

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, August 5, 2024

6:30 PM

**Council Chamber,
City Hall**

Members Present:

Joseph Hoppock, Chair
Jane Taylor, Vice Chair
Richard Clough

Staff Present:

Corinne Marcou, Zoning Clerk
Evan Clements, Planner/Deputy Zoning
Administrator

Members Not Present:

Edward Guyot

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 – June 3, 2024

Ms. Taylor noted the following corrections to the June 3, 2024 meeting minutes:

Line 929: A verb is missing. She suggests adding “is” so it reads, “...different properties of how this is discussed.”

Line 1323: An errant “t” should be deleted.

Line 1505: In the middle of the line, the word “of” should be deleted.

Ms. Taylor made a motion to approve the meeting minutes of June 3, 2024 as amended. Mr. Clough seconded the motion, which passed by unanimous vote.

III) Unfinished Business

Chair Hoppock stated that he is not aware of any unfinished business.

IV) Hearings

Chair Hoppock stated that there are some adjustments to tonight’s agenda. He continued that the Petitioner for ZBA-2024-19 wants to continue until the September meeting, because tonight

there is only a three-member Board. The Petitioners for ZBA-2024-17 and ZBA-2024-18 want to move forward with a three-member Board. Zoning Clerk Corinne Marcou replied that is correct.

- A) **ZBA-2024-17: Petitioner, Gina DeSantis, Executive Director at Stonewall Farms, requests a variance for property located at 243 Chesterfield Rd., Tax Map #237-027-000 and is in the Agricultural District. The Petitioner requests a variance for two additional apartments converted from an existing office on 36 acres where 40 acres are required per Article 7.2.2 and to permit four total apartments where only two are allowed per Article 7.2.5 of the Zoning Regulations.**

Chair Hoppock introduced ZBA-2024-17 and asked to hear from staff.

Evan Clements, Planner/Deputy Zoning Administrator, stated that the subject property, Lot 27, is part of an existing agricultural use called Stonewall Farm. He continued that the Farm consists of three parcels totaling approximately 129 acres. Much of the Farm's land area is subject to a conservation easement to the benefit of The Society For The Protection of NH Forests and depicted on a plat dated March 16, 1999. The two largest parcels of the Farm are Lot 27, the subject parcel, and Lot 23, separated by Chesterfield Rd. Grimes Brook is located on Lot 23 and further separates the two parcels. Lot 24, also part of the Farm, is separated by Chesterfield Rd. and is located to the south.

Mr. Clements continued that the subject property is surrounded by the Rural Zone to the north and west, and the Agricultural Zone to the south and east. The entire Farm operation is surrounded by the Rural Zone to the north, south, east, and west. All uses in the surrounding Rural Zone parcels are either residential or undeveloped. Archway Farm is located to the northeast and is also zoned Agricultural. A portion of the rail trail, owned and maintained by the State of NH, separates the two farms. Staff reviewed the records of the Zoning Board of Adjustment and found no actions for this property.

Chair Hoppock asked for clarification on whether they are dealing with two Variances, one for a conversation from office space to two additional apartments, and a second for those two additional apartments, where only two are permitted. He asked if that is correct. Mr. Clements replied that his understanding is that the office is ancillary to the building itself. He continued that it is a room that was used as an office and is now proposed to be converted to a dwelling unit.

Chair Hoppock asked if, when the Board goes through the Variance criteria, they are evaluating one Variance or two. He continued that he read this as two possible applications rolled into one. Mr. Clements replied that his understanding is that the petition is to allow four total apartments on the property when they only have enough area for three. The Agricultural Zone allows one dwelling unit per 10 acres. The parcel has 36 acres, so they are allowed three apartments and are seeking four.

Ms. Taylor stated that she agrees with Chair Hoppock, and the second question is about how the Ordinance allows for two-family dwellings and they want to have a four-family dwelling. That is the way she read the application. Mr. Clements replied that appears to be correct. He continued that the allowed residential uses are dwelling above ground floor, dwelling – single family, and dwelling – two-family duplex. Dwelling above ground floor allows for more than two, as long as they are above the ground floor.

Ms. Taylor asked how “ground floor” is defined. She continued that she assumes it means not a basement. Mr. Clements replied that is correct. Ms. Taylor replied that maybe that makes her more confused, because her understanding is that you are allowed to have either a single- or a two-family dwelling. She continued that it does not read that dwellings above the ground floor can be unlimited.

