

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, October 6, 2025

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Richard Clough, Chair
Edward Guyot, Vice Chair
Tad Schrantz
Adam Burke
Zach LeRoy

Staff Present:

Evan Clements, Planner, Deputy Zoning
Administrator

Members Not Present:

Kathleen Malloy, Alternate

I) Introduction of Board Members

Chair Clough 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: July 7, 2025

Mr. Guyot made a motion to approve the meeting minutes of July 7, 2025. Mr. Schrantz seconded the motion, which passed by unanimous vote.

III) Unfinished Business

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

IV) Hearings

- A) **CONTINUED ZBA-2025-08: Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.**

Mr. Clements stated that staff received a communication from the Applicant's representative. He continued that they have contract with Eli Leino of Bernstein Shur, a law firm out of Manchester. They apologize for their late addition to this application and request a continuance so they can be properly prepared to present to the Board at the November meeting.

Mr. Schrantz asked how the extension process works and how often they can extend the application. Mr. Clements replied that it is the Board's decision. He continued that in his professional experience, he has seen Zoning cases where attorneys have become involved, and they asked for a couple of continuances so they could prepare. It is not the norm, but it is not unheard of. He personally feels confident that this representative will be ready in November. He encourages the Board to grant the continuance to November. He explained to Mr. Leino that this application had already been continued due to absenteeism and further delay beyond November is not recommended.

Chair Clough thanked Mr. Clements and asked if anyone wanted to make a motion or had further discussion.

Mr. LeRoy stated that he personally feels that since the Board has already given the Applicant two continuances, without the Applicant's presence or request tonight, he thinks this is pushing too far and disrespecting the process. He does not know it warrants another continuance.

Chair Clough asked what would happen if they did not grant a continuance. Mr. Clements replied that ultimately, they would end up hearing the application anyway. He continued that the Applicant would motion for a re-hearing, and they would be more or less forced to grant it because they never heard the application. The Applicant would challenge the decision if a denial were issued tonight. All it would do is add some minor costs to the Applicant, regarding re-noticing. The Board would still end up hearing the application. While such behavior of the Board would not necessarily be unjustified, it is generally recommended that they err on the side of leniency.

Chair Clough replied that he acknowledges that sentiment. He continued that the Board has dealt with Mr. Leino before, and he thinks Mr. Leino is a little more accountable than what they have seen thus far with this application. He agrees with Mr. Clements that they could expect to see real movement on this in November.

Mr. Schrantz stated that he has one more question about the process. He continued that the Applicant got a Variance a few years ago. He asked how long it is valid for. Mr. Clements replied that this application is for a Special Exception. He continued that Special Exceptions and Variances are good for two years, unless they are acted upon, and then they expire. The genesis of this application was that the original Special Exception was going to expire, so they are submitting an extension of that approval, and through the process in the Land Development Code (LDC), that extension request is treated like a new application. If they were to deny this application and then the 30-day appeal period were to expire without any challenge to that decision, the Special Exception would be null and void. The LDC has since changed, so the Applicant would not be able to reapply for a new Special Exception for this situation; they would have to get a Variance.

Mr. Burke asked if Mr. Clements said they are applying for an addition to the application, meaning adding onto it, or just an extension. Mr. Clements replied that it is an extension of the

original approval, which is treated like a new application. But they are not proposing any changes to the previous approval.

Mr. Guyot stated that he agrees with Mr. LeRoy's observation. He continued that the Applicant has had a long history of delaying and not showing up. However, he sees the change in representation as very encouraging to the process. He agrees that given what they know about this firm, they will be able to move forward. He is okay with continuing this until November.

Mr. Guyot made a motion for the Zoning Board of Adjustment to continue ZBA-2025-08 to the November 3, 2025 meeting. Mr. Schrantz seconded the motion, which passed by a vote of 4-1. Mr. LeRoy was opposed.

- B) **CONTINUED ZBA-2025-13:** Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000-001-002 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot that does not meet the setback requirements per Article 6.3.2 of the Zoning Regulations.
- C) **CONTINUED ZBA-2025-18:** Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow an indoor recreation/entertainment facility where not permitted per Article 6.3.5 of the Zoning Regulations.
- D) **CONTINUED ZBA-2025-14:** Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000-001-002 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot that does not meet the minimum lot size requirements per Article 6.3.2 of the Zoning Regulations.

