimensional violation does not constitute a public or private nuisance, nor diminishes the value of other property in the area, nor interferes with or adversely affects any present or permissible future uses of any such property,”* due to the safeguards implemented - the snow guards that will prevent the ice and snow from tumbling onto the sidewalk - he does not see that this mistake constitutes a public or private nuisance. It will not have any impact on the value of other property in the area, and he does not see how it could adversely affect any present or permissible future use of that property or any other property in the area. He thinks all the criteria are satisfied.

Vice Chair Taylor stated that it is clear, from what was submitted to the Board, from Mr. Hagan's and Ms. Cambiar's comments, that this was a true accident and both parties were operating in good faith. She continued that it is fortunate that it was an error of only 2.5 feet, and not the building's footprint.

Mr. Gorman made a motion to approve the application for Equitable Waiver for ZBA 23-02. Mr. Welsh seconded the motion.

*A. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.*

Vice Chair Taylor stated that she thinks the Board has heard that the violation was not noticed by the City, the owner, or any of the owner's agents until the exterior of this building, which this impacts, was approximately 75% complete. She continued that she thus thinks the first criterion is met.

Met with a vote of 5-0.

*B. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.*

Mr. Gorman stated that he thinks the Board has heard from both sides that there was clearly no act of subterfuge. He continued that it was just an honest mistake. Chair Hoppock agreed.

Met with a vote of 5-0.

*C. The physical or dimensional violation does not constitute a public or private nuisance, nor diminishes the value of other property in the area, nor interferes with or adversely affects any present or permissible future uses of any such property.*

Mr. Welsh stated that he thinks they have heard testimony from the owner that they have taken steps to make sure that the violation, now that it has been discovered, will not constitute a nuisance or a problem to the property values of the surrounding area. He continued that he has sometimes heard the term "ice and snow guards" used to refer to the two feet of metal at the end of a roof that sometimes allows snow to slide; [Hundred Nights] is not doing that. This is something that they are trying to take care of. Chair Hoppock agreed.

Met with a vote of 5-0.

*D. Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected.*

Mr. Clough stated that he thinks the Board heard that because of the design of the truss system, they could not cut this back; they could not make it flush with the building, which would bring it back to Code. He continued that besides the fact that that would possibly impact structural integrity of the building, in terms of water coming against it over a long period of time, it could possibly damage the building if it were to be altered that way. He thinks what [Hundred Nights] has come up with is the only way to mitigate it in the confines of what they have.

Vice Chair Taylor stated that to add to that, the expense of doing anything to try and change the building is not reasonable. Mr. Gorman replied that furthermore, there would be very little gain in doing so. He continued that it would just be moving a dripline.

Met with a vote of 5-0.

Chair Hoppock stated that the fifth criterion does not apply to this application so they will skip it.

The motion to approve ZBA 23-02 passed with a vote of 5-0.

- B) ZBA 23-05: Petitioner, Jennifer Whitehead and Hans Porschitz requests a Variance for property located at 190 South Lincoln St., Tax Map #572-004-000-000-000, is in the Medium Density District, and owned by Aaron Cooper. The Petitioner requests to permit a smaller lot size than prescribed, a smaller side setback than prescribed and a less than 3 foot distance of a drive way to the property line, per Chapter 100, Articles 3.6.5, 1.3.3.A.3 and 9.3.2.2 of the Zoning Regulations.**

Chair Hoppock introduced the petition and asked to hear from Staff.

Mr. Hagan stated that 190 South Lincoln St. is located on a .13-acre lot, zoned Medium Density. He continued that it is a two-story single-family home, 1,600 feet, with an attic and was built in 1920. Staff did not find any Variances for it in City records. Staff wants to clarify that in the application, the reference to Article 3.6.2 is actually for Low Density, not Medium Density where this property is located. He believes it was just a scrivener error on the application. The section the Petitioner is looking for relief from is Section 3.5.2, Medium Density.

Mr. Gorman stated that it appears to him that there are two abutters who have agreed to adjust a boundary line, and that has created this situation, but by moving the line, nothing material is going to change on the property. He asked if that was accurate. Mr. Hagan replied that his understanding of the application was that they are seeking relief from three different sections by moving this line. He continued that currently, if you were to go to this location – and as you can see in the picture – it already looks like that line exists the way it is. There is already a garden right up next to the garage, and the fence is right on that line; they are just looking to make it right by seeking this Variance.

Chair Hoppock asked to hear from the Petitioner.

Hans Porschitz of 196 South Lincoln St. and Aaron Cooper of 190 South Lincoln St. introduced themselves. Mr. Porschitz stated that Mr. Hagan said it properly – they just want to make right what has been used for years between the two different property owners. He continued that the room between the two houses, on the two properties, has been split by the property line at an awkward diagonal. It did not give full use of the space to either property. Over the years, ever since Jennifer (Whitehead) bought the property, and even before, that yard had been used by (people at) 196 (South Lincoln St.) Mr. Cooper did not even know that was part of his property. When they discovered that, they had a good relationship with Mr. Cooper, and said they would like to clean that up. Being in the Medium Density District with a small property puts them up against all these stipulations they are trying to get a Variance for tonight.

Mr. Porschitz continued that the primary concern they have, in terms of potential hardship, is that in the back of the yard there are many roofs dumping into that area. Water comes into their basement on a regular basis. If the property line as currently drawn would potentially be covered with an impervious material or area, it could amplify the concern and the risk of having more water, because less pervious ground in that area being part of his and Ms. Whitehead's property would allow them to keep it pervious. Chair Hoppock asked if he meant so that water leaches through into the ground. Mr. Porschitz replied yes, and not into their basement.

Chair Hoppock stated that Mr. Cooper is free to add more if he wants. Mr. Cooper replied that he agrees with everything Mr. Porschitz said. He continued that as Mr. Porschitz said, it is just about cleaning it up. It is true, he (Mr. Cooper) did not even realize he owned that bit of property, which is not even usable for him. He would have to go around his garage to get to that tiny bit of land.

Chair Hoppock, referencing the drawing in the application, asked if the intent is to put the property line abutting Mr. Cooper's garage, and then in a straight line to the street from the corner of the garage. Mr. Cooper replied yes, stepping back from the garage but following the "eave line," counting that as the building line on the property, the 6-inch overhang.

Vice Chair Taylor stated that she has a question for Staff. She asked if it is correct that in essence this would make 196 South Lincoln St. a little more conforming, even though it will still be a non-conforming lot. Mr. Hagan replied that is correct. Vice Chair Taylor asked if it is correct that it will make 190 South Lincoln St. a little less conforming. Mr. Hagan replied that is correct.

Mr. Gorman stated that he has a question for both the Applicant and his neighbor. He asked if they had made provisions for repairing the garage. Mr. Porschitz replied that it is in their interest to make that side of the garage look good, so they have already offered Mr. Cooper that they will take care of that side of the garage. Mr. Gorman asked if he meant that he and Ms. Whitehead will take care of the backside of Mr. Cooper's garage. Mr. Porschitz replied yes. Mr. Gorman replied that this is about as well as neighbors could work together.

Chair Hoppock asked if they have signed the boundary line adjustment agreement yet. Mr. Porschitz replied no, they were advised to seek these Variances first and then start the boundary line adjustment process.

Vice Chair Taylor stated that she noticed a door on the side of the garage at 190 South Lincoln. She asked if Mr. Cooper would be able to walk on his own property while using that door. Mr. Cooper replied that there is no door on that side of the garage. He thinks what appears to Vice Chair Taylor as a door in the photo is actually a post in the yard, seen at an angle that makes it look like a door.

Chair Hoppock asked if there were any further questions from the Board. Hearing none, he asked if members of the public had any questions or wanted to speak in favor of or in opposition to this application. Hearing none, he closed the public hearing and asked the Board to deliberate.

Vice Chair Taylor stated that she wishes all neighbors would get along to the extent that these neighbors do. She continued that it is nice to see, compared to what the Board occasionally sees.

1. *Granting the Variance would not be contrary to the public interest.*

Chair Hoppock stated that it is certainly in the public interest to encourage this kind of agreement. He continued that for that reason, he thinks the first criterion is satisfied.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Chair Hoppock stated that he does not see anything in the application that would change the character of the neighborhood in terms of safety of any kind or impact the neighborhood in a negative way.

Mr. Gorman stated that this is an imaginary line that already exists. He continued that he thus does not see how it can be contrary to the spirit of the Ordinance or public interest. It does not have a true impact on anyone except the folks sitting in front of the Board tonight.

Chair Hoppock stated that it does nothing to add to density and does not create fire issues or do anything like that. Vice Chair Taylor replied that what it does is reflect what is already on the ground and how the properties are already being used. She continued that it is just a matter of bringing the legal stuff into conformity with what is already there.

3. *Granting the Variance would do substantial justice.*

Chair Hoppock replied that the gain to the public for denying this would be nothing. He continued that the harm to the Applicants would be significant. As Vice Chair Taylor said, this is the space of the Applicant and the neighbor; it has no impact on anyone else.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*



Chair Hoppock stated that he does not see how this would affect surrounding properties in any way, in terms of values. Mr. Gorman stated that he would add that it does not have to raise the values, it just needs to not diminish them, and clearly, it does not diminish them. It will have zero effect. Chair Hoppock agreed.

Chair Hoppock stated that he agrees that the current configuration of the two subject properties is an interesting, unique characteristic of the property. He continued that they have managed to use that space in a way that has no impact on the surrounding area.