Mr. Clements stated that a dwelling above ground floor is (defined in the Land Development Code as) *“A dwelling unit that is located on the second story or higher of a building that is above ground.”* He continued that it is staff’s understanding that the density factor will limit for above-ground dwellings, as opposed to a single-family or a two-family. Ms. Taylor replied that that is a new interpretation. Mr. Clements replied that they allow it in the Downtown Core, for example. They allow dwellings above ground floor in the Downtown Core, but they do not set a limit for how many dwelling units a building can have above the ground floor. Ms. Taylor replied that that is a different Zone with different density requirements. Mr. Clements replied yes, but the definition for the use is the same.

Chair Hoppock asked if anyone else had questions for staff. Hearing none, he asked to hear from the Petitioner.

Gina DeSantis, Executive Director of Stonewall Farm, and Pete DeSantis introduced themselves. Mr. DeSantis stated that he is here for moral support, and he did the drawings for the apartments.

Ms. DeSantis stated that the purpose of the proposed Variance is to convert the historic farmhouse on the property from its current use as office space, approximately 1,500 square feet on the first floor, into two residential apartments. She continued that the office space has been vacant since the offices were located to the new education center in 1996. This conversion will allow Stonewall Farm to better utilize the space within the historic farmhouse and provide much needed housing in the area. The additional revenue generated from these apartments will allow Stonewall Farm to further its mission to serve as a community hub for agricultural education events and workshops that promote sustainable farming practices.

Ms. DeSantis continued that the effect of granting this Variance will be multi-faceted and highly beneficial to both Stonewall Farm and the broader community. By accommodating the new apartments, Stonewall Farm will be able to enhance its operational efficiency, bring livestock back to the farm, and expand its education and outreach programs. The farmhouse will continue

to blend seamlessly with the existing rural landscape, preserving the aesthetic integrity of the area while enhancing the Farm's functionality. Regarding improved utilization of the historic property, the historic farmhouse will be preserved and maintained through adaptive reuse, ensuring that it continues to be a valuable asset to the property. The conversion will add two residential units to the housing market, addressing a critical need for housing in the Keene area. Regarding enhanced community engagement, by providing housing onsite, Stonewall Farm can attract and retain seasonal interns or residents who are committed to the Farm's mission, fostering a closer-knit community.

Ms. DeSantis continued that the justification for the proposed Variance is based on several key points. One is the preservation of historic property. Converting the farmhouse into residential units ensures its preservation and continued use. Adaptive reuse of historic buildings is often necessary to maintain their structural integrity and historic significance. The proposed conversion aligns with best practices for historic preservation. Keene, like many communities, faces a shortage of affordable and diverse housing options. The creation of two new apartments will help address this shortage, providing much needed housing for residents or seasonal interns associated with Stonewall Farm. Regarding operational efficiency, currently the farmhouse is underutilized as office space. Converting it to residential use allows Stonewall Farm to make more efficient use of its existing buildings, reducing the need for new construction and associated costs. Regarding community and economic benefits, the additional housing can support local economic growth by attracting new residents to the area. Residents living onsite might also contribute to the Farm's operations and community activities, enhancing the overall sustainability of Stonewall Farm's mission and programs.

Ms. DeSantis continued that regarding the environmental considerations, utilizing the existing farmhouse for residential purposes is an environmentally sustainable use. It minimizes the need for new construction, reduces waste, and promotes the efficient use of existing resources. The farmhouse represents more than two and a half centuries of agrarian history in Keene. The land it sits on can be traced back to Samuel Daniels, who first started farming in 1759. Stonewall Farm is a non-profit organization and unlike for-profit businesses or privately owned investment properties, it is not motivated by profit. The proposed Variance to convert the historic farmhouse from office space to two residential apartments is a well-justified and necessary adjustment. It will preserve a valuable historic structure, addressing local housing needs and supporting the mission of Stonewall Farm. They respectfully request the ZBA approve this Variance, recognizing the significant positive impact it will have on the property, the community, and the Farm's long-term sustainability.

Mr. Clements stated that he has a question for the applicant. He asked if there are two existing dwellings. Ms. DeSantis replied yes. Mr. Clements stated that based on the applicant's explanation, he believes the petition is to allow four dwelling units, when the density factor only allows three, and to allow multi-family on the Agricultural lot where multi-family is not normally allowed. "Multi-family" is defined in the LDC by "C. Dwelling, Multi-Family" under Article 8.3.1 – Residential Uses.