Chair Clough introduced Continued ZBA-2025-13, then asked to hear from staff.

Mr. Clements stated that tonight's agenda has several hearings all revolving around the same project. He continued that he would give an introduction, describing the property, its surrounding uses, and things like that for this first application, and then for the subsequent applications, he will give just the most pertinent points to save some time as they work their way through all of this. That said, the subject property is an existing 31-acre parcel located on the southern side of Tiffin St., approximately 1,000 feet from the Optical Ave./Marlboro St. intersection, with Timken Manufacturing located directly to the east. The property is home to the Markem-Imaje headquarters campus, consisting of several buildings of approximately 246,000 square feet of office, manufacturing, and warehouse floor space. The property also contains associated site improvements, such as walkways, drive aisles, parking area, and drainage systems. The property is also home to a 798 square foot building, located in the northeast corner of the parcel along

Tiffin St., which contains an indoor squash court, owned and operated by the Amalgamated Squash Chowder and Development Corporation (ASC&DC). In 1976, an agreement was made to relocate the building from West St. to its current location. Three parking spaces are associated with the squash court. It is the oldest indoor squash court in the United States.

Mr. Clements continued that the purpose of this application is to seek a Variance from the setback requirements of the Industrial Park Zoning District to allow a subdivision of a new parcel to accommodate the squash court and its associated parking spaces. The request is to permit a 37.8-foot rear setback where 50 feet would normally be required. Surrounding uses for the subject parcel include industrial manufacturing and single-family residential to the north, vacancy and state highway to the south, industrial manufacturing to the east, and industrial manufacturing, conservation, and state highway to the west. In the staff report, he provided the definition for the Industrial Park Zoning District as well as the dimensional requirements for the district. The sample motion is also presented, if the Board is inclined to approve this request. Staff recommend no conditions.

Mr. Guyot stated that his question might be more for the Applicant than staff. He asked if the squash court is on the National Historic Registry. The Applicant and Mr. Clements replied that they do not think it is. Hearing no further questions, Chair Clough asked to hear from the Applicant.

John Lefebvre of Fieldstone Land Consultants stated that he is here tonight on behalf of Markem-Imaje. He continued that Markem-Imaje owns about 31 acres, with about 246,000 square feet of warehouse and office space. They do not utilize all the space. There was a time when these properties were used to a greater margin. It was once New England Box Company, and once Platts Box Company. Markem-Imaje has utilized the space for many years, and there was a time when they were using a lot of the building space, but not anymore. They now utilize very little of the space, and maintaining all the buildings together is a lot of upkeep, with the heat, electricity, water, roof repairs, plowing, and more. If they had someone to lease the property, the money they would get from that would be put into the buildings. They have not had any interest from anyone wanting to lease it, but they have been approached by several people looking for office space or manufacturing space. They had an application before this board about two years ago, when a woman wanted to occupy one of the buildings to make bakery products. That fell through when she could not get funding for the building. Markem-Imaje stepped back and looked at it as a bigger property plan, thinking about what they want to do and what they want to occupy. They are looking to separate the buildings on the property.

Mr. Lefebvre continued that one of the buildings, as mentioned, is the ASC&DC, which has some history. This building was located on Main St. near the bank, and in 1976 the bank property was being sold, and they did not have a place for the building. They offered to locate the building to this property, where it has been ever since. The City of Keene has given it a Tax Map lot number, although it is not actually a lot. It is just the building on the property. It does not even have bathrooms. You go through the door, and it is just a racquet ball court, used as a squash court, which isn't used by many people, mainly by members of the ASC&DC. Its history as the oldest squash court in the US is great. Markem-Imaje wants to be able to give ASC&DC that property so its historic significance can continue. In addition to looking to separate the buildings, Markem-

Imaje is looking at the interests of the ASC&DC. They want the ASC&DC to be able to have that as their own lot with their own parking spaces, and to be able to maintain their status. Thus, tonight he is before the Board to request Variances in relation to the subdivision of this property. The property was developed before many of these Zoning Regulations came into play, so to subdivide it makes it difficult where separation distances do not exist between the buildings to the degree that the dimensional requirements want them to be. To be able to capture a parking lot that works with this building, and to be able to capture walkways and everything is nearly impossible. They tried to get as close to the regulations as they could, and to only ask for Variances where they believe they are truly necessary.