Mr. Gorman stated that he also thinks there is some merit to the argument of it being the spirit of self-preservation for them, just with drainage between the two properties. He continued that it is an opportunity to improve that area and at least someone has ownership of it who has an interest in it.

5. *Unnecessary Hardship*

- A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*
- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property*

Mr. Gorman stated that he thinks the hardship is there, given the current scope of what exists on the ground. Chair Hoppock agreed.

*and*

- ii. *The proposed use is a reasonable one.*

Vice Chair Taylor stated that what they are proposing is eminently reasonable.

Mr. Welsh made a motion to approve ZBA 23-05, request for a Variance at property located at 190 South Lincoln St., following the terms and conditions and the various Variance portions listed in the application material. Mr. Gorman seconded the motion.

1. *Granting the Variance would not be contrary to the public interest.*

Met with a vote of 5-0.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Met with a vote of 5-0.

3. *Granting the Variance would do substantial justice.*

Met with a vote of 5-0.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Met with a vote of 5-0.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because*

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property and*

ii. *The proposed use is a reasonable one.*

Met with a vote of 5-0.

The motion to approve ZBA 23-05 passed with a vote of 5-0.

C) **ZBA 23-06: Petitioner, Monadnock Affordable Housing Corp. of 831 Court St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Variance for property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the Low Density District and is owned by the Community College System of New Hampshire of 28 College Dr., Concord, NH. The Petitioner requests to allow multifamily housing use where multifamily housing use is not a permitted use per Chapter 100, Article 3.3.5 of the Zoning Regulations.**

D) **ZBA 23-07: Petitioner, Monadnock Affordable Housing Corp. of 831 Court St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Variance for property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the Low Density District and is owned by the Community College System of New Hampshire of 28 College Dr., Concord, NH. The Petitioner requests to allow buildings which cover more than 35% of the lot, impervious surfaces of more than 45% coverage and less than 55% green/open space per Chapter 100, Article 3.3.3 of the Zoning Regulations.**

Chair Hoppock stated that he needs to recuse himself from ZBA 23-06, 23-07, (and 23-08) and the Applicant will have a four-member Board. The Petitioner agreed to proceed.

Vice Chair Taylor proposed taking the two Variances (23-06 and 23-07) together, because the nature of a Special Exception is separate. She continued that the information can be presented together and the Board will vote on them separately and then handle the Special Exception after the Variances. Others agreed.

Vice Chair Taylor introduced ZBA 23-06 and 23-07 and asked to hear from Staff.

Mr. Hagan stated that this is a property located at 438 Washington St. on 2.4 acres, zoned Low Density. He continued that currently it is a two-story building of about 19,417 square feet. The last use of the building was by the Community College System of NH. Prior to that, it was used

by the School District. There are no Variances or ZBA applications on record. There have been multiple building permits for additions throughout the years since 1926.

Mr. Welsh asked Mr. Hagan to walk the Board through the array of zoning districts in this area, such as where High Density is, where Low Density is, and so on and so forth. He continued that it seems like a complicated mix. Mr. Hagan replied yes, it is. He continued that everything abutting this property is in the Low Density District, including across the street. The building on the corner that is now used by Williams Construction was also in Low Density and received a Variance. It is kind of a commercial corridor but surrounded by Low Density. A commercial car garage is down the way. A couple of multi-family homes are in the area, such as on the corner of Woodbury St. and Washington St., and across the way not directly on the corner of George St. but one up from that corner single-family home. There are many single-family homes and then an industrial building down behind, People's Linen, which sits lower.

Mr. Gorman asked what uses would be allowed for this building in the Low Density District. Mr. Hagan replied that the permitted uses in the Low Density District are single-family dwellings, small group homes, community gardens, conservation areas, and telecommunications facilities. Mr. Gorman replied that that means this huge brick building would have to become a single-family home, a community garden, a telecommunications facility, or a small group home with less than eight rooms. Mr. Hagan replied that is correct. He continued that the building's current use, through the university system, is considered a business use, office, or assembly. If that type of use wanted to go back in, he does not know what could fit into that niche without needing a lot of money put into it, but they definitely would have to find the right person.

Vice Chair Taylor stated that her updated pages, from when they changed the Conservation Residential Development (CRD), Section 3.3.5 says that in the Low Density District, residential uses are single-family, two-family, and multi-family. Mr. Hagan replied that a CRD is allowed in the Low Density District, but they would have to go for a CRD in order to do that, which would be a Conditional Use Permit, approval from the Planning Board, and the whole process. Vice Chair Taylor replied yes, it looks a little daunting.

Vice Chair Taylor asked how far down Washington St., going away from downtown, the Low Density District goes. Mr. Hagan replied that he does not have the map in front of him, but it does change again; he thinks there is a little spot zoning there for what existed. He continued that he cannot answer Vice Chair Taylor's question exactly without looking at the map, but it does abut Medium Density. With the map on the screen, Vice Chair Taylor asked Mr. Hagan to point out the location of the school building they are talking about, which he did.

Vice Chair Taylor asked if there were any further questions for Staff from the Board. Hearing none, she asked to hear from the Petitioner.

Adam Kossayda (Attorney from Bragdon, Baron, and Kossayda, P.C.) stated that he is pinch-hitting for Stephen Bragdon, who is not available this evening. He continued that while they are talking about zoning, he would like to point out that the Citizen's Way development is nearby, which is High Density. It is about a block away, just off Washington St., right off of the map that was just on the screen. Josh Meehan has asked him to give a high-level description of what this

project entails, and then he will go through the criteria. He and Mr. Meehan agree to move forward with the four-member Board. He asks the Board to open all three of the petitions, starting with the use Variance as they have been discussing.

Vice Chair Taylor replied that as she mentioned earlier, the Board will handle the Variances first and then go on to the Special Exception, because they have different criteria.

Josh Meehan, Executive Director of Keene Housing, introduced himself. He continued that he wants to point out that the Petitioner is Monadnock Affordable Housing Corporation (MAHC), which is an affiliate non-profit of Keene Housing. Keene Housing is the housing authority created by the City of Keene in 1965. Its sole purpose is to create housing that people can afford in Keene. They currently own 600 units. The occupancy rate currently is 99.2%. In other words, they have .8 vacant units as of January 2023. They have 1,344 unique Applicants waiting for the 600 units that currently exist, 72% of whom are waiting for a studio or one-bedroom apartment. The proposed project consists of 75% one-bedroom units and 25% two-bedroom units, totaling 60 units in a two-phase project. Each phase has 30 units. Most residents in Keene Housing's small units like that are elderly or disabled. They have been looking for a site for quite some time that would suit that population, because one-bedrooms and studios make up such a large portion of the waiting list. They have been looking for a site on public transportation, close to downtown, and not in the floodplain as they cannot do any development in the floodplain with the federal money they use. Keene Housing proposes a two-phase project, with 30 units each phase; one phase includes an adaptive reuse of the old school building. It will be funded, if they are successful (getting their Petitions approved by the Board), primarily through tax credits and ongoing operating subsidy through a HUD program. Last Thursday, they had a well-attended meeting with about 20 abutters.

Vice Chair Taylor asked him to go over the capacity again. Mr. Meehan replied 75% of the units will be one-bedroom, and 25% will be two-bedrooms. He continued that that is about eight two-bedrooms per 30. Their architect is here and can answer questions as well and knows all those numbers well. Mr. Gorman replied that he thinks it would be 45 one-bedrooms and 15 two-bedrooms. Mr. Meehan agreed. Vice Chair Taylor asked if it is correct that there would be no studio apartments. Mr. Meehan replied that is correct.

Vice Chair Taylor asked what Keene Housing's demographic is. Mr. Meehan replied that it depends on the apartment size, but one-bedroom apartments typically have an elder, an elderly couple, or a younger person with disabilities. The average income for their elderly population is about \$17,000 per year. Those are folks on fixed incomes, typically Social Security and some annuities. They typically do not have cars, although some do. The packet has a parking study and a traffic analysis, and the Board can see that on average, Keene Housing has many more parking spaces than they have people who need those parking spaces. There would be a ceiling for income eligibility for this property; it would be restricted to people at 50% or less of the area median income. For two people that is about \$38,000 a year in income.

Vice Chair Taylor asked how they decided on two buildings of 30 units each. Mr. Meehan replied that it is driven by the Low Income Housing tax credit, which is the only production program left in the United States. It is an IRS program, administered through the NH Housing

Finance Authority (NHHFA). NHHFA puts development caps on each allocation of tax credits each year. Since NH gets the “small state” allocation, they do not get a lot of tax credit. NHHFA keeps the development caps relatively low so that, for example, Manchester does not do a 300-unit tax credit job, sucking up all the NH credits for the year. Keeping the cap somewhat low results in most tax credit developments being in the 26-30 unit range, because that is as many as they can build with the equity they are able to get through the tax credit program. That is why they propose a two-phase project, one tax credit allocation for each phase.

Vice Chair Taylor asked what the time period would be. Mr. Meehan replied that he will defer to the architect for the construction time period. However, how the tax credit round works is they submit their pre-application in July, full application in August, and in the fall, they learn that they got the tax credit allocation. That is usually the corpus of the capital they are collecting to do a project like this. Once they know they have the funding set by fall, they would usually begin a few months later. They get going with design, anticipating that they will have a successful application.

Vice Chair Taylor asked what would happen if they learnt that their first allocation of tax credits was granted but not the second one. Mr. Meehan replied that they would hold and then reapply. He continued that however, there is a point system, sort of like the Community Development Block Grant program, which Keene Housing relies on for a lot of the work they do. NHHFA awards extra points for phase two applications, to recognize that the system they have constructed requires projects to come in phases. They could not guarantee that if they were successful in phase one, they would immediately get a tax credit allocation for phase two, but they would be fairly confident. If they did not, they would simply reapply in the next round.