Chair Hoppock stated that “four dwelling units where the density only allows three” is one Variance. He asked what the other one was again. Mr. Clements replied to allow a permitted use in the Agricultural Zone for multi-family, when multi-family is not normally permitted. He believes that was the intent of the note on Article 7.2.5, which is the use table for the Agricultural District in the LDC. Chair Hoppock replied that he thinks that clears up many things.

Chair Hoppock stated that he is uncertain about the Unnecessary Hardship factor, which he does not think Ms. DeSantis addressed.

Ms. DeSantis stated that the Zoning Ordinance provision aims to ensure that land use is consistent with the overall planning goals of the community, maintaining orderly development, protecting property values, and preserving community character. She continued that however, in the case of Stonewall Farm, there is no fair or substantial relationship between these general public purposes and the specific application of the Ordinance to this property, for several reasons. First, its historical and unique use. Stonewall Farm’s farmhouse has historically been used for residential purposes, including housing boarders and farm workers. This longstanding use predates current zoning ordinances and aligns with the Farm’s operational needs. Denying the Variance to allow residential use disregards the historical context and unique characteristics of the property, which do not pose any threat to the community’s orderly development or character. The conversion of the farmhouse into apartments restores its historical function and respects its historical significance.

Second, Ms. DeSantis continued, is the alignment with community goals. The general public purposes of the Zoning Ordinance include supporting community goals such as sustainability, education, and preservation of open space. Stonewall Farm’s mission to promote sustainable agriculture and provide educational opportunities directly aligns with these goals. Allowing the Variance would support the Farm’s mission, thereby advancing rather than detracting from the community’s broader objectives. The specific application of the Zoning provision to prohibit this conversion does not align with the Farm’s beneficial contributions to the community. Granting the Variance to convert the farmhouse into residential apartments will have minimal impact on the surrounding properties. The proposed use is compatible with the agricultural and educational activities of Stonewall Farm and does not introduce any disruptive elements to the neighborhood. The Variance will not lead to increased traffic, noise, or other nuisances that zoning ordinances typically aim to control. Therefore, the specific application of the provision is not necessary to protect the interests of the surrounding properties.

Ms. DeSantis continued that regarding supporting economic viability, Stonewall Farm relies on diverse revenue streams, including those generated by onsite activities and programs. By allowing residential use of the farmhouse, the Farm can better support its staff and enhance its operational efficiency. The economic viability is crucial for the Farm to continue its educational and community programs. The specific application of the Zoning provision to prohibit the

residential use undermines the Farm's financial stability and consequently, its ability to serve the community. Stonewall Farm is a unique property that does not fit neatly into conventional Zoning categories. It serves multiple roles, including agricultural production, education, and historic preservation. The general public purposes of the Zoning Ordinance do not adequately account for such multi-faceted properties. The specific application of the provision, in this case, imposes unnecessary restrictions that fail to recognize the unique nature and needs of Stonewall Farm.

Ms. DeSantis stated that in conclusion, no fair and substantial relationship exists between the general public purposes of the Zoning Ordinance provision and the specific application of that provision to Stonewall Farm. The property's historical use, alignment with community goals, minimal impact on surrounding properties, support for economic viability, and unique characteristics all demonstrate that the Variance is reasonable and justified. She respectfully requests the ZBA approve this Variance, acknowledging that its denial would impose unnecessary hardship without serving the intended public purposes of the Ordinance.

Chair Hoppock asked for a reminder of the acreage. Ms. DeSantis replied that in total, for all of Stonewall Farm, it is 129 acres. She continued that this tract is 36 acres.

Ms. Taylor asked for clarification on how many units there currently are. She continued that for some reason, she thought it was three, not two. She asked Ms. DeSantis to explain roughly where these four units will exist within the overall building, if they have elements such as separate entrances. Ms. DeSantis replied that currently there are two units, a two-bedroom apartment on the second floor and a three-bedroom apartment that spans the first and second floor. The two-bedroom apartment is in use, and the three-bedroom one just became vacant and Stonewall Farm is renovating it.

Ms. Taylor asked if it is correct that they are asking for two additional units to those three units. Ms. DeSantis replied that it is one farmhouse building, and the first floor is currently unoccupied because it was used as office space, although there is a kitchen and bathroom there. She continued that that space has been empty since 1996. The other two dwellings that are currently occupied, one of which just became vacant, are the two- and three-bedroom units on the second floor of the building.