Mr. Lefebvre continued that the first application tonight is, as Mr. Clements mentioned, for the ASC&DC to be able to create that lot so they could have their own existence. Chair Clough asked him to go through the criteria, noting that he does not have to do so verbatim. Mr. Lefebvre replied that he will do the first one verbatim. He continued that many of their responses to the criteria are repetitive due to the dimensional requirements of the regulations and the buildings' existence prior to the regulations. He will point out some differences as they go through the applications.

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

Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He continued that the purpose of the Ordinance is to protect public health, safety, and welfare. Setback requirements are intended to ensure appropriate physical and visual separation between adjacent land uses and to maintain adequate distance between adjacent buildings and the street. The existing building on the proposed lot was originally constructed in the early 1900s and was relocated to the Markem-Imaje Corporation property in 1976. It has remained in its current location unchanged for nearly 50 years. The ACS&DC is not proposing any new construction, only the transfer of land ownership.

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

Mr. Lefebvre stated that the purpose of the Ordinance is to ensure adequate separation from buildings to adjacent properties and the street. He continued that the proposed relief is to the side setback of a dead-end road and will not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure public rights. For these reasons, they believe the proposed Variance will serve the spirit of the Ordinance.

3. Granting the Variance would do substantial justice.

Mr. Lefebvre stated that granting this Variance serves the interest of substantial justice. He continued that it will enable the property owner to transfer a portion of the land to the ACS&DC, which has leased the site since 1976. The property owner would benefit from the relief of tax and liability obligations associated with this parcel. Denying the Variance would provide no corresponding public benefit, as no new development is proposed and there would be no impact on density.

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

Mr. Lefebvre stated that the abutters will not experience any substantial change from granting this Variance. He continued that the area of the current recreational squash building will remain the only building on the lot with three parking spaces. It is their experience that creating a lot while making no improvements to the building or surrounding area will not diminish surrounding 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:*

Mr. Lefebvre stated that the setback requirements are intended to ensure appropriate physical and visual separation between adjacent land uses and to maintain adequate distances between buildings and the street. Literal enforcement of the Ordinance would overlook the fact that this building predates the regulations. Consideration should also be given to the fact that this is a low traffic, low density area. Therefore, the Variance will have no impact on the general public of Keene. For this and the reasons stated above, they believe there is no substantial relationship between the general public purpose and the division of this lot.

and

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

Mr. Lefebvre stated that the proposed use is reasonable, with no substantial changes being made to the existing building or the surrounding land. He continued that the creation of the Ordinance after the construction of the building poses a hardship as the ACS&DC has occupied and enjoyed this building since 1976. The transfer of ownership of this portion of the property will relieve the current owner of liability.

Mr. Schrantz stated that it looks like the requirement for Zoning is four acres and they are looking for a .17-acre lot for this particular property. He asked if that is right. Chair Clough replied that it is a combination of many things. He continued that the specific issue is the setback, but ultimately, to just have a sliver of a lot, enough for the building and three parking spaces. He asked if that is correct. Mr. Lefebvre replied yes. He continued that the building is very small, with a couple squash courts inside. A couple of people come to play.

Mr. Schrantz stated that he has a follow-up question. He continued that the application is for the setbacks, but not for the size of the lot. He asked if that should be taken into consideration. Mr. Lefebvre replied that they have several Variance applications, but each is treated separately. He continued that the Board would see an application for the size of the lot, and an application for the use of the property. They just started with the setbacks.

Mr. Guyot stated that to follow up with Mr. Schrantz's concern, he wonders what would happen if, for example, the Board says the setback is okay, but the next application is for the lot size, and the Board says no to that. He asked where they would go from there. Mr. Clements replied that the Applicant would have to adjust. He continued that the Applicant could appeal that decision or come in with a new application for a different size lot. Yes, the Applicant is taking some risk tonight. They are obligated to do this one application at a time, and the aggregation of these decisions will be the outcome of this project moving forward. The Applicant currently has a subdivision application pending to go to the Planning Board, which is dependent on the decisions the Board makes tonight.

