

City of Keene  
New Hampshire

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

**Monday, August 19, 2024**

**6:30 PM**

**Council Chamber,  
City Hall**

**Members Present:**

Jane Taylor, Vice Chair  
Richard Clough  
Edward Guyot

**Staff Present:**

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

**Members Not Present:**

Joseph Hoppock, Chair

**I) Introduction of Board Members**

Vice Chair Taylor called the meeting to order at 6:30 PM. Roll call was conducted.

**II) Minutes of the Previous Meeting**

Vice Chair Taylor stated that there are no minutes in need of approval.

**III) Unfinished Business**

Vice Chair Taylor asked if there was any unfinished business. Mr. Clements replied no.

**IV) Hearings**

**A) ZBA-2024-21: Petitioner, George Hansel of Tailfeather Strategies, requests a variance for property located at 57 Marlboro St., Tax Map #590-093-000. This property is in the Downtown Edge District and is owned by Jarod Goodell. The Petitioner requests a variance to permit new construction outside of the 0-20 foot build to zone that is required in the Downtown Edge District per Article 4.4.1.C of the Zoning Regulations.**

**B) ZBA-2024-22: Petitioner, George Hansel of Tailfeather Strategies, requests a variance for property located at 57 Marlboro St., Tax Map #590-093-000. This property is in the Downtown Edge District and is owned by Jarod Goodell. The Petitioner requests a variance to permit new construction within 20 feet of the minimum interior side setback that is required when a parcel in the Downtown**

**Edge District abuts a parcel in the Downtown Transition District per Article 4.4.1.E of the Zoning Regulations.**

Vice Chair Taylor introduced ZBA-2024-21 and ZBA-2024-22. She stated that unless the Board objects, they will open these two applications at the same time, since they go together, but vote on them separately.

Vice Chair Taylor asked to hear from staff. Mr. Clements stated that the subject property is an existing .3-acre, landlocked parcel with access to Marlboro St. via a private road named Aliber Place. He continued that the parcel contains an existing 3-family dwelling and parking area. The property is zoned Downtown Edge, which is subject to form-based dimension requirements. Unlike traditional yard setbacks, the parcel has a Build-to-zone of 0-20' from the front lot line. The Build-to-zone is the area on a lot, measured perpendicularly from the lot line, within which a structure must locate. A Build-to-zone sets a minimum and maximum dimension within which the building façade line must be located. The parcel is also subject to a 20-foot side setback for the western property line, since it abuts the Downtown Transition District, and a 25-foot rear setback for the southern property line, since it abuts a residential zoning district. The subject property is adjacent to the Downtown Edge District to the northwest, north, and east; Downtown Transition to the west; and Residential Preservation to the south. Surrounding uses include the Historical Society of Cheshire County and Keene State Alumni Center to the west, a residential duplex to the north and east, single-family homes to the south, and multi-family and the Savings Bank of Walpole to the north on the side of Marlboro St.

Vice Chair Taylor thanked Mr. Clements for what she thinks is the clearest explanation of Build-to-zone she has heard. She continued that the proposal is for three duplexes. Her question is why the Board is not seeing a Variance from the definition of "duplex." Mr. Clements replied that the applicant applied for an administrative written Zoning determination, and the acting Zoning Administrator at the time came to the determination that each instance of a duplex is its own principal use, and because this downtown zoning district allows multiple principal uses, multiple duplexes are allowed on this lot.

Vice Chair Taylor asked if they could add a copy of that to the record. Mr. Clements read the letter (from the Acting Zoning Administrator) for the record:

*"Dear Mr. Hansel,*

*We are in receipt of your request for a written interpretation of the City of Keene Zoning Regulations. In response to your request, this letter shall serve as a written zoning interpretation.*

*You, representing the owner, submitted a request for an interpretation of use standards impacting potential development on two parcels: the first located at 57 Marlboro Street, located in the Downtown Edge District (TMP#: 590-093-000) and the second, 3 Aliber Place, located in the Residential Preservation District (TMP#: 590-092-000). The proposal is to merge these lots*

*and construct three duplexes on the portion of the parcel that is located within the Downtown Edge District. This would result in a single lot with a single-family home located in the Residential Preservation District and a multi-family structure and three duplexes located in the Downtown Edge District.*

*Article 8, Section 8.3.1.E defines ' Dwelling, Two-Family / Duplex ' as ' One building on a single lot containing 2 independent dwelling units, which is designed, occupied or intended for occupancy by 2 separate families. ' There are no use standards associated with this use definition. This definition implies that the use is tied to the structure, or in other words, each duplex on a lot would be a separate principal use. Furthermore, Section 8.1.3 of Article 8 ( ' Multiple Principal Uses ' ) states, ' With the exception of lots located in a residential zoning district, a lot may contain more than one principal use, so long as each use is allowed in the zoning district, unless otherwise specified in this LDC ' .*

*According to Table 4.1 of Article 4 of the LDC, ' Dwelling, Two-Family / Duplex ' is an allowed use within the Downtown Edge District. Since the Downtown Edge District is not a residential zoning district as specified in Table 2-1 of the LDC, it is my interpretation that multiple duplexes are allowed on a single lot within this district. "*

Mr. Clements stated that the letter goes on to cite the appeal period, relevant RSA, and contact information, regarding any questions with this interpretation.