Vice Chair Taylor asked if Mr. Kossayda wanted to go through the criteria.

Mr. Kossayda stated that this building was last used as the River Valley Community College, which is part of the Community College Systems of NH, State-owned and exempt from zoning. He continued that before that, he believes it was City-owned as a public school, and thus, it has not had any zoning. It is 2.4 acres, which means they cannot do the CRD, which requires five acres. He thinks it is a minimum of five acres for Low Density. In the application, he said ten, but that is for a different district.

*1. Granting the Variance would not be contrary to the public interest.*

Mr. Kossayda stated that granting this Variance would be in the public interest. He continued that in the Comprehensive Master Plan (CMP), from which this Zoning Ordinance is derived, it is no secret that Keene has a shortage of housing, and affordable housing in particular. Mr. Meehan talked about the 1,300+ unique people on the waiting list for Keene Housing, which some are applying for multiple locations, so it is more like 3,000 people. Clearly, there is a need for housing in this community. Certainly, this would serve the public interest by permitting more housing to be built as sixty units will put a dent in the problem but will not solve it. As Mr. Meehan indicated, not many properties will support this type of housing and be appropriate for the community and for the population that would live there. Thus, allowing this Variance meets

the public interest so that Keene Housing can provide more housing, specifically affordable housing.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Mr. Kossayda stated that granting this Variance to permit multi-family housing on the property is within the spirit of the Ordinance. He continued that he suggests that the spirit of the Ordinance is not just the Land Development Code (LDC); it encompasses the CMP, which directs that they have this. Line after line, the CMP talks about smart growth, increase in the need for housing, and improving housing opportunities in the city, particularly in and around downtown. This is .8 miles from Central Square, about a 16-minute walk. It is within biking distance, walking distance, and served by City bus. The Ordinance indicates that there should be housing, and they should take advantage of housing opportunities in that area, to support a robust downtown Keene. The Ordinance does contemplate multi-family use in this district as part of the CRD, but unfortunately, because this is only 2.4 acres, they cannot take advantage of that opportunity.

He continued that one other indication that this would meet the spirit of the Ordinance, is that the Ordinance provides for a 20% housing density credit for affordable housing, as far as subdivision, and Keene Housing meets that criterion of low-income housing. The language in the Ordinance tracks with what Mr. Meehan explained about the funding sources. This Ordinance already carves out some exceptions for this type of housing, and that is what they are trying to do, but unfortunately, there are not many places where they can do it. Thus, they are asking the Board for a Variance. You cannot draw a zoning map that is perfect, and they have Low Density over a property that is exempt; there was a school there.

3. *Granting the Variance would do substantial justice.*

Mr. Kossayda stated that in a case he cited in his materials, the (NH) Supreme Court found that improving a dilapidated area of town to provide affordable housing did substantial justice. He continued that this is not a dilapidated area of town, and he is not suggesting that it is, but this building is not being used to its full potential and is just sitting there. The Community College System of NH has people in and out of it, but as far as he can tell, there are not many active classes happening. It is being underutilized. Because of that, potentially, it is falling into disrepair. Keene Housing wants to meet the public's need with their proposal to develop this property for 60 units of affordable housing and is consistent with the area's present use. It is zoned as single-family, but as Mr. Hagan indicated, multi-family houses are nearby with Citizen's Way around the corner. Across the street at 543 Washington St. is a multi-family housing building with approximately 30 units between the two buildings. He suggests that what Keene Housing proposes is a better use of the property than letting it just sit there and it would be consistent with the neighborhood. He also suggests that it does not harm the neighborhood to have new, well-maintained properties with Keene Housing managing this property as Mr. Meehan was suggesting. Rather than having a building there that is not being used, they would have two buildings that are being maintained.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Mr. Kossayda stated that in the materials, he included an article from Alexandria, VA, where a study was done about whether low-income housing diminishes the value of a neighborhood. He continued that it is a misconception that the presence of low-income housing drops the value of surrounding properties; that is not what they found in Alexandria. There is no comparable study in Keene, NH, but this was the best actual study they could come up with. Well-maintained neighborhoods are what help to drive property values. This property is not on the tax rolls. Here, it would probably be subject to a PILOT or something of that nature with MAHC. Those are all considerations about value and suggests that it does not diminish the values of surrounding properties. To the contrary, just letting a building sit there like it is, exempt from zoning and being underutilized, diminishes the value of the surrounding properties.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because*

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:*

Mr. Kossayda stated that this property is unique. He continued that it has a giant, 19,000 square foot building that predates the Ordinances, and is a school. It is an industrial-type building, and because it is exempt, it is in a place where it can only be used, realistically, as a single-family home. It is not tall enough to be a telecommunications tower and it could not be used as a CRD. Because of the unique nature of this property, as encumbered by this building, it cannot be used. He does not see any possibility of someone tearing down this property at a price tag of a little over a million dollars to build a single-family home or converting the school into a single-family home; it is unrealistic, making this property stuck in limbo. Private schools are not allowed in this district, so it could not be a school without a Variance. It would have to be a public school or an exempt government organization, as far as he can tell. What can be done with this building to make it useful? MAHC thinks a reasonable use is to convert it to multi-family housing, which this community needs. The best use of the property is 60 units of high quality, affordable housing, as Mr. Meehan described. They think there is a hardship because there is nothing else to do with this property.

*and*

ii. *The proposed use is a reasonable one because:*

Mr. Kossayda stated that MAHC thinks this is a reasonable use, given what is needed in this city for the population. He continued that they are working within the rest of the Ordinance. They have height restrictions; it can only be two stories, so they must sprawl a bit. To make it worthwhile at this price point, 60 units is what they propose. Acquiring it to only put in 30 units is not quite worth it, it would change the equation significantly. They suggest that their application is a reasonable use of this property that cannot otherwise be used. He is not sure the State cares if it is used, but MAHC does, and the City does.

Vice Chair Taylor asked if they could hear from the architect about the building, especially the second building that would be included in this.

Jonathan Halle of Warren Street Architects stated that when Mr. Meehan first approached him, he came up with a concept to put almost 90 units on this property. He continued that housing is driven by finances and how to put these packages together, is always a balancing act. They could have asked the Board for additional height Variances, or talked about additional lot coverage, or other things, but in the reality of working through it with the whole team, they came up with two phases. The proposal is to create two land condominium units to support the two phases with each phase financed on its own merits, each having its own utilities, its own water and sewer connections, and stand alone. The first phase is the back building, chosen because they want to do all the site improvements in the back building to get people in. Phase two would be the renovation, the demolition of the auditorium, and the addition, because then they can stage the construction along Washington St. and not put the burden of two years of construction on the people who have already moved into the back of the property.

Vice Chair Taylor asked what he means about two “condominium units.” Mr. Halle replied that the property would be subject to a subdivision at the Planning Board level, and they would create two land condominium units. That allows them to develop each phase on its own land unit. It owns its land unit, and the interest in the fee simple lot underneath it as part of a condominium association, but that land unit and the building, phase one and phase two, are standalone projects; financed individually. The investors who own phase one could be different investors than those who own phase two, depending on when those tax credits are allocated over time.

Mr. Meehan stated that as an example, Keene Housing headquarters at 831 Court St. has Stone Arch Village Senior and Stone Arch Village Family. He continued that it is exactly like this, condominiums with two different tax credit properties on what looks to a person walking by like one big piece of land. Mr. Halle added that the condominiums are only the land units, not condominiums like you might think of with five condos in alignment. It is just the land itself that allows for financing of individual projects.

Mr. Halle stated that they did an entire design exercise where they scaled the buildings down to two stories and looked at the parameters of the property. They got everything down to these two Variances and the Special Exception, in terms of making it completely Code compliant. The buildings are considered Type VB construction. They could be wood frame but might be metal stud. They are a simple two-story, slab on grade, asphalt shingle roof, very consistent with what are found in the neighborhood. The buildings are sprinkled and have a fire suppression system.

Vice Chair Taylor stated that much of that is for the Planning Board. She asked if it would meet all the other setbacks and requirements. Mr. Halle replied other than the ones they are applying for, yes.

Vice Chair Taylor asked how close the back building is to the nearest residential single-family home. Mr. Halle replied that they are well within the setback. He continued that they went round robin with City Staff, in that they found out that Woodbury St. is considered the front yard, not Washington St., because of the corner lot and Woodbury St. having a smaller frontage, so the setbacks are related to that. The front yard happens to be Woodbury St. with the retaining wall.



Washington St. is a side yard and the back property line, perpendicular to Woodbury St., is a side yard. The rear yard would be to the south.

Vice Chair Taylor replied that she was concerned with how close that two-story building, quite sizable for the area, was to the residential properties on Woodbury St. Mr. Halle replied that they managed to locate the building without cutting the tree line. He continued that they had the property surveyed, had it field verified, and are placing the building in such a way that (addresses) some issues brought up at the neighborhood meeting - like the very large oak tree in the northwest corner on Woodbury St.; that will not be removed. A neighbor mentioned a couple pines that they would like to have removed, which MAHC had not intended to take down, but essentially, they are getting that they have placed the building such that they do not need to affect the tree line. The side setback, he believes, is 25 feet perpendicular to Woodbury St. going out. Mr. Meehan stated that it is 15 feet in the front, 10 feet on the sides, and 20 feet in the rear. Mr. Halle stated that on the northwest corner the building is about 40 feet from the property line, and in the southwest corner, opposite Woodbury St., the building sits right on the building's setback, so it is kind of skewed on an angle. Vice Chair Taylor asked if he means the existing building or the new one. Mr. Halle replied the new one. He continued that probably more than half of the new building is in area that is paved parking lot today, which is a paved area in the back.