Mr. Guyot asked, as a procedural question, whether there is a way to look at these applications more holistically. Mr. Clements replied that he thinks they are allowed to do that, in a general sense, although each application will ultimately have to stand on its own merits. He continued that the Board is aware that they have three applications before them tonight with the intent of creating a small, unique lot that is custom tailored for the ASC&DC building. Mr. LeRoy asked if they could discuss them all at the same time, as long as they vote on them individually. Mr. Clements replied yes, they can look at the larger project here.

Chair Clough replied that that makes sense to him. He continued that if there are no further questions for the Applicant right now, they welcome public comment. He asked if anyone wanted to speak in opposition or support. Hearing none, he suggested the Board table the deliberations to first hear the other applications. He asked if that is okay.

Mr. Clements replied yes, and he recommends the Board hear the applications in the following order: ZBA-2025-13, ZBA-2025-14, and ZBA-2025-18, which all cover the ASC&DC; and then the other three, related to the Markem-Imaje campus. Mr. Lefebvre replied that that is correct. He continued that with the Markem-Imaje property, where they are looking to create a lot for the ASC&DC, there are three requests for Variances. He thinks it does make sense to run through those in unison. The other three Variances deal with trying to separate the properties where there are dimensional restraints for existing buildings.

Chair Clough introduced **ZBA-2025-14: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000-001-002 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot that does not meet the minimum lot size requirements per Article 6.3.2 of the Zoning Regulations.**

He asked to hear from staff.

Mr. Clements stated that the purpose of this application is to allow for the creation of a lot that is .17 acres in size where four acres is normally required. He continued that the rest of the staff report looks identical to the one for ZBA-2025-13. Staff recommends no conditions, if the Board is inclined to approve this request.

Chair Clough asked if the Board had any questions for staff. Hearing none, he asked to hear from the Applicant.

Mr. Lefebvre stated that as mentioned, they are trying to create this small, .17-acre lot, to give the ASC&DC an opportunity to exist. He continued that while most of the applications are repetitive, there are a few points they wanted to make.

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

Mr. Lefebvre stated that the Master Plan aims to promote the stewardship of New Hampshire's resources for recreation and other activities that contribute to the health and quality of life for citizens and visitors. He continued that that is one of the reasons they believe the Variance would observe the spirit of both the Ordinance and the Master Plan.

Mr. Lefebvre continued that he would be happy to read what is written for all the criteria, if the Board wants, but most of it is a repetition of what was in the first application. They can move on to ZBA-2025-18 if they want, and he could point out elements of that application.

Chair Clough asked what staff recommends. Mr. Clements replied that he is split on it. He continued that a part of him thinks the Applicant's rationale for why they think the Variance should be granted needs to be read into the record. Mr. Lefebvre replied that he can do that.

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

Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He continued that the Ordinance's purpose is to ensure public health, safety, and welfare. The minimum lot size provision is required by the Ordinance to manage development, control density, and preserve the character of the area. The existing building on the proposed lot was built in the early 1900s and moved to the Markem-Imaje lot in 1976. The building will remain the only structure on the lot, used for recreational purposes, along with three parking spaces. The lot is being created solely for ownership and liability purposes. Consequently, the creation of this lot will have no impact on public health, welfare, or safety. The ASC&DC aims to promote health, pleasure, and social and mental improvement of its members.

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

Mr. Lefebvre stated that the spirit of the Ordinance is to manage development, control density, and preserve the character of the area. The spirit would be upheld by leaving the property unchanged except for the creation of a new lot for ownership and liability purposes. The proposed relief, to create a lot smaller than the required minimum lot size, will not alter the essential character of the neighborhood; threaten public health, safety, or welfare; or otherwise infringe upon public rights. The Keene Master Plan aims to promote the stewardship of New Hampshire's resources for recreation and other activities that contribute to the health and quality of life for citizens and visitors. For these reasons, they believe the proposed Variance will serve the spirit of the Ordinance and the Master Plan.

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

Mr. Lefebvre stated that granting this Variance serves the interests of substantial justice because it will enable the property owner to transfer a portion of the land to the ASC&DC, which has leased the building since 1976. The property owner would benefit from the relief of tax and liability obligations associated with this parcel. Denying the Variance would provide no corresponding public benefit, as no new development is proposed and there would be no impact on density.