Vice Chair Taylor thanked him and stated that it is helpful to have that spelled out, because he is probably one of the few experts on what is where on this, and it is not easy to cross-reference. She continued that the next time (staff) does an update, she suggests they clarify how that fit into it with all the rest of the zones, because it seems rather blanket the way it is written.

Vice Chair Taylor asked if anyone had further questions for Mr. Clements. Hearing none, she asked to hear from the applicant.

George Hansel of Tailfeather Strategies stated that he is here on behalf of the owner, Jarod Goodell. He continued that he thanks the Board and staff for setting up this special meeting so they can keep this project rolling. As mentioned, this is an unusual circumstance. A bit of background is that the first step was to get clarification from the Zoning Administrator on whether this would be allowed and what they would have to do to get this permitted; that process has taken place. In addition, they had to request that the City Council allow them to build on a lot that has no frontage as per State RSA. They went through that process and the City Council voted on August 1 to allow that.

Mr. Hansel stated that this next step is to request a couple of Variances to deal with this unique lot. He began with some clarification and a lay of the land by pointing out on the prepared drawing, the location of Marlboro St. and the three parcels all owned by Mr. Goodell. He continued that this project seeks to build three new duplexes, adding six units of housing to this area. As part of the project, Mr. Goodell will voluntarily merge 3 Aliber Place with 57 Marlboro

St., creating one lot that will have the existing three-family, the three new duplexes, and a single-family home towards the rear of the lot.

Mr. Hansel continued that there are three requests before the ZBA tonight; the first two are Variances regarding setbacks, and the third is for relief from the parking requirement, a reduction in the number of parking spaces Mr. Goodell will provide.

Vice Chair Taylor stated that she forgot the disclaimer earlier, which is that Mr. Hansel is entitled to a five-member Board and there are only three members present. Since approval requires three votes in favor, if the vote is two to one, Mr. Hansel does not have the opportunity to come back unless it is substantially different from the application before them today. Mr. Hansel replied that he and Mr. Goodell are aware of that and it is not a problem.

Mr. Clements stated that as a point of clarification, if there is not a unanimous action with three votes tonight, the Board needs to continue the application to the next meeting. He continued that a vote of two to one is not a final decision.

Mr. Hansel stated that the first application seeks relief from the 0-20 foot build-to-zone requirement that would require new development on this parcel to within 20 feet of Marlboro St., which they decided is the access to this property. The map shows that the 0-20 foot zone is not on the project property, making it difficult to build there. They understand this is a unique case where the property does not have street frontage. They think it is a perfect example of a Variance being required, because there is no possibility of building on a different parcel. These duplexes will be small, and it presents an opportunity to create a new housing site Keene desperately needs.

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

Mr. Hansel stated that this creates six new workforce housing units. He continued that the units will be marketed toward people in the workforce where they are close to downtown, and within walking distance of many amenities. It is a type of housing the city desperately needs. It also promotes in-fill development and “smart growth practices,” which are seen throughout the Master Plan as practices the City of Keene is trying to promote. They looked at many different configurations of this parcel, because it is so unusual and thought about how to best place these new buildings on the lot. They came to this conclusion, because locating these three new buildings where they are proposed, reduces their visibility from the public right-of-way. That reduces the impact to the surrounding neighborhood, and provides privacy for the eventual residents of these new dwellings. The other reason they selected this location is it allows the creation of new green space as part of this project. Where the buildings are now will be a new lawn area, instead of deteriorating concrete and asphalt. They want to create up to 3,000 square feet of green space with this new development.

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

Mr. Hansel stated that his understanding of the 0-20' Build-to requirement, from all of his conversations on the City Council, as Mayor, from serving on the Planning Board, and in regards to the LDC update, is that it is to provide for a consistent look and feel on the streetscape. They wanted to ensure that places of increased density do not have one building right up to the street and one building 20-30 feet back, for example. He does not think that awarding this Variance would be contrary to the spirit of the Ordinance, because an existing building on Marlboro St. already provides for that consistency. Putting in some buildings behind it will not substantially modify the consistent look and feel that is present.

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

Mr. Hansel stated that this does not have frontage, so to allow any sort of development, this Variance needs to be granted. He continued that he thinks this will do substantial justice to the neighborhood as it will allow them to put new buildings in an area that is not currently being used to its highest and best use, while creating housing options that are consistent in scale with the rest of the neighborhood. Something else to think about as it relates to this Variance request and the placement of the buildings is that this area of the city is rather unusual. Three different zoning areas come together, thus, it is clearly an edge and appropriately zoned in the Downtown Edge Zone. In some ways, this is like a transition zone between downtown and the much more residential areas to the east and south. Therefore, they feel that the placement of these buildings is actually consistent with the spirit of the Ordinance, because it allows for that higher density, even though it is only over a span of 50 or 60 feet. It allows the higher density to be closer to Main St. as opposed to closer to the east where they are trying to provide that transition area.