Mr. DeSantis stated that to clarify, the three-bedroom unit is rather separate from the main building. He continued that it is an L off the main structure, and it is two floors, but one apartment. The second apartment is on the second floor of the main building. They are requesting to convert the first floor of the building, which was the Farm offices, into two one-bedroom apartments.

Ms. Taylor asked if it is correct that overall, the entire structure, the main building and the L, will have a total of five apartments. Mr. DeSantis replied no, a total of four. Ms. Taylor asked if they count the L as part of building. Mr. DeSantis replied yes, that is one apartment, and then there

will be three in the main building. He continued that the L apartment is two floors. There is no penetration of the wall between the main building and the two-story apartment. There is no physical connection through the building. Ms. Taylor replied that she did not look it up in the Assessing database to see if it was one building. Mr. DeSantis indicated the location of the two-story apartment in the L, in the photo. He continued that regarding the main building, the first floor would be the two one-bedroom apartments, and there is an existing one-bedroom above, for a total of four. Ms. Taylor replied that she supposes it is a matter of semantics, because she considers the L as part of the building. Mr. DeSantis replied yes, it is all part of the building, but you cannot get to it from (inside) the main building, only from outside. No hallway or stairway connects them.

Ms. Taylor asked if there is enough septic capacity for five units in total on the property. Mr. DeSantis replied yes, and he used to be a septic system designer. He continued that the septic system was designed for seven bedrooms, which is exactly what they will wind up with. It is a total of about 900 gallons a day discharge, which would easily take care of seven bedrooms.

Ms. Taylor asked if the new apartments will each have two bedrooms. Mr. DeSantis replied no, one bedroom each. He continued that they did submit plans. Very little construction is needed in the building to accomplish this. They have to build about 20 feet of wall and close in three or four door openings.

Ms. Taylor asked if each apartment would have its own entrance. Mr. DeSantis replied yes, each apartment has its own entrance from the exterior. Ms. Taylor asked about the upstairs one. Mr. DeSantis replied it is already separate. Ms. Taylor asked if they have a stairway. Mr. DeSantis replied yes.

Chair Hoppock asked if there were any further questions. Mr. DeSantis replied that he has one more thing to add. He continued that part of the application asks what makes this property unique, and back in the early 1990's, Mike Kidder worked for about two years to get a special carve-out in the Agricultural Zone to have an educational use in that zone, which is what Stonewall Farm became. In essence, its existence identifies it as a unique property in the Agricultural Zone.

Chair Hoppock asked how long it has been an educational use. Mr. DeSantis replied that he thinks since 1992.

Chair Hoppock asked for public comment in favor of the application. Hearing none, he asked if anyone wanted to speak in opposition. Hearing none, Chair Hoppock closed the public hearing and asked the Board to deliberate.

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

Chair Hoppock stated that working backwards (in the criteria), he does think this is a unique property, given its overall size and the educational use to which it has been put for the last 20 or 30 years, and its long-standing presence on that property with the same or a similar use. He continued that certainly, it has been a farm for a long time. The purpose of these dwelling unit restrictions, and restricting multi-family dwellings in an agricultural zone, is to control density and population size. He does not see, given those special features, how its application to this property makes sense. He thinks this criterion is satisfied.

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

Chair Hoppock stated that from a commonsense perspective, he does not see any impact on property values in the area, because it will improve this property a great deal and make it more efficient, and that will not overflow negatively on anyone else's property in the area. The map in the agenda packet shows there is not much close by.

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

Chair Hoppock stated that when they talk about substantial justice, they talk about weighing harms and gains. The question is what the gain to the public would be if this were granted. The gain to the public is increased housing, a more efficient educational institution, and a place for workers to live. The harm to the property owners if they cannot (have the Variance) would be the opposite of efficient operation. They have a vacant space that they could rent out. The community needs housing, and (the applicant) has an idea that helps. He sees this as a gain for the applicant and a gain for the community, if the Variance is approved.

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

Chair Hoppock stated that there are two methods for determining whether granting a Variance violates the Ordinance's basic zoning objectives. First is looking at whether granting the Variance would alter the essential character of the neighborhood. This is a multi-family use in an agricultural zone, but in his view, it will not alter the essential character of the neighborhood. They are looking for two one-bedroom apartments. (Tenants) may or may not work on Stonewall Farm. They might be students, or anyone. That does not alter the essential character of the neighborhood. Nothing about this application would threaten the public health, safety, or welfare. They will not increase the property by 100 apartments. They will not have a parking problem. Fire and Police protection will not be an issue, because they will not change anything on the outside. They will convert a large office into two small, one-bedroom apartments. He does not see that as an issue.