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

Mr. Lefebvre stated that abutters will not experience any substantial change from granting this Variance. He continued that the area of the current recreational squash building will remain the only building on the lot, with three parking spaces. It is their experience that creating a lot while making no improvements to the building or surrounding area will not diminish surrounding properties' 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:*

Mr. Lefebvre stated that the general public purpose of the Ordinance is to manage development, control density, and preserve the character of the area. He continued that literal enforcement of the Ordinance would overlook the fact that this building predates the regulations. Consideration should also be given to the fact that this is a low traffic area. Therefore, this Variance will have no impact on the general public of Keene. For this and the reasons stated above, they believe there is no substantial relationship between the general public purpose and the division of this lot.

and

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

Mr. Lefebvre stated that the proposed use is reasonable, with no substantial changes being made to the existing building or the surrounding land. The creation of the Ordinance after the construction of the building poses a hardship, as the ASC&DC has occupied and enjoyed this building since 1976. The transfer of ownership of this portion of the property will relieve the current owner of liability.

Chair Clough thanked the Applicant and asked if the Board had any questions. Hearing none, he asked for public comment in opposition. Hearing none, he asked for public comment in support. Hearing none, he stated that they will move on to the third application on this subject.

Chair Clough introduced **ZBA-2025-18: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow an indoor recreation/entertainment facility where not permitted per Article 6.3.5 of the Zoning Regulations.**

He asked to hear from staff.

Mr. Clements stated that first, he wants to check in with the members of the public to make sure they are following along. He explained how tonight's process is a little atypical, but they are trying to do it in a way that makes sense. Chair Clough stated that if anyone has questions or needs the process clarified, they can raise their hand at any time and ask questions.

A member of the public who identified herself as Marion on Martin St. stated that they seem to be focusing on the squash court and its three parking spaces, which are in a giant lot of 60 spaces. She continued that her question is what happens with the other parking spaces. Mr. Clements replied that right now, they are only focused on this little portion of the land. The member of the public replied that she understands that but questioned whether one Variance being granted means they all are, and what happens if, for example, they say okay to the squash court and then decide to put something like an Olive Garden in the rest of the parking lot. She wishes she could see the whole picture. She questions whether it sets a precedence for the rest of the city, for their Variances to go back this far.

Mr. Clements replied that a very simple principle with land use decisions is that every case is unique, and every piece of property is unique. Everything is different. A decision that this board makes this evening to grant a Variance does not automatically mean that anyone else with a small squash court in the city gets to have a small lot wherever they want it to be, too, and that this board would have to grant that decision.

The member of the public replied that that is good to know. She continued that she feels like she cannot see the big picture yet. Mr. Clements replied that there are three requests the Board is currently going over, with the goal of creating a small lot for the squash court. If those three applications are granted, that can move forward.

Kyle Gunnell of Martin St. stated that his concern is what would happen if the Board granted the proposal for the small lot, and for the setback, but not for the indoor recreation use, or somehow grants two of the Variances but not the third. Mr. Clements replied that then, the Applicant would be stuck. Mr. Gunnell asked if that would mean the Applicant's plan would not move forward. Mr. Clements replied that their subdivision application to the Planning Board would probably need to be paused, because they would need to re-do the merits of that application based on the change. They might choose to pause it in its entirety to address what did not happen this evening, in an attempt to come up with a way to get the Board to support the request. Mr. Gunnell stated that he does not have an issue with it. He continued that he has lived there for 21 years, and the squash court building is set back and partially obscured by trees, and usually, he does not even know if someone is there. He does not have an issue with the squash court building.

Marian (same woman who spoke before Mr. Gunnell) stated that when they talk about this squash court, she feels like they are trying to make people pay attention to that small portion of the property to take the attention away from the acres and acres of the rest of it. She continued that they say this is a “quiet part of town,” and that is right, but if they make apartments or build buildings that they are not yet talking about, that changes. Sure, this little squash court building is “cute,” but she has concerns about the rest.