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

Mr. Hansel stated that they feel that this project is likely to at least keep the property values in the area the same, or improve them. He continued that this rather underutilized spot needs some refreshing, and this accomplishes that in a way that is consistent with the neighborhood. The size and scale of the new buildings will also be consistent with other similar uses. There are other buildings that are not quite this footprint but not very far off. They are not trying to put these smaller cottages in an area where there are large homes or something wildly out of scale with the rest of the neighborhood.

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. Hansel stated that this unusual parcel does not have frontage, but it has a great opportunity to add desperately needed housing. He continued that denial of this Variance would constitute unnecessary hardship because it prevents the owner from developing on their land and using it to its highest and best potential. No fair and substantial relationship exists between the general public purposes of this ordinance provision and the specific application of that provision to the property because there is no frontage here and not granting the request would serve no public purpose that they see.

*and*

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

Mr. Hansel stated that they feel this is a reasonable request, because the addition of these buildings represents a creative, new, exciting use to help solve the city's housing crisis.

Mr. Hansel stated that that is what he has regarding the first Variance request, and he would be happy to answer any questions.

Mr. Guyot asked about the setbacks of the three units relative to the lot line and the green area and how those shape up. Mr. Hansel replied that that relates to the second Variance request, about the interior lot lines. Mr. Guyot replied that he will hold his question then.

Vice Chair Taylor stated that the application says the lot size is 13,016 square feet and asked if that is for the one lot, or the merged lots. Mr. Hansel replied probably the one lot. Vice Chair Taylor replied that they will get to the traffic study later, but it was not clear to her where the two lots were being treated together and where they were being treated separately.

Vice Chair Taylor asked if there were any other questions about ZBA-24-21. Hearing none, she asked Mr. Hansel to continue with ZBA-24-22.

Mr. Hansel stated that the second request is similar and he will skip the general overview of the project. He continued that this Variance request has to do with exactly the point Mr. Guyot brought up about the interior setbacks. They are asking for relief from the interior setback requirement that would make them move the buildings 20 feet from the interior lot line, and they are looking to reduce that to five feet. That allows them to tuck the buildings back into the underutilized area without significantly impacting the neighborhood allowing the creation of the new green space on the western side of the new joined lot and allows them to keep the parking area consistent and in one place. Complying with the Ordinance as written would require them to move these buildings in awkward places that would necessitate very difficult vehicular movement throughout the site, and he does not think it would be the best solution; that led them to request this Variance. The packet includes some renderings of what the new buildings would look like from various points on adjoining properties and from the public right-of-way. They feel that the area where they have placed the buildings will provide for minimal impact to the rest of

the neighborhood, including the most impacted parcels, the Cheshire County Historical Society and Keene State College's Alumni Center. The renderings show there is quite a bit of vegetation between the two parcels, so the visibility of the new construction will be minimal, even from the parking lot. The picture on the screen was taken from the back door of the Historical Society.

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

Mr. Hansel stated that granting the Variance will not be contrary to the public interest because it will create this new green space. It will allow them to use the parcel and design the project in a way that they think will work best for the neighborhood. He continued that it will facilitate new workforce housing that the city needs, and minimize the visual impact of the development from the public right-of-way. You have to struggle to see this new development from the public right-of-way, which he tried to show with some of the photos. He indicated TPI Staffing's office building, stating that if you were in front of that and looking back you would probably have the best visual shot of these new buildings, but it will still be sort of obstructed, even with them locating the buildings five feet from the property line within the 20-foot interior setback area.

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

Mr. Hansel stated that he thinks that granting this Variance serves the spirit of the Ordinance, because this is a genuine transitional area, truly on the downtown edge. It is meant to provide a transition between much denser uses along Main St. and the more residential areas to the east. Allowing them to locate these buildings and keep the building density to the western side of this new parcel accomplishes that, and will allow them to be in line with the spirit of the Ordinance.

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

Mr. Hansel stated that in this case, granting the Variance will do substantial justice. It will allow for the new development and make the impact to the surrounding neighborhood as minimal as possible, providing privacy for the neighbors and for the new residents of these buildings. All the reasons he mentioned with the last Variance request apply here as well.

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. Hansel stated that this is a unique property, and the lack of frontage makes it difficult. He continued that it is important to note that this is in the center of a block, over 100 feet from the public street in any direction, which is another way in which it is unique. To use the property to

its highest and best use, they need this relief. Not granting this Variance would not serve any public purpose, and would just lead to a project that is not as helpful to the neighborhood. That results in no fair and substantial relationship existing between the general public purposes of the Ordinance provision and the specific application of that provision to this property because of its unique characteristics.

*and*

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

Mr. Hansel stated that they feel the proposed use is a reasonable one. He continued that they worked closely with City staff, as Mr. Clements can attest, to try to get this project to a place where it could move forward. They are very thankful for the work that has gone into this and for the Board's time and attention.

Vice Chair Taylor asked if the Board had questions, noting that Mr. Guyot had a question that was held over.

Mr. Guyot asked what the actual setback is to the lot line in the buildings. Mr. Hansel replied that for the new buildings it will be five feet, if they get this Variance. Mr. Guyot asked about the distance between the two new duplexes and the existing building that will be merged. Mr. Hansel replied that they are making sure every building on the site has at least five feet of separation, per the Fire Code.