Vice Chair Taylor asked if they still plan to have the primary entrances on Washington St. Mr. Halle replied no; he believes the primary entrances to both buildings will be off the parking lot in the middle, between the two buildings. He continued that the entrances to the building in the back would face the parking lot, which is not in the front yard because of the orientation of Woodbury St. More than likely, the main entrance to the existing school and the addition to it would be off that parking lot as well. There are some parking spaces along Washington St., and they intend to leave the entrance that is the link between the auditorium and the school building, for those who choose to park on that side, but it will not be the main entrance.

Vice Chair Taylor asked if, as far as vehicular entrance from a City street, the primary one will be Washington St. Mr. Halle replied yes. He continued that orienting to the north, there is an entrance on the corner lot, which will be a one-way in, bringing you up and around to the parking lot. The curb cut directly opposite George St. will be three lanes, a right lane, a left lane, and a middle lane he is not sure about. Vice Chair Taylor replied that hopefully there will not be people darting across Washington St. out of George St. Mr. Halle replied that that curb cut, which is currently about 35 feet, will be in the same location. He continued that they had a traffic memo done, and they talked about it and oriented it so that it is directly opposite George St. The Civil Engineer is doing turning radiuses for the Fire Department to accommodate the ladder trucks and so on and so forth. He believes everything is compliant.

Mr. Gorman stated that he gets the gist of the application, that the city has this big, existing, brick building that needs to be repurposed and that it is sort of hamstrung by zoning and almost impossible to meet zoning while repurposing this building. He continued that he understands all of that, but the question/concern he has is taking a situation that is presented as a unique situation and then building more buildings to make it even more unique and more out of touch with zoning or surrounding properties. He asked what the importance is of having the second building, if it is

financial viability or is it a matter of them taking as much as they can for the sake of being able to develop this property?

Mr. Meehan replied that he thinks it is a combination of both. He continued that there is an economy of scale that they need to meet, especially given the agreed upon purchase price, and obviously it is not up to the seller to care very much about Keene Housing's economies of scale. For this to pencil out, this two-phase project, 60 units is the way that the math works best. In addition, the profound need for these units in our community is not something that he can disregard; that is a big part of it, too. They do not have a lot of opportunity to build housing that folks need in Keene that checks those good planning boxes that he mentioned earlier, such as the ability to get to downtown easily or get on the bus. Certainly, a 30-unit project here does not make a lot of economic sense for Keene Housing.

Mr. Kossayda stated that to add to that, there is a profound need, and they heard Mr. Halle say that he started this design with 90 units. He continued that if they had their druthers they would build up, but they are trying to make it as reasonable as possible, because that is part of what they must do when seeking a Variance. They are also balancing many different things within the Ordinance. As Mr. Halle said, they whittled it down to just two Variances and a Special Exception for the parking, which he can speak to later, including the traffic study for the Board's review. They are trying to balance all of those competing interests to do the most reasonable and best use of the property and make it worthwhile to meet the need for the public.

Mr. Halle stated that doing housing is very difficult. He continued that if they started this today, they would not finish the two phases for more than five years from now. They are only adding 60 units to the housing need across the city. If they could do all 60 units in one phase, they would, but they cannot figure out how to do that with the available financing.

Mr. Halle stated that Matt Moore is here representing the Community College System. He is the Director of Facilities. If the Board has any questions, he can speak to how long this property has been on the market. MAHC has been in negotiations for over a year, just to get to this point, regarding what to do with this piece of property. It is encumbered with (issues) they do not need to talk about tonight, like who owns the retaining wall and how it will get repaired. There are a lot of pieces and parts to make this happen.

Vice Chair Taylor asked if there were any further questions from the Board. Hearing none, she asked for public comment, beginning with Matt Moore, and asked to hear his perspective on how usable this property is and why the Community College System is selling it and how long (it has been on the market).

Matthew Moore, Director of Capital Planning and Facilities for the Community College System of NH, stated that they have come to realize that with enrollment dropping and with combining with the university system in Keene, they have moved into classrooms at Keene State College (KSC) and have no further need for this building.

Vice Chair Taylor asked for public comment, beginning with people in favor of the Variances.

Chris Coates stated that he is the chair of the Keene Housing Commission. He continued that he is also on the board of Hundred Nights, and thanks the Board for their thoughtful process and decision around that. He is on multiple committees through his job as County Administrator, trying to figure out housing throughout Keene and Cheshire County. How to address this need, which is beyond crisis level, is a constant discussion. NH is within the top three of the “greying states,” and Cheshire County is in the top three “greying counties,” as in aging. Because of limited incomes, individuals are looking for different opportunities for housing. When River Valley Community College decided to move onto the KSC campus, the Commission decided to explore the opportunity of purchasing this building, because they knew the need. They hear about the need on a regular basis at their meetings and are always looking to do whatever they can to address those needs. He sees this as a “twofer project.” Keene Housing adding 60 units could possibly also loosen up other housing in the community for others to obtain. It is a win-win for everyone. Keene Housing is a good steward and a good neighbor, if you look at any of their properties. He himself is a neighbor, as he lives at 30 Gilsum St. Keene Housing takes very seriously the need to ensure that, not just for the sake of the neighbors but also for the sake of the individuals that choose their housing, that they feel comfortable and welcomed in the housing they live in and that it is a positive experience for them. Keene Housing met with abutters and that is important. He was on the board for nine years prior and now this is his second time around on the Commission, about three years in. There have been multiple projects. They start a conversation with the community that they are affecting and continue that conversation. They will have other conversations to hear people’s concerns and hear what they are excited about, to try to build off that. With any project, they promise to walk with those who are being affected and address those issues. They are excited about this opportunity.

Hannah of 24 Vernon St. stated that she is currently staying at Monadnock Peer Support (MPS) in their Step-Up Step-Down program. She continued that she believes it will be very beneficial to build this affordable housing project. She and her mother are currently facing homelessness, through no fault of their own, due to her stepfather illegally taking her mother’s name off the mortgage. MPS is housing her until April 26, and after that, she has nowhere else to go. Adding this building will greatly affect many people who are in similar situations.

Trish Lane from MPS stated that she (facilitates) groups and hears many stories like this. She continued that she knows many people are looking for housing, and sometimes her groups turn into a housing discussion, because the need is so high. She is passionate about this topic, and is here to support Hannah, who was brave to share her story tonight. Many others have stories like hers, need a place to live, and are often very depressed about it. She encourages people to keep trying and to remain hopeful. This [Variance application from MAHC] gives hope. She appreciates what is happening here and hopes the Board approves this.

Madeline Ullrich, Executive Director of NH Care Collaborative, formerly known as Monadnock Collaborative, stated that Service Link is one of the programs they house and support. She continued that the Department of Health and Human Services (DHHS) runs it. All programs at the NH Care Collaborative are working with individuals who are going after long-term care and need various options to remain aging in place at home. Rents are [high]. There are people who own their own homes and have worked their entire lives until retirement and can no longer afford it, so Staff spends much of their time working with aging and disabled people in the community,

and Veterans, in the challenging task of finding housing. It is depressing. She gives kudos to Ms. Lane and Hannah, who said it well.

Laura Tobin of Center St. stated that she recently started a new position in marketing, and the field has shifted so that her primary goal now is not to sell a product but to find employees. Unfortunately, she cannot find employees, because people cannot afford to live here, because there is not enough housing. Some people tend to think about these projects, like converting old schools into housing, as “giving people something that they haven’t earned or worked for,” but the truth is that the impact to the community, by not providing housing, is that the community is unsustainable. There are people like Hannah, who just said that she will not have a place to go. There are jobs for people like Hannah, but how can you think about looking for a job when you do not have a place to live? Finding a place to live becomes your priority; you cannot function (without it). She has been in that situation herself. She is still on the waitlist for Keene Housing, although she does not necessarily need it right now. She is able to work, but she was working so hard at finding housing that it was like a job itself.

Ms. Tobin continued that not too far from the building is another large apartment building. People who live there work downtown, go to school at Antioch, and so on and so forth. Nearby is a gas station and laundromat. The area near this building has recently been the focus of some development already, so this (project) feels like a natural transition. It is also easy to access schools and hospitals from this location. Many nurses and teachers would qualify for Keene Housing services. Her understanding of the waitlist is that it is not just a matter of who comes first – certain people, such as people with disabilities or limitations, get priority. It makes sense, but it also means that those nurses and teachers, whose work will be increasingly needed in the upcoming years, do not have a place to go. Childcare is another big challenge. Many people cannot go back to work because they lack childcare. People have stopped entering into childcare as a career because it is not feasible, earning just \$11 to \$15 per hour. She asks the Board to consider the populations they are talking about – these people make the community work.

John Bordenet of 22 Woodbury St. stated that he has lived there since 1991. His first experience with the property (in question) was bringing his daughter to the playground there, where they spent many hours. He continued that he has seen businesses come and go there, such as the American School of Gymnastics, TnT, and the community college. He would like to see a stable use for this property. He is excited about this project and hopes the Board will approve the (Variances) and Keene Housing will be able to move forward. He attended the abutters’ meeting, and questioned the retaining wall. They have been looking for the City to do something about that retaining wall and the guardrail that sits on top of it, for years, with no movement by either the City or the school. Already, the possible next owners have made an agreement with the school and the City to take care of that issue before they even take the property. He supports it wholeheartedly.