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

Chair Hoppock stated that this is not contrary to; it is consistent *with* the public interest, and in fact enhances it. He continued that he already talked about housing (in other criteria). He is in favor of approving this application.

Ms. Taylor stated that she agrees with everything Chair Hoppock said, and she will not repeat it all. She continued that regarding unnecessary hardship, the characteristics of the building and the property itself stand out to her. Even though originally, this building was used as part of the educational purpose and it has morphed over time, she thinks it is a historic building that would be in danger of “going the way of a lot of historic, rural buildings have gone in the last 10 years in Keene.” Personally, she would hang her hat on its unique characteristic, not just in its setting, but also to the city itself. Therefore, she thinks that the application of the Zoning Ordinance to this particular property is not appropriate. She also thinks it is a very reasonable use for a building of its nature, size, and setting.

Chair Hoppock stated that he agrees with everything Ms. Taylor just said.

Mr. Clough stated that based on the criteria, if it had four more acres that would have taken care of one of the Variance issues. He continued that regarding the other issue, looking at a map of the conservation easements and the way this property is used, he thinks it is a harmonious use of this building. It is not altering the outside of the building at all, so people driving by will still see this as a farm. There is plenty of parking, so there will not be any issues there. He understands how they are doing the layout for the (apartments), and yes, it is extremely concise and simple. It is a very good use of both where existing elements are and how to alter the other ones. There is plenty of entrance and egress for all the units. Many of the things the ZBA would have to nitpick over with other cases are not an issue here.

Chair Hoppock stated that he agrees with what Mr. Clough said.

Mr. Clough made a motion to approve ZBA-2024-17, a Variance for property located at 243 Chesterfield Rd., Tax Map #237-027-000, in the Agricultural District, for two additional apartments converted from an existing office on 36 acres where 40 acres are required per Article 7.2.2 and to permit four total apartments where only two are allowed per Article 7.2.5 of the Zoning Regulations. Ms. Taylor seconded the motion.

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

Met with a vote of 3-0.

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

Met with a vote of 3-0.

3. Granting the Variance would do substantial justice.

Met with a vote of 3-0.

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

Met with a vote of 3-0.

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 because:*

and

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

Met with a vote of 3-0.

The motion passed with a vote of 3-0.

B) ZBA-2024-18: Petitioner, Robert Parisi of RK Parisi Enterprises, Inc., Keene, requests a variance for properties located at 78 Railroad St. and 17 93rd. St., Tax Map #574-011-000 and 574-012-000. These properties are in the Downtown Core District and are owned by Monadnock Community Service Centers, Inc. The Petitioner requests a variance to permit residential use on the ground floor per Article 8.3.1.C.2.b of the Zoning Regulations.

Chair Hoppock introduced ZBA-2024-18 and asked to hear from staff.

Mr. Clements stated that the subject properties, Lots 11 and 12, contain an existing one-story office building with a 2.5-story addition and a combined approximate 16,400 square feet of living space. He continued that Lot 11 is approximately .31 acres in size, and Lot 12 is approximately .08 acres. The third parcel, Lot 13, contains a parking area of approximately 37 parking spaces. It serves the existing office use and is approximately .26 acres. The original building was constructed in 1920 and the addition was added in 1989 and sits on two lots. Both lots are zoned Downtown Core, which permits residential as long as the dwellings are located above the ground floor.

Mr. Clements continued that the property has street access from Railroad St. to a parking area located on the east of the building. The subject properties are surrounded by Downtown Core to the north and west, Downtown Edge to the east, and Downtown Growth to the south. Surrounding uses include hotels and hospitality to the south, church and religious uses to the west, apartments/residential to the north and east, and a private club lodge to the northeast. Zoning actions on record for this property include ZBA-88-62 and ZBA-88-63, which were a

Special Exception and a waiver of off-street parking in order to construct that 2.5-story addition. The applicant came back the following year, and ZBA-89-22 and ZBA-89-23 were for the same Special Exception and waiver requests. From his reading of the meeting minutes, it appears that the design of that proposed addition changed. Originally, it appeared to be a standalone building that ultimately became attached to the original 1920 structure, and that is how it sits today.