Vice Chair Taylor stated that that was one of her questions, the separation between the three duplexes. She asked if five feet is truly all that Fire Code requires. Mr. Hansel replied yes, and they could actually have them closer, if they upgraded the standards of the walls.

Vice Chair Taylor asked if it is correct that the existing three-family structure will remain. Mr. Hansel replied yes.

Vice Chair Taylor stated that she is taking her time, because this is a difficult project to try to understand. She asked Mr. Hansel to point out the access from Marlboro St. Mr. Hansel showed the main driveway that comes into the site and stated that everything is existing except for the three buildings. He continued that something he did not mention is that the parking on the site today is rather haphazard, so they hope to straighten out where the parking should be.

Vice Chair Taylor asked if it is correct that the access is Aliber Place, the private way. Mr. Hansel replied yes, and showed its location, stating that it goes along the western side of the neighboring property, 67 Marlboro St., and goes to serve the single-family home in the back. He continued that as it exists today, it extends to that back section where the residents in the single-family home park. The merging of the two lots will allow them to create a contiguous parking situation on site.

Vice Chair Taylor asked if Mr. Goodell owns the rights underneath Aliber Place. Mr. Hansel replied yes, Mr. Goodell owns all three parcels.

Mr. Guyot stated that he had the same question, and he assumes it is a right-of-way situation. He asked if it is permanent to the deed of all the parcels. Mr. Hansel replied yes, it is an existing private road.

Vice Chair Taylor asked if the intent is to sell these duplexes or to rent them. Mr. Hansel replied to rent. Vice Chair Taylor stated that she does not know the status of the single-family home, but she asked if it is correct that the three-family home and these six units will all be rental properties. Mr. Hansel replied yes, and they are all rental properties today.

Vice Chair Taylor asked if Mr. Clough had any questions. Mr. Clough replied no, they both seem clear to him.

Vice Chair Taylor asked for public comment, beginning with anyone wishing to speak in opposition to the application. Hearing none, she asked if anyone wished to speak in favor of it. Hearing none, she closed the public hearing and asked the Board to deliberate, beginning with ZBA-2024-21, the application to vary from the build-to-zone requirement.

Mr. Guyot stated that he is comfortable with the aspect of additional housing. He continued that he thinks it is great and weighs heavily in his mind. He is comfortable with the unnecessary hardship as well. Because the property is unique, it meets both parts of that standard, in his opinion.

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

Vice Chair Taylor stated that regarding the first criterion, the Variance not being contrary to the public interest, she thinks that is what Mr. Guyot was getting at when he said the project will provide additional housing units when there is a shortage. She continued that she agrees with the applicant that it is intended to promote the in-fill development. She does not know if it will minimize the visual impact, and does not know that that is necessary to prove the point that it is in the public interest.

Vice Chair Taylor asked if Mr. Clough had any comment. Mr. Clough replied no, he agreed with the presentation. He continued that because of the location, it is a situation in which the Variance addresses an issue that would have to be addressed for anyone to do anything residential there.

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

Vice Chair Taylor stated that the second criterion, in this case, is related to the first, because the Ordinance is intended - especially when it was rewritten a couple of years ago – to encourage underutilized property that was in the city's center, which this qualifies. She definitely thinks it is

consistent with what the City was trying to do when it revised its ordinances and especially created all these separate downtown ordinances.

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

Vice Chair Taylor stated that here they have the weighing criterion, that the benefit to the applicant should not outweigh the harm to the general public. She continued that she thinks it is a wash, because if this gets built and occupied the applicant will definitely benefit, and the city will probably benefit from having more housing.

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

Vice Chair Taylor stated that the Board does not have any particular evidence of this, but they have common sense. She continued that if you add green space and build attractive properties, it generally has the impact of increasing values, not diminishing them.

Mr. Clough stated that he agrees that Keene does not have many places that would be like a maze or warren, like that undifferentiated area. He continued that defining it in more specific ways will improve it. What little of the project that can be seen from the road would still look better, and especially for the abutters, it would have no impact on them.

*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:*

Vice Chair Taylor stated that they often struggle with the unnecessary hardship criterion. She continued that she agrees that the characteristics of this parcel are unique, but she is not positive that it translates into a hardship. She is not sure it prevents any new development. (For example), maybe it could be utilized with two duplexes, one duplex, or in some other way. What she is looking at is that not having “full utilization” - however a property owner defines that term - does not necessarily, by itself, create a hardship. In this case, she thinks it is a very strange parcel. She defies anyone to find a similar one in the city.

Mr. Guyot asked if it is correct that the hardship is the 0-20' rule. He continued that he knows there was a comment about full utilization, but to him, the hardship of this property is the requirement of the 0-20' rule and the unique interface between that rule and the structure of this property. That is where he was going with this.

Vice Chair Taylor replied that she sees his point, but she also thinks that it happens also because of the nature of the development. She continued that it does not mean that the property is not unique in its setting. Then they have to decide whether there is a relationship between how this development is being proposed and the way the Ordinance is written, and she thinks that goes to his point that there might *not* be a relationship between the 0-20' rule as applied to this particular property.