Mr. Lefebvre stated that they are looking to subdivide the Markem-Imaje property so that each building can be used by an individual owner. He continued that the uses that are allowed are “industrial park.” If someone wanted to come in and do housing, they would have to come propose that to the ZBA, because that change is not allowed. All they are asking for tonight is for the buildings to be used for what they are allowed for, just industrial. They are not looking for a change. Markem-Imaje is looking for someone to occupy the buildings. They are hoping someone can make use of the property and be able to create jobs for the community. There is no proposal for residential. If someone wanted to create a residential use, they would need to come before the ZBA and explain what they wanted to do and why. In that situation, the public would have merit to express their thoughts. But tonight, that is not what they are asking for. They are only looking to be able to have someone own these buildings separately. There are 246,000 square feet of space, which is a lot. If someone can use, say, 50,000 square feet on that lot where a building is, that is what Markem-Imaje hopes for – that someone will want to come in and purchase that property, to produce a good or do something that is allowed in the district, to be able to utilize the building and do good for the community as this aligns with the Master Plan. They want to see existing properties used to their value. This is a difficult one, with the buildings being built prior to when the regulations were passed. In the next application, they are asking for relief from three regulations. Right now, they are addressing the applications related to this small piece of property for the ASC&DC. In the next three applications, they will be speaking to the whole property, asking for relief from three areas. One is the use, because while it exists on its own as a grandfathered use, once the ownership is changed, they have to ask for a Special Exception. It is an accessory use to this property, where it will be the sole use for this property.

The same member of the public asked if this small area is the opening to everything else. Mr. Lefebvre replied no, this is just to allow history to exist on this property. It was further asked if it is correct that Markem-Imaje wants to sell all the other acreage. Mr. Lefebvre replied no, Markem-Imaje will occupy one of the buildings. He continued that they have two vacant buildings they do not use, and they are trying to make use of them. They tried to get a Variance for the front building before from a woman that approached them to put a bakery in, backed out of the deal. They have had other people approach them about the other space they have, but no one wants to lease; they want to own. The plan is to have someone own the vacant building, make use as allowed by the Industrial District, and have employees park in the parking lot. Mr. Lefebvre indicated the building that Markem-Imaje will occupy, to continue doing the same work they have been doing, and the other building they would sell. He continued that it would be occupied by a use allowed in the Industrial Park, such as a company that makes a product, and has employees and needs a space like this to buy. All Markem-Imaje is looking to do is separate the buildings, ownership-wise.

Mr. Clements stated that he will read what is allowed in the Industrial Park District: office, research and development, daycare, data center, and light industrial. He continued that those are the only permitted uses within the district. Not restaurants, housing, or clubs. Someone wanting to do one of those uses would need to come to the ZBA with their request, as this project is doing regarding the indoor recreation, which will only be allowed on the small lot they propose creating for the squash court.

It was further asked by the same member of the public if it is correct that anyone wanting to do a use not allowed in the district would have to come to the ZBA again. Mr. Clements replied yes, and she and other abutters would be notified again.

Chair Clough stated that they will now return to addressing ZBA-2025-18. He asked to hear from staff.

Mr. Clements stated that the request is to allow for an indoor recreation/entertainment facility use in the Industrial Park for the proposed small lot, which is not normally permitted. He continued that they sort of got into the rationale. The squash court was considered an accessory use to the principal use, which was the Markem-Imaje campus. As it existed legally as part of that larger property, the act of creating its own lot brings into question what the principal use of that lot will be. The answer is, a squash court, which is not allowed in the Industrial Park, so the Applicant needs the use Variance to allow for the “indoor recreation/entertainment facility,” which is the category a squash court would fall within.

Chair Clough asked to hear from the Applicant.

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

Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He continued that the Ordinance is in place to ensure public health, safety, and welfare. The current use provision is required by the Ordinance to ensure land is used for its intended and appropriate purposes. The existing building on the proposed lot was built in the early 1900s and moved to the Markem-Imaje lot in 1976. This building will remain the only structure on the lot and continue to be used for recreational purposes. The lot being created solely for ownership and liability purposes. Consequently, the creation of this lot will have no impact on public health, safety, or welfare. The ASC&DC aims to promote health, pleasure, and social and mental improvement of its members.