Chair Hoppock asked what the underlying rationale is behind the rule of the Downtown Core where no living spaces can be permitted on the ground floor. Mr. Clements replied that the intent is to have mercantile, retail, and service uses at the pedestrian level/ground floor, and allow for residential uses above. Chair Hoppock asked if the idea is for the traffic to be pedestrian traffic. Mr. Clements replied yes, to activate space and usability in the Downtown Core.

Chair Hoppock asked if there is any retail immediately around the (subject property). Mr. Clements replied that the office building is parallel with Community Way. He continued that going into the Railroad land, the Monadnock Food Co-op is there, and on Railroad St., moving westerly toward Main St., is the Wells St. parking deck. A condominium building is to the west of that with the first floor is off-street parking. As you get to the intersection of Railroad and Main St., there are first-floor retail and services at 64 Main St., and he believes there are condos above. Directly to the south of that is the building where Local Burger is. Chair Hoppock asked if it is correct that there is no retail within about 200 feet of the (subject property), other than the Co-op. Mr. Clements replied that that would be fair to say.

Ms. Taylor stated that this is three parcels. She continued that given the ever-changing status of merger laws, she wants to know if Mr. Clements has any understanding of why Lots 11 and 12, at least, were not merged. Mr. Clements replied that he does not have knowledge about why those remain separate parcels. Ms. Taylor replied that it seems strange, because the building straddles the parcel line. She wondered if there was any background. Mr. Clements replied not that he could figure out. He continued that there are no impervious surface setbacks in Downtown Core, so it does not propose a Zoning irregularity.

Chair Hoppock asked if there were any further questions. Hearing none, he asked to hear from the Petitioner.

Robert Parisi of RK Parisi Enterprises, Inc. stated that they are looking to help create housing out of underutilized properties. He continued that they feel compelled to use the first floor of this structure if possible, for limited access or accessible apartments, since there is handicapped parking and it is in close proximity to, for example, the Co-op and downtown. The property, including its doors, is well set up for accessibility, given that it was previously owned and operated by Monadnock Family Services (MFS). They felt compelled to use this opportunity to make units available there. It would be great for the community.

Mr. Parisi stated that the Variance would help because of the need for housing, and because the downtown does not have much handicapped accessible housing or units with accessible parking close by. He continued that to his knowledge, it is rare to have a (unit with) handicapped parking

spaces, push-button doors, and other accessibility elements. As mentioned, there is not a lot of retail (near) this property, this is more of a residential area.

Mr. Parisi stated that if they are able to (get) this (Variance), rather than just having more office use in a sea of offices, they want to create easy-access apartments for people who have mobility issues, with an accessible kitchen and bath, which is helpful for people who do not have those elements offered in other apartments. They feel that in this environment it would be easier to manage a completely residential building, instead of one that is a mix of commercial and residential uses. When they convert the building, it would be easier to just have everything up to residential standards. It is fully sprinklered, has an elevator, has HVACs for each unit, and is in very good repair as well as is very conveniently located.

Mr. Parisi continued that regarding merging multiple lots, they would be open, upon acquiring it, to converting it to one parcel. They were confused, as was their lender. They (RK Parisi Enterprises) are working on acquiring the property at 64 Main St., and thinks the two properties shared some parking together. He believes that as long as the same owner owns both, there is that accessibility of parking, where some of the staff members would park at 17^{93rd} St. lot, then walk to 64 Main St. They are “sister” properties that have been owned together for a long time, although he does not know what the records would be.

Chair Hoppock asked what they propose ,if it would be one apartment unit. Mr. Parisi replied that the ground floor would have five or six. He continued that they are still in the final stages of selecting the architect as they secure the financing for the property. Whether this would be possible was an important question for them to know, because the repairs and the setup for those to be handicapped accessible units and have accessible showers, wide doors, (and so on and so forth) is a good investment. They wanted to know if it would be feasible or allowed with the Zone.

Ms. Taylor asked if Mr. Parisi is buying the property. Mr. Parisi replied yes, it is under contract, and they hope to close by the end of the month. Ms. Taylor replied that she did not know if he applied for the Variance on behalf of another party. Mr. Parisi replied yes, they are working on acquiring it.

Ms. Taylor asked if the upstairs is currently apartments. Mr. Parisi replied that upstairs is currently empty office. He continued that MFS have had different operations and have recently acquired the property at Avon St. that was Antioch. All parties are working together as the transitions are made.