Dillon Benik of 635 West St. stated that he is the President of People’s Linen Service, which owns property at 44 George St. and 427 Washington St. His partner Dave owns 451 Washington St. and 463 Washington St., a multi-unit commercial space. He is fully in favor of this (Variance). He looks at the building (in question) every day and wishes it were developed somehow, into housing specifically. People’s Linen briefly looked into trying to do it themselves,

but that was not possible as a private entity, given the obstacles. When they heard about this (plan from Keene Housing) a few weeks ago they were excited. People's Linen has Staff that needs housing. They recently renovated 427 Washington St. to provide for their Staff, because the inventory of single-family homes to purchase in Keene is far below normal levels. The inventory for regular market rate housing is very low, and inventory for affordable housing is nonexistent.

Ken Cost of 79 Ridgewood Ave. stated that they talk about housing constantly in this room, and the Southwest Regional Planning Commission is doing housing studies, so he does not think they need to talk about the housing need, which was expressed very clearly. He continued that he perked up when he heard that the architect was talking about 90 units, because he thinks the denser the better, to use land efficiently. He understands that is not happening here, but 60 is wonderful and there is no downside to this project. He hopes zoning does not become a blocking point. This project will reuse an existing building that has been standing vacant, and they heard from neighbors who are in favor of the project, and it fills a dire need in the community. Keene Housing has done an outstanding job identifying it and putting the package together. They found a willing seller, and they are a willing buyer. Nothing here would cause any issues and it is partly solving a major problem. He is part of the Monadnock Interfaith Project, which looks at housing a lot. He is very much in favor of this project, thinks it is an outstanding solution, and hopes there are many more like this.

Phil Wyzik of 15 Base Hill Rd. stated that he is the CEO of Monadnock Family Services (MFS) in Keene. He continued that MFS is a non-profit mental health center that serves about 1,300 people in a given month, most who live in the Keene area. MFS's mission is to take care of people with long-term mental health conditions and children with severe emotional disturbance. He supports all the speakers who spoke before him to say how wonderful this project is. He echoes their voices and believes this project is extremely worthwhile. Staff at MFS see people struggling with housing every day and people doing their best to regain their health, living in squalor because they have no other place. When the most recent survey of homelessness was done, MFS's outreach worker counted 30 tents, in January, with people trying to suffer through this NH winter. As people have said before him, the need for housing is great. Currently, MFS has 185 employees. Some people reject his offer of employment because they cannot find housing, and this is true for both entry-level employees earning \$16 or \$17 per hour as well as highly skilled professionals earning six figures. This project is not the solution to everything, but adding 60 units of affordable housing is, to him, significant.

Mr. Wyzik continued that those individuals suffering with any kind of physical or mental health condition, as well as struggling with poverty, have a double whammy. It is clear in the literature he reads that as you struggle with poverty every day and your stresses, burdens, and worries continue, the cumulative effect is traumatic. It changes the way you live your life and the way your brain thinks. Once upon a time, we thought Keene would be the healthiest community in NH, with the "Healthy Monadnock" initiative. We know we need to address the effects of trauma and poverty. Regarding the question of whether this project is in the public interest, it seems to him that it is solving a problem for the University System of NH, which is in the public interest, and creating beds for people in the region, which solves a problem. He thinks it can be said, with no doubt, that Keene Housing produces wonderful environments for people to live in. If you have been in any of their properties, you know they are nice places to live. The people living there,

therefore, experience dignity and having people live in dignity is in the public interest. He suggests they do everything possible to help this project succeed, and if there is something they can do to create more housing of all types that would be helpful.

Eric Willis of 18 Woodbury St. stated that when he bought his house in 1993, the real estate agent showed him how he did not have houses close to his, and tonight they are talking about “good neighbors” and there will be 72 windows in 30 units, two stories high, in his backyard. He continued that there is the question of how far from the line that first building is going to be, and there are many questions about that building, which will be built first; he would think the main building would be built first. He understands they want to take care of the construction staging out front, but it seems to him that they are “trying to jam a big square peg into a small round hole,” and if things do not go the way they hope, they will have to reapply for the first building again. It will still be sitting there and he wants Keene Housing to reconsider. Using that first building is a great use of the property, but the second building right on the line and two stories high with 30 units does not seem very neighborly to him in a place that is not zoned for 60 units, with 30 of them right on his back line and 72 windows in his backyard. Repurposing the first building would be great. A fire truck can drive all the way around the building. However, putting a building in the back, about 10 feet from the property line, where there is soft material, and no road means a fire truck could not get back to that building and to him that is a weakness. He watched the Fire Department out there testing their new ladders, and they could get all the way around the building that is there.

Mr. Willis continued that regarding people saying this property could not be a single-family home, he has seen many places operate out of there, like various schools. Offices and schools can be in that building. He does not see why Keene Housing could not just do away with their plan for a back building and put more use in the existing building in the front. If the Board approves this, he hopes they consider putting in something like when Liberty Mutual bought the formerly Peerless building on Maple Ave., a big berm of soil with arborvitae to give a little privacy barrier and a fence behind that would be nice, too since he is concerned about having 30 units so close to him. He heard that Keene Housing “usually attracts” elderly and disabled people, and he heard talk about whether this depreciates the values, and he has never seen anyone seek out a house specifically to be nearby government or City-funded housing projects. His house had electric heat when he bought it, and he took it out and put in hot water heating, increasing the value. He told the bank and they laughed at him, saying that the house had a heating system in it when he bought it, so they would not increase the value of his house. That is what he sees with surrounding properties. It (Keene Housing’s project) might not drop the value a lot, but it will affect the salability. In a roundabout way, it does affect the value.

Dante Diffendale stated that he currently resides at the Step Up Step Down program at 24 Vernon St., at MPS. He continued that he has been homeless since 2019 and has been able to stay in Keene by sleeping on people’s couches, going to MPS, and living in a tent. Due to his physical and medical conditions and mental health, he will not survive being homeless. He almost did not survive the last time he was in a tent, which was in the summer. Thankfully, he had someone who did not tell her landlord that she let him move into her house, because he cannot be outside in the winter. At the end of his stay at MPS, he might have to leave Keene. He moved here in 2008 because everything was cheaper here, and he loved Keene. He still loves Keene – its small-town

feeling, the local shops, and being able to walk everywhere he needs to go. He does not want to have to leave Keene. When you are homeless, you cannot save money to get an apartment or save money for a security deposit and first and last month's rent, or even to furnish an apartment. Being homeless is more expensive than people realize and he has zero savings. He has been on Keene Housing's waiting list for close to three years. He will have to leave Keene in the middle of April because he has nowhere else to go. This project will not help him, because according to the timelines it is still a long way away. He moved here to attend KSC and fell in love with Keene's people, atmosphere, and small-town life. In the part of NJ where he is from, you cannot walk down Main St. and say "hi" to a stranger and get a "hi" back. You *can* do that in Keene. He moved here knowing he was going to leave Keene after going to KSC, but he fell in love with this city and does not want to have to leave.

Vice Chair Taylor asked if there was any further public input in favor of or opposed to the application. Hearing none, she gave the Applicant the opportunity to give rebuttal.

Mr. Kossayda stated that he appreciates Mr. Willis's comments and the discussion. He continued that earlier, he spoke about trying to figure out which Variances to go for or not go for with this unique property. Regarding building up versus out, this district has restrictions on building up, so they are stuck with two stories unless they got a Variance for height. Then there is the question of whether the building's construction could support that kind of height, and the financing problem (that requires them) to do 30 units at a time. Thus, it does not lend itself to going up rather than out. The issue for this Board is whether to permit the multi-family housing with 60 units and the Variance from the limitation on single-family use. The issue (of building design/up versus out) is for the Planning Board to determine. Keene Housing did consider going up. They welcome more discussion with neighbors about privacy interests and how to develop the property to respect neighbors' privacy, because those are well-informed points. Mr. Meehan is always available to discuss that. That is why they had the roundtable with the neighbors before coming to this Board, to address those issues.

Mr. Kossayda stated that the question is not whether Keene needs housing, because it is clear that it does, but it informs every one of the criteria that the Board has to decide on. He thinks it outweighs the risk of harm that would be on the other side of the equations, for each criterion. They heard that People's Linen looked at the property and could not do what Keene Housing is trying to do, so it speaks to the hardship, the uniqueness of this property, and the difficulty of trying to develop it. He also asks the Board to look at the provisions he cited from the CMP about being creative with the need for housing. The Community Development Department does a great job but cannot look at every single individual property when drawing a Zoning map, and this project did not exist at that time. He understands they try to avoid spot zoning, but this is a unique opportunity for the City, and he thinks it is a reasonable request under the unique circumstances of this lot. He appreciates everyone who spoke in favor and against this and the civil discourse.

Mr. Meehan stated that he appreciates everyone's time and knows how much it means for everyone to come out; it can be hard to talk about these issues in a public setting like this. He continued that as Mr. Kossayda said, he would be more than happy to work with any abutters who have concerns about the proximity and how Keene Housing might accommodate for them to feel

more comfortable. He understands some people's desire for Keene Housing to just do the one building, but he reiterates that it would be very difficult financially for them to move forward with this project if they could not do 60 units.