Mr. Clough stated that this is always the oddest criterion to address. He continued that he thinks the placement of the property, no matter what you want to do with it, would create situations of someone coming before the Board, because he thinks residential use in that area is a logical one, and to put anything on that lot other than what is there already would require coming before the Board. To him, the condition for the hardship is that the placement of the property is so odd. You cannot change geography. It is stuck there, out of time, out of place.

*and*

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

Mr. Clough stated that he would say yes, this project is reasonable. He continued that the area has a number of residential units, and this is a similar use. It addresses a need that is acknowledged in the area. To him, that is a reasonable use.

Mr. Guyot stated that he agrees.

Mr. Clements asked if Mr. Guyot is saying he does not believe there is any way that this property could be expanded to meet that 0-20' rule. Mr. Guyot replied yes, he thinks the 0-20' rule is what creates the hardship for this piece. Whether it is one duplex, two duplexes, or three or more, that factor will always be there, because of the "adjacencies," unless he is not understanding that rule correctly. Mr. Clements replied that the rule is that from the property line, 20 feet in, is where the building needs to sit.

Vice Chair Taylor asked if there were any other comments. Hearing none, she asked for a motion.

Mr. Clough made a motion for the Zoning Board of Adjustment to approve ZBA-2024-21, for a property located at 57 Marlboro St., Tax Map #590-093-000 in the Downtown Edge District, requesting a variance to permit new construction outside of the 0-20 foot build to zone that is required in the Downtown Edge District per Article 4.4.1.C of the Zoning Regulations. Mr. Guyot 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*

*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.

Vice Chair Taylor stated that the Board will now deliberate on ZBA-2024-22, to permit new construction within 20 feet of the minimum interior side setback that is required. She continued that the applicant had mentioned in response to Mr. Guyot's question that the intent is to locate the buildings within five feet of the setback. When they get to a motion, she suggests they think about putting a condition on it that the setback be no less than five feet. Mr. Clements replied yes, or "to allow for a five-foot setback when a 20-foot setback is normally permitted."

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

Vice Chair Taylor stated that she believes granting the Variance would not be contrary to the public interest, in part because it backs up to a parking lot. She continued that if it backed up to another house that was 10 feet from the lot line, she might be more concerned. KSC and the Historical Society both tend to use that parking lot, and with parking in that area at a premium, she doubts they are going to build something on it.

Mr. Clough stated that he agrees.

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

Vice Chair Taylor stated that she thinks with setbacks in general, the spirit of the Ordinance is about density, (preventing) over-construction or too many buildings in one area. She continued that in this case, it is in a downtown area where properties and buildings tend to be closer together, whether because they are grandfathered or by right under the Ordinance, and it is backing up to a parking lot. She does not think the spirit of the Ordinance is violated.

Mr. Guyot stated that he does not see any violation.

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

Vice Chair Taylor stated that this is the balancing test whether the benefit to the applicant is not outweighed by harm to the general public. She continued that she does not see any harm at all to the general public on this one.

Mr. Clough stated that he would say that is true. He continued that he suspects that once construction is done, (the buildings) will be quite innocuous there. He does not think people will be complaining about them. The general public will not be unduly concerned about this. Given the placement of it, they are quite a ways away from the general public and they certainly have no impact on parking areas.

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

Mr. Guyot stated that he agrees that the values of surrounding properties would not be diminished. He continued that the empty parking lot now, with somewhat compromised pavement and excess vegetation, is kind of in rough shape. Having the housing units in there, the additional green space, and activity in that area versus empty space, all help with abutters' property values.

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.*

Vice Chair Taylor stated that they have all agreed that this is a unique site. She continued that she does question whether these buildings could be placed in compliance with the Zoning Ordinance. She does not have the expertise to know and she is not entirely sure about the hardship with this, she would like to hear others' thoughts.

Mr. Clough stated that if the diagram on the screen is accurate, showing what would happen if they attempted to conform to the restrictions, he believes it would make it difficult to make it a viable enterprise, and that is why they came up with the solutions they came up with. He continued that it is an odd shape, which makes it hard to locate any sort of building on it, while also having parking and green space. He thinks the shape of it dictates why they are before the Board for this. If the shape were more regular, such as more square or rectangular, it would be much easier to place things. This irregular shape makes it quite a challenge.

Mr. Guyot stated that enforcing the 20-foot setback could potentially, although he cannot say with certainty, reduce the number of units you could fit on that site, making it economically challenging to develop and operate down the line. He continued that he sees that as a hardship as well.

Vice Chair Taylor replied that as a reminder, the economics of it are a consideration, but they are not a determining factor. It depends on how much weight they want to give it.

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

Mr. Guyot made a motion for the Zoning Board of Adjustment to approve ZBA-2024-22, for a property located at 57 Marlboro St., Tax Map #590-093-000 in the Downtown Edge District, owned by Jarod Goodell, to permit new construction within 20 feet of the minimum interior side setback that is required when a parcel in the Downtown Edge District abuts a parcel in Downtown Transition District, per Article 4.4.1.E of the Zoning Regulations, with the condition that the property be allowed a five-foot setback where a 20-foot minimum is normally required. Mr. Clough 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.