Ms. Taylor stated that she realizes Mr. Parisi’s proposal is for being able to have residential units on the ground floor, but her question is whether he also proposes having residential units on the second floor. Mr. Parisi replied yes, that is the hope. He continued that there would be a couple on the third floor, six to eight on the second floor, depending on the designs, and five or six on the first floor. They have not fully engaged the architect yet. They would present those plans as normal, but they are trying to get through the Variance to be able to understand the project.

Ms. Taylor asked how many parking spaces exist. Mr. Parisi replied that the total is between 47 and 53. He continued that what was compelling to him to this property is that many of those spaces are large accessible ones, the door has a push button and an easy ramp, with a good, covered area that would be great for someone who uses a wheelchair. His PoshHaus business sells handicapped showers and bathtubs where they will try and make some of the (apartments) very “user-friendly” for people who have handicaps or limited mobility, because many times they get left behind or have very limited options for (housing that has) something like a walk-in bathtub or shower without a big curb. This property has been empty for a long time, so they would like to see it fully used.

Chair Hoppock asked if MFS is still occupying the space. Mr. Parisi replied that they have been winding down operations there for at least 6 to 12 months. He continued that he thinks it has been listed for close to a year. It is a good, healthy structure, and they want to put it to good use. It is within 250 feet of the Co-op, so a tenant here has a good place to eat.

Chair Hoppock asked how Mr. Parisi would characterize the special conditions of the property or the building. Mr. Parisi replied that it is office right now, which is the toughest class to rent, maintain, or occupy. He continued that the city has thousands of feet of unoccupied office, with a housing shortage of a couple thousand units. Thus, they felt that converting it (to residential) in this good location would make it a thriving property. It is partially historic, and underutilized. He does not know how any owner would fill it with office uses. There is just not that kind of demand. It has, again, elevators, sprinklers, and HVAC units for each suite for climate control. In some of the plans, they are trying to modernize it with maybe some solar or other elements to make sure the property is in top shape. Since they do not have to build a new building from the ground up, they can keep it reasonably affordable. The cost of that structure alone, from the ground up, is probably double the purchase price.

Chair Hoppock asked if the Board had further questions. Hearing none, he asked for public comment in support of or in opposition to the application.

Kat Scott stated that she is a real estate agent and definitely in favor of housing. She continued that it is impressive how many people want to move to this area, but (she) consistently (sees) on social media that they have nowhere to go. It is exciting that Mr. Parisi has a project that could bring quite a bit of housing right to the downtown area, with many accessibility features already in place for people who need those features. She understands it is a Variance, but it would be amazing to fill those houses with people who need them.

Chair Hoppock asked Ms. Scott if the accessibility features are unique to this property, in comparison with others in the area. Ms. Scott replied that because it was a city/government building, the (units) were built to very high specifications, unlike other properties in the area. Mr. Parisi stated that the hallways, elevator, low-angled ramp, and push-button entrance door are some features he rarely sees in other properties. He continued that the segment of renters (with accessibility needs) seems to get left out. If you try to help someone, it is very rare to find anything accessible. Many (units) are converted homes, such as the farmhouse in the previous

(application), whereas this was a facility with, for example, five or six large, handicapped parking spaces. It seems compelling and is a good opportunity to get (some accessible housing).

Chair Hoppock asked if there was any more public comment. Hearing none, he closed the public hearing and asked the Board to deliberate.

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

Ms. Taylor stated that she thinks this Variance is in the public interest, because while there is somewhat of a conflict with the Ordinance, which is why the applicant is here, it does not threaten public health, safety, or welfare. She continued that it does not alter the essential character of the neighborhood, and in fact, it probably enhances the public health, safety, and welfare due to its unique nature of having so many ADA features already there.

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

Ms. Taylor stated that she thinks this does uphold the spirit of the Ordinance, not necessarily for the Downtown Core, but for the overall downtown district, in having more residential dwelling units that are accessible to the downtown.

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

Ms. Taylor stated that looking at whether the benefit to the applicant is outweighed by harm to the general public, she thinks there is probably benefit to the general public as well as benefit to the applicant.

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

Ms. Taylor stated that you do not get much value from a vacant building. She continued that it is similar in residential nature. When she looked at this, and looked at the maps, she was amazed by how much residential property there is within this two- or three-block area. She does not think the Variance would hurt the values of surrounding properties, even though they have not heard any specific testimony on 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 because:*

and

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

Ms. Taylor stated that the ZBA keeps getting applications for unique buildings, and she thinks this is one of them. She continued that she thinks literal enforcement of the Ordinance does not

have much relationship to the facts on the ground. Limiting this particular structure, which looks like a residential house, to only having residential units above the ground floor does not make much sense, especially with the unique nature of the building, going back to its accessible nature and the benefits it could provide. She believes the use is eminently reasonable.