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

Mr. Lefebvre stated that the spirit of the Ordinance is ensuring that land is being used for its intended purposes. He continued that the spirit will be upheld by leaving the property unchanged except for the creation of a new lot for ownership and liability purposes. The proposed relief to be able to use the property for recreational purposes will not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise infringe upon public rights. The Keene Master Plan aims to promote the stewardship of New Hampshire’s resources for recreation and other activities that contribute to the health and quality of life for citizens and

visitors. For these reasons, they believe the proposed Variance will observe the spirit of both the Ordinance and the Master Plan.

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

Mr. Lefebvre stated that granting this Variance serves the interest of substantial justice. He continued that it would enable the property owner to transfer a portion of the land to the ASC&DC, which has leased the building since 1976. The property owner would benefit from the relief of tax and liability obligations associated with this parcel. Denying the Variance would provide no corresponding public benefit, as no new development is proposed and there would be no impact on density.

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

Mr. Lefebvre stated that the abutters will not experience any substantial change from granting this Variance. He continued that the area of the current recreational squash building will remain the only building on the lot, with three parking spaces. It is their experience that creating a lot while making no improvements to the building or surrounding area will not diminish the surrounding properties' 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:*

Mr. Lefebvre stated that the general public purpose of the Ordinance is to ensure that land is used for its intended and appropriate purposes. He continued that literal enforcement of the Ordinance would overlook the fact that this building, along with its use and location, predate the Zoning regulations where relief is being sought. Consideration should also be given to the fact that this is a low traffic area, and therefore, this Variance will have no impact on the general public of Keene. For this and the reasons stated above, they believe there is no substantial relationship between the general public purpose and the division of this lot.

Mr. Schrantz stated that the request is to give sort of a broad category to the parcel, with regards to indoor recreation. He continued that his thinking is to put a restriction on it so it can only be used as a squash court, as it has been for about 50 years, versus giving it the opportunity to become something else if it is sold to someone else. Then, "indoor recreation" would be much more flexible, and they do not know what it might become. He asked Mr. Lefebvre to speak to the long-term intended use.

Mr. Lefebvre replied that given the building's setback on the property, because they are proposing such a small lot, there is no room to expand. He continued that if anyone wanted to make changes

and expand, they would need to go to the Planning Board for a change of use, if doing anything beyond the squash court for recreational purposes. Right now, it is a “glorified shed.” It is a beautiful building, but it is hard to think of it as more than it is – you open the door, and there are squash courts. The intended use is for the squash court to continue. It is a historical part of Keene. The ASC&DC can have this as their own property, their own taxes. One would be hard pressed to try and do something different with it in the future. They would have to deal with a couple rooms to try and do something recreational, and he does not see how, especially with only three parking lots. The proposal is not for a big parking lot, leaving room for expansion, or anything like that. The proposal is to give the ASC&DC what is necessary to preserve what is there.

Chair Clough asked if there were any further questions from the Board. Hearing none, he asked for public comment.

Vaughan Hennum stated that he has been President of the ASC&DC for about 12 years. He continued that the club is unique. It was a Sears building, built in 1915 where the current TD Bank is. Then, it was moved, and from 1976, if you were to come by to the club, members would be happy to show you pictures of how the club building moved down Main St. with all the wires removed, and up Optical Ave., to its current location. It is the oldest freestanding squash court in North America. It is an exceptional asset for Keene. The ASC&DC looks forward to having its home entirely. They appreciate the ZBA’s consideration.

Chair Clough asked for further public comment. Hearing none, he closed the public hearing and asked the Board to deliberate on ZBA-2025-13. He continued that this is dealing with the setback. He asked for the Board’s comments.

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

Mr. Burke stated that he thinks it meets this criterion. He continued that the current use will be the future use of the current property, and it already does not meet the setback requirements. Chair Clough replied yes, and the building is already there, so they cannot change much of that.

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

Chair Clough asked if the Board had comments.

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

(Minute taker note: no comments).

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

Chair Clough stated that he does not see any issue with this.

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.

Chair Clough stated that it is a unique property, and you cannot really make use of the building in any other way. He continued that he drove by the building and actually missed it the first time because it was so hidden by trees. It is obvious that there is no parking on that lot at the moment. You would have to park across the street in the big parking lot that was noted before.