**C) ZBA-2024-23: Petitioner, George Hansel of Tailfeather Strategies, requests a special exception for property located at 57 Marlboro St., Tax Map #590-093-000. This property is in the Downtown Edge District and is owned by Jarod Goodell. The Petitioner requests a special exception to permit the major parking reduction per Article 9.2.7.C of the Zoning Regulations.**

Vice Chair Taylor introduced ZBA-2024-23 and asked to hear from staff.

Mr. Clements stated that in the Downtown Edge and Residential Preservation zoning districts, each dwelling unit is required to have two parking spaces. He continued that the applicant has submitted a traffic and parking analysis for the subject parcel at 57 Marlboro St.; the parcel to the north, 59 Marlboro St., with the frontage on Marlboro St.; and the parcel to the south, 3 Aliber Place. The existing and proposed uses have a combined parking requirement of 18 spaces. The applicant is requesting a reduction to provide 13 parking spaces in total. He will let the applicant go into the details, but the reason why staff and the applicant both agree that the unique existing conditions of the three parcels are fundamentally connected to each other, so looking at the parking analysis and the reduction as a whole makes more practical sense.

Mr. Guyot stated that he is trying to count the parking spaces as it is not clear on the print the Board has. He wants to understand the relationship between 59 Marlboro St.'s parking and asked where that is located.

Mr. Clements stated that the property line actually intersects the top part of the parking area. He continued that part of the reconfiguration of these two spots would be more or less designated for 59 Marlboro St. Mr. Guyot asked if those are the first two that appear on the map with the property line going through the middle. Mr. Clements replied that is correct. Mr. Guyot asked if it is correct that there are four spaces across there. Mr. Clements replied yes. Mr. Guyot replied that when he adds up the rest, he gets to 13, because there are seven across that lateral portion at the base of 57 Marlboro St. and two next to the dumpster. He asked if that is correct. Mr. Clements replied yes. Mr. Guyot asked if that is 13 spaces versus 18. Mr. Clements replied yes, at two parking spaces per unit for all three lots, it would be 18. Mr. Guyot asked if it is correct that that parking space count included 59 Marlboro St. Mr. Clements replied yes.

Vice Chair Taylor asked if there were any other questions for Mr. Clements. Hearing none, she asked to hear from the applicant.

George Hansel of Tailfeather Strategies stated that he is here on behalf of the owner, Jarod Goodell. He continued that he wishes this project was easy to explain, but having three different parcels in the same place with the same owner, there is a lot going on and it certainly gets confusing. He appreciates everyone going through this exercise that he has gone through over the last couple of months to understand how this will work.

Mr. Hansel continued that they are requesting a major parking reduction. There would normally be two spots required for each residential unit. He encourages them, as Mr. Clements said, to think about how this works with these three parcels. Even though 59 Marlboro St. is not technically part of this application, that is the frontage to Marlboro St. and every person, every resident of these back units, will have to go through there. Thus, what they are trying to accomplish here is a more contiguous parking arrangement for the future with this new development. It is important to note that this is right on the downtown edge. If it were about 50 feet to the west, there would not necessarily even be a parking requirement, because it would be part of the Downtown Core where many residential units do not have any parking requirement. This truly does represent a transition area which is between the residential area to the east and the high density to the west. They are asking for an accommodation to be respective of that fact that this is within walking distance to the Co-op, some public transportation and it is close to the rail trail. In addition, these are small units about 350 square feet, not suitable for a big family with multiple vehicles. They will be marketed for workforce and single people who are looking for an affordable housing option where they can walk to the Co-op and get their groceries, maybe even work downtown. That is why they are asking for this accommodation.

Mr. Hansel stated that the unique characteristics of the site they discussed tonight, and the fact that it is in proximity to all of these (amenities) in this highly walkable neighborhood. They are in close proximity to Main St. and all of those amenities, and thus feel that the requirement for two spots per housing unit is too restrictive and does not make sense. Even if they did provide this parking, he does not think there would be many people taking advantage of it, because these

are economical units that will not house many people. The reduction will not cause long term parking problems for adjacent properties or anticipated future uses.

He continued that another thing to think about is that this section of three parcels is all residential. There are no commercial uses here and they do not expect this area to be used for any commercial uses. Everyone going onto the site from here is presumably live there or to visit someone who lives here. They feel that will limit any potential impacts to the surrounding properties.

*1. 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. Hansel stated that they feel the particular use does comply with all the applicable standards in the LDC. He continued that this is in-fill development, and this area of the city, specifically, has been targeted over the last decade to create walkable neighborhoods. Every conversation he has been involved with on the legislative side, deciding how the City was going to regulate this part of the city, was to create a walkable neighborhood where they could preserve the residential character of the neighborhood while making it accessible and walkable. He thinks this development encapsulates many of those sentiments and tries to accomplish that.

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

Mr. Hansel stated that they feel this will not endanger the public health, safety, or welfare. He continued that in fact, reconfiguring this existing condition and better defining the parking will make it a much safer site for the current and future residents.

*4. 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. Hansel stated that they are not expecting to do any of these things after construction.