Mr. Gorman asked if Keene Housing would walk away from the (plan for) 30 units in the existing building (if they could not do 60). Mr. Meehan replied that he does not know. He continued that they would have to talk with the person who helps them find the money and do some difficult math. They would try to figure out a way to make it work but it would be very difficult. Mr. Gorman asked if it would become much less likely. Mr. Meehan replied yes.

Vice Chair Taylor asked if there were any further questions from the Board. Hearing none, she closed the public hearing and asked the Board to deliberate. She continued that they need to vote on the two Variances separately, but first they can discuss their thoughts on the criteria and then make separate motions.

*1. Granting the Variance would not be contrary to the public interest.*

Mr. Welsh stated that he appreciates that the Applicant has gone into the CMP for documentation of public interest as well as the Code, and he thinks they made a compelling case that the CMP does look for relief from Keene's housing problem from projects like this. He continued that the Applicant has documented the need for housing of this sort. He thinks they did a good job showing that it would not be contrary to the public interest.

Vice Chair Taylor stated that she appreciates the references to the CMP, especially for the public interest criteria; however, that is not the Ordinance. The CMP, even if the Planning Board and City Council approved it, is still advisory.

*2. If the Variance were granted, the spirit of the Ordinance would be observed.*

Mr. Welsh stated that he thinks it is a reasonable connection, in the spirit of the Ordinance, to talk about the possibility of other multi-family units in this district that cannot be utilized because it does not lend itself to CRD. He continued that he thinks that the spirit of multi-family dwellings is there, even if it is not technically available without a Variance in this instance. The spirit of the Ordinance comes from the CMP, even if it is not written in. It is in agreement and concurrence.

Mr. Clough stated that it was pointed out that this lot is unique in that when the Zoning was done it was either in some way exempt or used in a completely different way than anything close by. It was the one school and is currently owned by the State. Again, it is not something that the City's Zoning touches. Thus, it has always been sort of outside the Zoning Ordinances just because of its existence. Applying it solely by a Zoning Ordinance would be tricky, in his opinion. It is a unique situation and needs to be looked at in a different way.

Mr. Gorman stated that he goes back to Mr. Kossayda's point about Zoning being a broader brush and not wanting a pocket of individual properties that are subtracted from the bigger picture, and he thinks that is the case here. He continued that the Ordinance is drafted to prevent certain things from happening in a neighborhood, but in this particular instance, it probably was not



drafted with the school that already exists in mind. He thinks it is within the spirit of the Ordinance to find a good purpose for this property and one that can benefit the greater good.

3. *Granting the Variance would do substantial justice.*

Vice Chair Taylor stated that they have had a great deal of testimony regarding the need for housing, and in her opinion, that meets the criteria for substantial justice and outweighs, with all due respect, any potential detriment to individual property owners.

Mr. Gorman replied that he agrees. He continued that that does not diminish the concerns of the abutter, in his mind. Relative to that and what he would consider a just outcome for all parties, he would be seeking some sort of stipulation for privacy screening along that boundary. Vice Chair Taylor agreed.

Mr. Welsh stated that he was thinking about the privacy screening and concerns of that sort that have been raised, and wondering what the Board can do. He asked if they could attach a condition that is incumbent on the Planning Board as they consider the specifics of this application later. Mr. Gorman replied that in the past the Board has put a provision in place, using fairly loose language and tying it to Planning Board approval. Vice Chair Taylor agreed. She continued that she thinks this is an allowable condition, and yes, the Board has put that type of condition on Variances previously.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Mr. Gorman stated that this is a case where the *current* situation is probably diminishing neighborhood property values. He continued that the development of this property, in his opinion, would raise property values. A vacant building, in his experience, is about the utmost detriment to a neighborhood that you can have. He thinks there was fact presented as well that maybe what people think low-income housing does to a neighborhood is not actually the case. That further supports his sentiment that this will not diminish property values.

Mr. Welsh stated that he always appreciates it when Applicants provide information of some sort for this criterion to help the Board, and he thinks the article from the Applicant, even though it is about Alexandria, is useful and worth bringing in. He continued that he also thinks it is worth considering that there are similar existing uses in the area that do not diminish property values and enhance opportunities and overall property values. He is less concerned about that.

5. *Unnecessary Hardship*

- A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*
- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property*
  - ii. *The proposed use is a reasonable one.*

Mr. Gorman stated that this is a giant brick school building with an amazing amount of square footage and over two acres, which can be either a community garden, a single-family home, or a telecommunications facility. He continued that he thinks that embodies hardship.

Mr. Clough stated that he agrees. He continued that there are a not many choices there with a building that does not seem suitable for any of them.

Mr. Welsh stated that it seems like neighbors and others have exerted their imaginations on this one for a while, and come up blank, and this is the best and most likely use that the Board has heard.

Vice Chair Taylor stated that Mr. Welsh's words go to the reasonableness of this. She continued that in her view, the hardship comes with where the lot is, the size of the lot, and the monolith of a building that is on it. That in itself creates a hardship, considering all the other factors.

Vice Chair Taylor asked if the Board had further comments on the criteria. Hearing none, she asked for a motion.

Ms. Marcou asked if the Findings of Fact the Board just discussed were for ZBA 23-06 or for both ZBA 23-06 and ZBA 23-07. Vice Chair Taylor replied that the discussion was about both Variances, but they will vote on each separately. Mr. Gorman stated that as they get into the second Variance, if any of the Findings of Fact change in any Board member's view, they could just make note of that. He asked if that would be appropriate. Vice Chair Taylor replied yes, unless anyone wants to go through them all again. Mr. Gorman replied that he does not want to.

Mr. Gorman made a motion to approve ZBA 23-06 with a condition of a privacy screening, subject to Planning Board approval, on the northeast line of the property.

Mr. Hagan asked for clarification of which setback that is, for record keeping and for when Staff is trying to enforce it. He asked if they could determine if that is the front setback, side setback, or the rear setback. Vice Chair Taylor replied that it is the side setback on the northeast side of the property.

Mr. Welsh seconded the motion.

1. *Granting the Variance would not be contrary to the public interest.*

Met with a vote of 4 to 0.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Met with a vote of 4 to 0.

3. *Granting the Variance would do substantial justice.*

Met with a vote of 4 to 0.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Met with a vote of 4 to 0.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property*  
*and*  
*ii. The proposed use is a reasonable one.*

Met with a vote of 4 to 0.

The motion to approve ZBA 23-06 with the condition passed with a vote of 4 to 0.

Vice Chair Taylor stated that they will now move on to ZBA 23-07. She asked if any Board members have any differing comments on any of the criteria for this particular Variance regarding impervious surface, less green building coverage, and less green open space than is required by the Ordinance.

Mr. Gorman stated that his narrative will change slightly on the fifth criterion, just because he thinks some of the hardships that encompass the existing building do change with the addition of the second building. He continued that that is probably what creates the need for the less impervious surfaces as well as that situation leading to parking, which they will get to. Specifically with the impervious surfaces, he would restate his position on the hardship to be that this project is unlikely to ever happen if it does not happen with these measures in place, and if it is unlikely to ever happen, then they come back to the same hardship of having a property that cannot have a viable use. He thinks that for the sake of viability, that is the essence of the hardship on this second Variance application.

Vice Chair Taylor asked if anyone else had comments. Hearing none, she asked for a motion.

Mr. Gorman made a motion to approve ZBA 23-07.

Mr. Gorman stated that his motion is to approve without condition, since they already placed the condition on the first Variance.

Mr. Clough seconded the motion.

1. *Granting the Variance would not be contrary to the public interest.*

Met with a vote of 4-0.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Met with a vote of 4-0.

3. *Granting the Variance would do substantial justice.*

Met with a vote of 4-0.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Met with a vote of 4-0.

5. *Unnecessary Hardship*

- A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*
- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property*
  - and*
  - ii. The proposed use is a reasonable one.*

Met with a vote of 4-0.

The motion to approve ZBA 23-07 passed with a vote of 4-0.

- E) **ZBA 23-08: Petitioner, Monadnock Affordable Housing Corp. of 831 Court St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Special Exception for property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the Low Density District and is owned by the Community College System of New Hampshire of 28 College Dr., Concord, NH. The Petitioner requests a Special Exception from the parking requirements to allow less than two spaces per units per Chapter 100, Article 9.2.6, 9.2.7 and Table 9-1 of the Zoning Regulations.**

Vice Chair Taylor introduced the petition and asked to hear from Staff.

Mr. Hagan stated that as part of the Special Exception process, it is under Section 25.8, not Section 25.7. He continued that it is the same property, and asked if the Board wants him to go over it again. A portion of the Ordinance allows up to 49% for the Special Exception.

Vice Chair Taylor asked him to go over the parking requirements. Mr. Hagan replied that it is Section 9.2.7, Reduction of Required Parking Spaces. He continued that Section C. of that is Major Reduction Requests, and says:

*“1. Requests for reductions in required parking that exceed 10% and are less than 50% shall be considered by the Zoning Board of Adjustment through the special exception process.*

2. *In determining whether to grant a special exception, the Zoning Board of Adjustment shall make the following findings in addition to those required for a special exception.*

a. *The specific use or site has such characteristics that the number of required parking spaces is too restrictive.*

b. *The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.”*

Vice Chair Taylor asked if the application was correct that the buildings, if built out in the anticipated configuration would be 120 spaces. Mr. Hagan replied that is the required parking, yes.