Chair Hoppock stated that he agrees with everything Ms. Taylor said, and would add, regarding the unnecessary hardship criteria, that the literal enforcement of this Ordinance in light of the rationale for the restriction on residential dwellings on ground floors, does not make any sense in light of the building, its location, and the existing amenities. He thinks that in this instance, the criterion that is usually the hardest is the most easily resolved and he will not repeat what Ms. Taylor just said regarding all the other criteria that are satisfied. He is on board with (approving) this.

Mr. Clough stated that he agrees that the unnecessary hardship in some ways is the easiest criterion. He continued that because this was built to rather stringent criteria for use when the building was MFS and MDS, you would actually have to “unbuild” it if you were going to use it for anything else, which would be ridiculous. It is already built strongly, with ADA-accessible doors and features like ramps at correct grade, so to not make use of those features would be a ridiculous waste and agrees that it is an extremely good use. You would not be able to put retail in this building; it would make no sense. He agrees that there is a glut of office space (in the city), so it is a hardship to try to keep it for an office.

Mr. Clough made a motion to approve ZBA-2024-18, a Variance for property located at 78 Railroad St. and 17 93rd St., Tax Map #574-011-000 and #574-012-000. The properties are in the Downtown Core District, owned by Monadnock Community Service Centers, Inc. The Variance is to permit residential use on the ground floor, per Article 8.3.1.C.2.b of the Zoning regulations. Ms. Taylor seconded the motion.

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

Met with a vote of 3-0.

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

Met with a vote of 3-0.

3. *Granting the Variance would do substantial justice*

Met with a vote of 3-0.

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

Met with a vote of 3-0.

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 because:*

and

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

Met with a vote of 3-0.

The motion passed with a vote of 3-0.

C) ZBA-2024-19: Petitioner, Timothy Sampson, of Sampson Architects, PLLC, requests a variance for property located at 143 Main St., Tax Map #584-061-000. This property is in the Downtown Core District and is owned by 143 Main St., LLC, of West Swanzey. The Petitioner requests a variance to permit a two family/duplex where not permitted per Table 4-1 of the Zoning Regulations.

Chair Hoppock introduced ZBA-2024-19 and stated that the applicant wants to present when the ZBA has a four- or five-member Board. Ms. Marcou replied that is correct.

Chair Hoppock made a motion to continue ZBA-2024-19 to the next regularly scheduled Zoning Board of Adjustment meeting on September 3, 2024. Ms. Taylor seconded the motion, which passed by unanimous vote.

Chair Hoppock asked what happens with the other (applications on tonight's agenda). Mr. Clements replied that the ZBA cannot act on the last three, so they will see if they can do a special meeting of the ZBA to address those this month, or have those applicants come to the September meeting. The City will have to re-notice those hearings. Chair Hoppock asked if everyone knows he is (recusing himself) from those. Mr. Clements replied yes.

Ms. Taylor asked if that means the ZBA is continuing those three hearings, because she thought they had to continue to a date certain. Mr. Clements replied that the ZBA cannot act on them tonight. He continued that the City will have to re-notice abutters, put the notices back in the paper, and basically treat those hearings as if they had not been on tonight's agenda.

V) New Business

Chair Hoppock stated that that the Board has new printed copies of the LDC in front of them. He asked what they should do with them. Ms. Marcou replied that those are for the Board members to take home to replace the copies of the LDC they have in their three-ring binders. She continued that this new copy is a total re-print, with added Article 29, which is the new Cottage Court Overlay.

Ms. Taylor stated that Ms. Marcou mentioned earlier that the Cottage Court Overlay is the new Article 17. She asked if the rest of the (Articles) were just moved down one, which is how they get to Article 29. Ms. Marcou replied yes, and staff thought it would be best to do a full re-print of everything, starting from the beginning of the LDC. Mr. Clements stated that there are many references to later sections. For example, the application procedures used to be Article 25, and now it is Article 26. There are some things earlier than Article 17 that have been changed as well, but they are so mixed throughout the document that it was just easier to start all over.

Chair Hoppock asked if there was any other new business.

VI) Communications and Miscellaneous

VII) Non-public Session (if required)

VIII) Adjournment

There being no further business, Chair Hoppock adjourned the meeting at 7:45 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Clerk