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

Mr. Hansel stated that they are not expecting that the addition of six new housing units will pose an excessive burden or that this parking reduction will have any kind of excessive burden on public facilities, services, or utilities. The project, as it relates to water and sewer evaluation, has gone through the normal process with the City's emergency services staff to make sure the site is accessible as configured.

*6. 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. Hansel stated that this evaluation has been done and they do not feel this will impact any of the historic value of the area.

*7. 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.*

Mr. Hansel stated that they supplied a letter and study from a licensed traffic engineer, who determined that even with the addition of the six units it does not rise anywhere close to the level to cause traffic congestion. Far less than 100 trips per hour, which would be the regularly identified threshold for getting out of normal ebb and flow. The traffic engineer felt they were well below that threshold.

Mr. Hansel stated that he is happy to answer questions. He continued that the summary is that they feel that these are small units that will not become any bigger, and will be targeted towards single people or maybe a pair of people, and the traffic engineer gave them the thumbs up to say that the proposed plan would not have any significant impacts on the community at large. Thus, they feel this is a reasonable request.

Vice Chair Taylor stated that she thinks Mr. Hansel skipped one of the criteria.

3. 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. Hansel stated that they think these improvements will make it more defined, that this is the parking area for this property. He continued that it would help with what is currently a rather confusing situation where the property lines are not well-defined and the parking surface is deteriorated. This project will help things in the neighborhood.

Vice Chair Taylor stated that Mr. Hansel said that generally, the uses operate in harmony with each tenant finding a regular spot to park. She asked if he is talking about all three of the properties at the moment. Mr. Hansel replied that that was his personal observation from assessing the properties. He continued that for lack of a better term, it is a bit of a “free for all” among the residents of all those properties and he thinks they will be well served by having this repaved, striped, and having a better understanding of where they should park.

Vice Chair Taylor asked how many parking spaces are there now, approximately, given what Mr. Hansel said about it being a free-for-all and not well defined. Mr. Hansel replied that currently there are big concrete blocks. He continued that the plan certainly does not take away parking spaces. It probably opens up a few new ones, in fact.

Vice Chair Taylor asked what the access is for 67 [Marlboro St.]. Mr. Hansel replied that the property line is not well defined at the back edge, but they have their parking (separately). Vice Chair Taylor replied that it is difficult to tell, and she did not know if they accessed their parking

through Aliber Place or have a direct access. Mr. Hansel replied that they have a direct access to Marlboro St. on the eastern side of their building.

Vice Chair Taylor asked if Mr. Hansel knows how many vehicles currently access these properties on a regular basis. Mr. Hansel replied that when he was out there, he did not specifically count, but it is generally understood – from what he understands from the property owner – that the units currently have about one car each. Thus, this (project) will be consistent with what is there.

Vice Chair Taylor stated that not being a traffic engineer, she has questions about the parking study and wants to make sure she understands what she is looking at. Regarding Table 1, the first column says “single family trips,” and the footnote talks about “detached housing.” Obviously, they are not talking about detached housing, as the materials state, and they did not necessarily have the ability to calculate that exactly. On that column of that chart, where it says, for example, “enter five, exit five,” she asked if that is for each dwelling unit.

Mr. Hansel replied that there is only one detached single-family home on the site today. He continued that he thinks that is meant to represent what exists today at 3 Aliber Place.

Vice Chair Taylor asked if the duplexes then qualify as “multi-family.” Mr. Hansel replied yes, but he believes the one that says “single family trips,” if he is interpreting it correctly, refers to 3 Aliber Place as the only single-family home in use right now, and then the “multi-family trips” as calculated here would represent the use at 57 Marlboro St. and 59 Marlboro St. Vice Chair Taylor asked if it is correct that it does not include the potential... she thought it was also estimating what the potential would be with the addition of the three duplexes.

Mr. Hansel replied that the first two columns on Table 1 are the existing uses, and the third column from the left is the projected new (uses), and then the new total of the built-out site as proposed is in the final right-hand column.

Mr. Clements stated that with trip generation, “single-family” is the most intense trip use per dwelling unit, because there is an assumed scaling down in the amount of vehicle ownership once you get into multi-family. He continued that for a single family, it is five people going out and five people going back, such as two parents and three children. Either that or one person doing multiple trips per day, or five people going out in five cars and coming back. Then, as you scale up into multi-family, each dwelling unit in multi-family does not have that much access to parking spaces, vehicles, or people. That is why it is not just an additive situation. You are not just adding five one-way trips for each dwelling unit. It looks like they used the LDC for a low rise multi-family for five dwellings and six dwellings for the multi-family trips. “B” was a five-dwelling, and then the additional site trips, as Mr. Hansel said, which is for the six duplexes. They consider that a six-dwelling multi-family.

Vice Chair Taylor replied that that helps a lot. Mr. Clements replied that traffic and parking reports are very conservative when they do their analysis. It is a “What is the most intense scenario for traffic generation for parking usage?” analysis.

Vice Chair Taylor asked if there were any more questions for Mr. Hansel. Hearing none, she asked for public comment in opposition to or in favor of the application. Hearing none, she closed the public hearing and asked the Board to deliberate.