Vice Chair Taylor stated that she has another question, regarding the provision of 9.2.9, Remote Parking, because that was brought up in the application. She continued that Section A. says, “*The remote parking spaces shall be within a 1,000-foot walking distance of the property on which the principal use is located.*” She asked if that applies to a major reduction request. Mr. Hagan replied that that would be part of the administrative portion of things. He continued that they are seeking Section C, Major Reduction in Parking, asking for that exception to the required parking spaces. They are required to have 120 and are looking to reduce it to 70 onsite parking spaces. He asked if that answers her question. Vice Chair Taylor replied that if off-site parking is needed, she is curious about how that would be handled. Mr. Hagan replied that it is up to the Applicant to explain why they are going for a Variance and not asking for offsite parking. Vice Chair Taylor stated that what she is asking is if that is an additional requirement, if you do not have enough parking. Mr. Hagan replied that it is an option, which the Applicant chose not to take.

Mr. Gorman stated that his understanding is that the Applicant has two avenues to proceed with: The first one, which they are doing, is to apply for a Special Exception, whereby the need for offsite parking would not even come to play. However, if this Board rejects the Special Exception application, the Applicant could then take their Variance for the 60 units to City Staff with offsite parking accommodations and get approval that way. He asked if that is correct. Mr. Hagan replied yes. He continued that he did not read (aloud) the third bullet point in Section C. of Major Reduction Request, but basically the Applicant submitted that (parking study that 3. requires) in order to go for a Special Exception. That third bullet point says that (the parking study shall address) the following:

*“a. A description of the proposed use(s).*

*b. Days and hours of operation of the use(s).*

*c. Anticipated number of employees [...]*

*e. The availability of nearby on-street parking or alternative modes of transportation (e.g. public transit, multi-use pathways).*

*f. The anticipated peak [...]*”

Mr. Hagan continued that thus, there is a whole additional set of criteria that needs to be provided, which is that parking analysis, which the Applicant provided as part of this path.

Vice Chair Taylor replied that she did not see even the summary in the agenda packet she received, so she feels in the dark as to what was in it. She asked if it was in others' agenda packets. This application keeps referencing a "summary of a parking study," but she [does not have it]. She assumes it is out there somewhere. Mr. Hagan replied that Staff has a copy of it if she wants. Vice Chair Taylor replied that when something is so pertinent to an application it needs to be provided to the Board.

Vice Chair Taylor asked if the Board had further questions for Staff. Hearing none, she asked to hear from the Applicant.

Adam Kossayda stated that he is, again, representing MAHC, and Josh Meehan is with him. He continued that he is sorry Vice Chair Taylor did not get a copy of the summary of the parking study. The parking study is informed a lot by the data that Keene Housing has generated, which found that Keene Housing is not using the parking that it has. Regarding Vice Chair Taylor's earlier question about whether MAHC was pursuing a remote parking special exception, they are not. They are only pursuing the request for major reduction, so they could have 70 spaces instead of the 120 required by Table 9-1. Keene Housing found, in surveying properties like this one, that they have empty parking lots all over town. MAHC put in the (application) that they have these spaces available if they are needed, which are also on City bus, but that is the gist of it. That is just to demonstrate the issue that they have parking spaces at properties that have two parking spaces per unit, and they just are not used. Without going into too much detail, which they have already gone into tonight, he reiterates that MAHC is balancing many different interests within the Ordinance here – height, coverage, parking, and so on and so forth. They found that they can peel back on parking, because they do not need it. They do not want to have unused parking spaces. They would rather have housing units. That is what is informing this request. In addition, the lot is only 2.4 acres, which is not a lot of space to work with. They do not want parking to eat up the space.

Mr. Kossayda stated that he will not read the application, but he will hit some of the high points. MAHC is asking for permission to have only 70 spaces as opposed to 120 spaces. The Zoning Ordinance specifically allows this, by Special Exception. Something unique, that was surprising to him in the parking study, is that there will be less traffic than when this was used as a school. If you have 200 students coming in and out of that building during the course of a day, there is a lot of vehicular traffic, whereas if you have 60 residential units, people come, park, and leave their vehicle. Thus, they think it will increase safety and would require less parking than what was there before. That goes to the element of not endangering public health, safety, or welfare by providing this Special Exception (Criterion B), and he suggests that it would not.

Mr. Kossayda continued that regarding the third criterion, that "*the proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property,*" they do not anticipate spilling off into the side streets or needing any on-street parking. Keene Housing found .8 spaces per unit, on average.

Mr. Meehan stated that it depends on the property, but they looked specifically at properties that have a similar distribution by bedroom size as to what they hope to build here, and this is summarized as “demand ratio.” For every unit, how many parking permits do you give out? To park in a Keene Housing lot, residents need to give their registration to the Property Manager and make sure everything is up to date, and then they get a parking sticker. Keene Housing is thus able to accurately track how many parking spaces actually get used, versus how many they have. Another Keene Housing property that looks very similar in terms of the distribution of bedroom sizes is a property with 22% two-bedrooms, and the remaining ones are one-bedroom units. Currently there are 18 parking permits for 45 spaces. Thus, .55 is the demand ratio. He continued that he will not belabor this, other than to say that similarly, at a much larger scale, Harper Acres has 112 units, the majority of which are one-bedroom units. There are 102 parking spaces and 55 parking permits. The demand ratio is .49. He is not picking the two low-hanging fruit; he could give more data that shows that is approximately what the parking demand looks like for properties with this distribution by bedroom size.

Ms. Marcou stated that the parking study was submitted, but it was missed, and she apologizes that it did not make it into the agenda packet. She can make copies and provide them to the Board if they want to take a 5-minute break. Vice Chair Taylor replied that she thinks they can have the Applicant summarize the summary.

Mr. Kossayda stated that he would be happy to. He continued that as Mr. Halle mentioned, MAHC is relocating the exit curb cut to be directly across from George St., because that is a safer way to have egress. When a driveway is kitty-corner across from you, you do not know who is going next, but when it is straight ahead, it is a little easier to determine. The reduction in parking will not produce more noise, odors, glare, or vibration (Criterion D). Again, they will be reducing the amount of traffic that is in this building, compared to its previous use as a school with 200 students. They expect to have more than enough parking with 70 spaces, based upon data from the parking study and from the data Keene Housing has generated by surveying its properties and permits.

He continued that they will not place an excessive burden on public improvements or facilities (Criterion E). A bus stop is up the street at Citizen’s Way, and some (residents) might use that bus instead of driving downtown and clogging up parking. He does not think that is a burden; it is a benefit to be so close to a bus stop. The extra space MAHC has here will be dedicated to landscaping and a privacy shield. There will not be any “...*destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.*” (Criterion F). They will preserve the building that is there. There is not anything that will be replaced with pavement that would otherwise be of historic importance. They are trying to have less coverage as opposed to more, reducing the amount of parking. There will not be a traffic hazard or substantial increase in the level of traffic (Criterion G) because MAHC is actually asking to reduce the number of vehicles permitted there.

Mr. Kossayda continued that regarding the other elements Mr. Hagan mentioned, “*a. The specific use or site has such characteristics that the number of required parking spaces is too*

*restrictive,*” they cannot fit 120 spaces there with this plan and this proposed project, because the lot is only 2.4 acres. He continued that regarding “*b. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses,*” no. In the application, he spelled out what is going on with each of the comparable properties in the City. Luckily, Keene Housing has very accurate data since they control the parking permits. Anyone who asks for a parking permit gets one, but they do not need to issue them for the spaces they have. Thus, MAHC does not expect to be pouring out into the street or impacting other uses.

He continued that the other elements (of Section C., Major Reduction Request) are in the parking study, (as follows):

*3.a. - A description of the proposed use(s):*

The proposed use is for these 70 spaces to serve the 60 units, 75% of which are one-bedroom units. With most of those, if the resident(s) has/have a car at all, it is just one.

*3.b. - Days and hours of operation of the uses:*

This is residential, so typically someone comes in and leaves once a day with their vehicle, midweek.

*3.c. - Anticipated number of employees and number of daily customers or clients:*

They are talking about 60 units, primarily single bedroom.

Mr. Kossayda asked Mr. Meehan how many residents he thinks will be there. Mr. Meehan replied about 90, but it is hard to say. He continued that there will also be a Property Manager, Resident Services Coordinators, and a Community Gardener, none of whom are there full time, but pop in for programming.

Mr. Kossayda continued:

*3.d. The anticipated rate of turnover for proposed spaces:*

Again, it is residential use, so there will not be a lot of turnover of those spaces. People will have permits to use the parking spaces, so Keene Housing will control the number of spaces.

*3.e. The availability of nearby on-street parking or alternative modes of transportation:*

As he mentioned, there is a bus stop at Citizen’s Way. There is on-street parking on Washington St., but he does not anticipate they would need it.

*3.f. The anticipated peak parking and traffic loads for each of the uses on the site:*

There is only one use on the site, which is residential. According to the parking study, peak demand will be 59 occupied spaces, so 70 stalls is more than sufficient.



*3.g. Total vehicle movements (for the parking facility as a whole):*

Table 1 in the parking study shows the proposed apartments will generate about 200 vehicle trips on an average weekday basis, in a 24-hour period, with 34 in the morning and 28 in the evening. Vice Chair Taylor stated that Mr. Kossayda mentioned that there are parking spaces for the non-residents, such as the Property Manager. Mr. Meehan replied yes, typically a few spaces are reserved for Staff. He continued that for example, maintenance has a spot for their truck so they can work in the property. Out of 70, they might reserve two spaces for Staff. Vice Chair Taylor replied that Mr. Kossayda mentioned three or four Staff members. Mr. Meehan replied that no Staff members are there permanently. He continued that Staff will come and go, but it would be very unusual to have three Staff members there simultaneously. Even with 70 parking spaces, many of them will be empty.

Vice Chair Taylor asked about parking spaces for visitors. Mr. Meehan replied that typically, there will be some visitors during a day, but he encourages the Board members to walk down Castle St. in the middle of the day to get a good sense of what the parking demand is for Keene Housing on a typical day. Similarly, the Rotary Club meets at Stone Arch Village Senior on Thursdays, and that is probably as crowded as that parking lot ever gets, and there are still 15 spaces available. He is quite confident that there will not be any issues with lack of parking.

Mr. Kossayda stated that Ashbrook Apartments on Key Rd. has 48 parking spaces for 24 units, which is two spaces per unit, and there are 16 parking permits issued there right now. Thus, there are 32 spaces available for visitors. They anticipate having more parking available than they actually need. He realizes that parking is an issue in downtown Keene, but for residential parking at Keene Housing properties, the population does not lend itself to having two vehicles per one-bedroom unit; it is not what Keene Housing has seen. They ask the Board to consider a Special Exception to allow 70 spaces, a major reduction, in the spirit of the Ordinance because it is specifically prescribed in the Ordinance to allow a reduction in certain circumstances if the Applicant meets the elements, and he thinks MAHC has.

Vice Chair Taylor asked if it is correct that there is no on-street parking on Woodbury St. Mr. Kossayda replied that is correct. He continued that that is where the retaining wall is, and a walkway is on that, so there would not be space there for on-street parking. They do not anticipate needing it, based on the traffic study and the local study, the latter of which is the best data they think they could get, looking at what is happening here in Keene at similar properties, not just an extrapolated study from an engineer.

Vice Chair Taylor asked if the Board had any more questions. Hearing none, she asked if members of the public wanted to speak for or against the Special Exception. Hearing none, she closed the public hearing and asked the Board to deliberate.

- A. *The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.*

Mr. Gorman stated that he thinks the spirit and intent of the parking requirements within the Zoning Code are to prevent situations where there is not adequate parking, and he thinks the Applicant has made a good case that there is adequate parking for this particular use and this particular project. He continued that the Applicant brought plenty of merit to the table with the parking study as well as their own data that Keene Housing collects from its properties. He thinks the application is consistent with not creating a situation where there is lack of parking.

Vice Chair Taylor stated that she reminds the Board that with a Special Exception, it is basically a permitted use, but you have to look at it closely, in layman's terms. She continued that it is not quite the standard of a Variance.

Mr. Clough stated that it looks like in the application, the Applicant was erring a bit on the side of making sure they were within the permitted exception. He continued that he is fine with it.

- B. *The proposed use will be established, maintained and operated so as not to endanger the public health, safety, or welfare.*

Mr. Gorman stated that his major concern here could be if, in a different scenario there were 90 units and 70 spots for 100+ people to fight over, but given that Keene Housing issues parking permits, that negates any of the potential chaos that could occur by just having random parking spaces that anyone could have a free-for-all with. Given that that is not the situation here, there is really no opportunity for chaos. If parking permits are being issued and being used, that is where it begins and where it ends, to him.

Mr. Welsh stated that he would add that to the extent that orderly entry to and exit from the site and movement around the site is an issue of public safety and welfare, it seems like they have thought about that and put in a design that takes care of that. Vice Chair Taylor replied that they can punt that issue to the Planning Board.

- C. *The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.*

Mr. Gorman stated that he does not think that this location and layout of the property is such that it could spill over into adjacent properties, just by design, by the way in which it is all laid out and what the properties surrounding it are. He continued that if it does spill out anywhere, he could see it being on the on-street parking, which is there for the taking. If that does happen, great, the on-street parking will get used and life will go on. He does not think it will affect anyone's enjoyment or rightful peace. He cannot see that happening.

Vice Chair Taylor stated that when she read this application, initially that was her concern. She continued that she does not think there will be too many midnight riotous parties, but if it turns out there is not enough parking on site, she questions where people will go. Woodbury St. is not very conducive to on-street parking, even on the other side. Washington St. has half a dozen spaces on the opposite side. She was concerned. It appears from the recitations of the traffic study that it does not look like that will be an issue. If it does become an issue, the City will have to address it with the property owners.

*D. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.*

Mr. Welsh stated that he is trying to imagine noise, odor, vibrations, or glare. He continued that the nature of the design the Applicant presented to the Board – and again, these are details for the Planning Board – is one where most of these issues will be contained between the two buildings. Glare of people turning around with their headlights on, noise, and so on and so forth, will be absorbed and for the most part kept away from the neighbors in the surrounding area.

Mr. Gorman stated that if noise, glare, and so on and so forth was going to be a problem with 70 parking spaces, he thinks it would definitely be a problem with 120. He continued that if there were a good argument for reducing, [this is it].

Vice Chair Taylor stated that she would suspect that if there were a problem, as Mr. Welsh said, it would be felt by the residents in the two buildings, not necessarily by the people in the neighborhood.

*E. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.*

Mr. Clough stated that they seem to be utilizing existing curb cuts with slight adjustments. He continued that that is a minimal change. Everything else is interior.

Vice Chair Taylor stated that it strikes her that everything that would come under this would be internal to the site and the responsibility of Keene Housing and not the City.

*F. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.*

Mr. Gorman stated that he thinks they are saving a historic building, taking parts of it off that are non-historic. He continued that he thinks they mentioned they are even saving an old tree. Thus, he thinks they are doing the best they can to preserve what is worth saving and using the rest to the best that it can be used. That includes the parking plan.

*G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.*

Vice Chair Taylor stated that this is one she had some concern with, which was the reason for her question originally about whether there would be any curb cuts on the Woodbury St. side. She continued that she does have some concerns, because Washington St. can get busy up there, especially with people thinking they are no longer in a 30 mph zone, when they speed toward the highway. She can foresee some potential issues with traffic turning into and coming out of Washington St., but that is a Planning Board issue.

Mr. Gorman stated that specifically relative to (Criterion G.), he goes back to the same argument as the noise and glare –it will be a lot less congested with 70 cars than 120. Vice Chair Taylor replied right, but with 290 vehicle movements per 24 hours, that is dumping quite a bit of additional traffic in and out of that parcel. Admittedly, when it was a school there was probably more, but that was a very long time ago. Mr. Gorman replied that he agrees that it would definitely be more (traffic) than it is now, because right now it is near zero, but to get that building anywhere near an appropriate use they will have a sizable traffic impact. He is fairly confident that mostly one-bedroom apartments, with a small amount of two-bedroom apartments, is probably about as minimal of an impact as they could get. If it were a school or whatever other use could come into play, he thinks the traffic counts would increase from (this proposal).

Vice Chair Taylor stated that then they have the two extra criteria for parking:

*2.a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.*

Vice Chair Taylor stated that it comes down to the question of whether 120 parking spaces is too restrictive.

Mr. Gorman stated that he thinks the Applicant made the case adequately that it is too restrictive, because they do not have enough land to have (120 parking spaces). He continued that when this Board approved the units that they just approved, it was fairly impossible for MAHC to put 120 parking spaces in there. He thinks it is too restrictive in this specific application.

Vice Chair Taylor stated that she thinks the traffic study indicates, as do Keene Housing's statistics, that it is too restrictive because there may not be a need for as many spaces as the Ordinance requires.

*2.b. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.*

Mr. Gorman stated that he thinks the future use will be 60 units, unless someone comes in front of the Board again to get a different use, so this whole problem would be tackled again if that ever does happen. He continued that given that, and the data that was presented to the Board, he does

not think there will be any long term parking problems for adjacent properties with this use, and he thinks any future use, the Board will get another crack at it.

Mr. Welsh stated that he is impressed by the data the Applicant presented about the use of parking at their other sites, and also impressed that this gives them a pretty good in for using those other sites as excess parking if the need arises since this is a specific feature of this user. Vice Chair Taylor replied that her only concern there is that the other properties are at a distance, so they would have to figure out something.

Mr. Gorman stated that there are 45 one-bedroom units and 15 two-bedroom units, so a cumulative number of bedrooms is not much past 70; it is 75. He continued that he knows the Zoning Ordinance calls for two spaces (per unit), but logic may prevail in saying that if you have 75 bedrooms, 70 parking spaces will probably prove adequate. That is further supported by the data the Board was given.

Vice Chair Taylor asked if the Board had anything further to add. Hearing none, she asked for a motion.

Mr. Gorman made a motion to approve Special Exception ZBA 23-08. Mr. Clough seconded the motion.

- A. *The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.*

Met with a vote of 4-0.

- B. *The proposed use will be established, maintained and operated so as not to endanger the public health, safety, or welfare.*

Met with a vote of 4-0.

- C. *The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.*

Met with a vote of 4-0.

- D. *The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.*

Met with a vote of 4-0.

- E. *The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.*

Met with a vote of 4-0.

*F. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.*

Met with a vote of 4-0.

*G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.*

Met with a vote of 4-0.

*2.a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.*

Met with a vote of 4-0.

*2.b. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.*

Met with a vote of 4-0.

The motion to approve ZBA 23-08 passed with a vote of 4-0.

Chair Hoppock rejoined the meeting.

**I) New Business**

Chair Hoppock asked if there was any new business. Mr. Hagan replied not at this time.

**II) Communications and Miscellaneous**

**III) Non-public Session (if required)**

**IV) Adjournment**

There being no further business, Chair Hoppock adjourned the meeting at 9:46 PM.

Respectfully submitted by,  
Britta Reida, Minute Taker

Reviewed and edited by,  
Corinne Marcou, Zoning Clerk