Vice Chair Taylor stated that in addition to the Special Exception criteria, the Board has to consider two criteria required for the parking reduction. She suggests they go through each one, for clarity.

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

Mr. Clough stated that he thinks, based on the plans, that even though it is six units being added, they are about 320 square feet each, which is very small. He continued that the space would feel full with just two people, and probably one person would feel more comfortable, which would indicate there probably would not be two parking spaces utilized per unit. If the units were bigger he might question the number of parking spaces they are asking for.

Vice Chair Taylor stated that her only concern in this area was winter parking. She continued that there is a comment in the materials that overnight parking permits are available in the City-owned parking lots and garages within a 10-minute walk from the proposed development, which is great, but she is not sure how willing people will be to use that. Maybe Keene will not have any more winters with four feet of snow and 10 degrees below. That will be up to whoever rents the units, and how many parking tickets they are willing to get. That was her major concern about it.

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

Vice Chair Taylor stated that once this property is built out, she suspects there will be very limited future uses. She continued that again, she is of mixed mind as to whether there will be long term parking problems. She does not know if the Board is equipped to make a judgment on that.

Mr. Guyot replied that he agrees that they are not able to judge. He continued that they would need more study to ascertain the effects.

Vice Chair Taylor stated that she is sure that if this is all built out and there are long term parking problems, the landlord will hear about it.

*1. 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.*

Vice Chair Taylor stated that she thinks it is consistent with the spirit and intent in that, again, they go back to the in-fill development and also, as Mr. Clough noted, the small size of the units are not conducive to large families with three vehicles apiece.

Mr. Guyot stated that he agrees with that observation.

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

Vice Chair Taylor stated that it is definitely off-street parking and it is away from the public street, so it will not impact that. She continued that based on the traffic studies, she does not think there will be much impact to the public unless the tenants fight with each other over the parking spaces, but the tenants are not the general public. If it were directly abutting on Marlboro St. that might create a problem, but if it were directly abutting on Marlboro St., they would not even be here (seeking a Special Exception).

*3. 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. Guyot stated that given that the other properties to the south are primarily parking in nature, he does not see how this development and the parking challenge here would affect those in any way.

Vice Chair Taylor replied that she agrees. She continued that the abutter on the west is TPI, and the abutter directly north is owned by Mr. Goodell. That does not prohibit it from being developed for something else. The abutter to the east is residential. She does not see that it would have a negative effect on the area, and it might actually be a positive effect, if it produces order to a chaotic parking situation.

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

Vice Chair Taylor stated that as Mr. Hansel noted, that does not include construction.

Mr. Clough stated that typically, residential units do not generate any of those issues, and even if these units were maxed out, it would not have had that issue in the first place, so this is even less so. It is reducing anything of that nature.

Vice Chair Taylor stated that if the units are rented to college students, the City has enacted some ordinances that help control things when they get out of hand.

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

Vice Chair Taylor stated that she thinks the services and utilities are all there. She continued that they might need to be expanded, but that is the developer's concern. She does not see that as being impactful on anything else in the area.

*6. 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.*

Vice Chair Taylor stated that it might improve the scenic view. She continued that the building TPI is in might have historic value, but that is not this site.

*7. 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 if you put six more units there, she can see some potential for issues with left hand turns out of Aliber Place, just beyond where Marlboro St. has that big curve in the road, but that is more of a Planning Board issue. She continued that that is the only traffic issue she sees.

Mr. Clough stated that he would expect school hours, and the bank traffic would be impacted the most, but again, this is a very small number of vehicles, when you take all that into consideration. They just need to be patient drivers.

Mr. Clements stated that he wants to note that the traffic report stated that the three new duplexes will generate about two or three additional trips per peak hour, versus what exists on the site. Vice Chair Taylor replied that unfortunately, the Board has seen a number of traffic studies that were completely inaccurate, so they have to use common sense at the same time.

Vice Chair Taylor asked if there were any other comments. Hearing none, she asked for a motion.

Mr. Clough made a motion for the Zoning Board of Adjustment to approve ZBA-2024-23, a special exception for property located at 57 Marlboro St., Tax Map #590-093-000, to permit the major parking reduction per Article 9.2.7.C of the Zoning Regulations. Mr. Guyot seconded the motion.

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

Met with a vote of 3-0.

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

Met with a vote of 3-0.

*1. 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 3-0.

*2. 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 3-0.

*3. 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 3-0.

*4. 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 3-0.

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

Met with a vote of 3-0.

*6. 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 3-0.

*7. 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 3-0.

The motion passed with a vote of 3-0.

**I) New Business**

Vice Chair Taylor asked if there was any new business. Mr. Clements replied no.

**II) Communications and Miscellaneous**

Vice Chair Taylor asked if there were any communications or miscellaneous items. Mr. Clements replied no.

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

**IV) Adjournment**

Vice Chair Taylor stated that the next regular meeting is Tuesday, September 3. There being no further business, she adjourned the meeting at 8:10 PM.

Respectfully submitted by,  
Britta Reida, Minute Taker

Reviewed and edited by,  
Corinne Marcou, Zoning Clerk