Mr. Lefebvre replied that regarding the three parking spaces he mentioned before are on gravel, in front of the building. (Minute taker note: the public hearing was technically closed when Mr. Lefebvre made this comment).

Chair Clough replied that they really need their own designated parking, so that made sense to him, too.

Chair Clough asked if there were further comments. Hearing none, he asked for a motion to approve.

Mr. Burke made a motion to approve ZBA-2025-13 for the Variance to allow a 37.8-foot rear setback where 50 feet is normally required, for property located at 150 Congress St., Tax Map #598-002-000-001-002 as shown in the plan titled "Zoning Board of Adjustment Exhibit" dated August 15, 2025, at a scale of 1" = 100', prepared by Fieldstone Land Use Consultants in the application and supporting materials received on August 15, 2025, with no conditions. Mr. LeRoy seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

3. Granting the Variance would do substantial justice.

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

The motion to approve ZBA-2025-13 passed unanimously.

Chair Clough asked the Board to deliberate on ZBA-2025-14. He continued that this is the Variance to allow a lot that does not meet the minimum lot size requirements.

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

Chair Clough stated that the key thing he noticed in the presentation is the sliver of property in question is already delineated by existing roadways. That is what is creating that. Otherwise, they would have to be changing a road. Since the usage seems to have so few people, expanding for more parking does not seem to be needed. Even though it is highly unusual that it is such a small lot, the placement of the building is almost in the middle of the sliver. If it were on an end, maybe they could do more with it, but that actually limits what can be done with the space, also. From his perspective, granting the Variance is not contrary to the public interest.

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

Chair Clough stated that he concurs with that.

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

Chair Clough stated that it is already in use for what it is. He continued that they are not asking for more parking, and in fact, across the street there is a lot of parking they are trying to separate it from. If anything, this will maintain the smaller usage it seems to have already.

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

(Minute taker note: no comments).

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.*

Chair Clough stated that he thinks they agree that this has been in existence and that it has been a secondary use, not a primary use, but if they are going to split it off, it is of sufficient size. He continued that it actually prevents somebody from doing something bigger there. It would be very difficult to put a bowling alley in, for example, even though that would be covered. It must be one of the smallest squash courts. That is why three parking spaces are sufficient.

and

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

(Minute taker note: no comments).

Mr. LeRoy made a motion to approve ZBA-2025-14 for a Variance to allow a .17-acre lot where four acres is normally required, for property located at 150 Congress St., Tax Map #598-002-000-001-002, as shown in the plan titled “Zoning Board of Adjustment Exhibit,” dated August 15, 2025, at a scale of 1”=100’, prepared by Fieldstone Land Use Consultants and in the application and supporting materials received on August 15, 2025, with no conditions. Mr. Burke seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

- 5. Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

ii. The proposed use is a reasonable one.

Met with a vote of 5-0.

The motion to approve ZBA-2025-14 passed unanimously.

Chair Clough asked the Board to deliberate on ZBA-2025-18. He continued that as a reminder; it is to allow an “indoor recreation/entertainment facility” where not permitted by the Zoning regulations.

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

Mr. Burke stated that he does not think it would be contrary to the public interest. He continued that he likes Mr. Schrantz’s recommendation of maybe a condition allowing only the squash court as part of the motion to approve. That way, it preserves the use as it is and would not allow anyone else to come in and use the “indoor recreation/entertainment” idea for any other use in the future. Chair Clough replied that that sounds reasonable.

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

Chair Clough asked how the Board feels about this. He asked if they are pretty much in line. (Minute taker note: no verbal responses).

3. Granting the Variance would do substantial justice.

(Minute taker note: No comments).

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

Chair Clough stated that it has not diminished the values of surrounding properties in all these years, so he thinks it is safe to continue.

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.

Chair Clough stated that if the Ordinance provision were enforced, he does not know what this piece of property could be used for. He continued that it does not seem to have any other use.

Mr. Schrantz stated that he needs Mr. Clements's help with the wording of the motion. He continued that based on tonight's conversation, he thinks the Board wants to restrict the use on the property to the use of the squash court. He asked how to state that correctly. Mr. Clements replied they could say, "With the following condition: the recreation use shall be limited to squash." He continued that his only concern, although this might sound pedantic, is that it might restrict it too much, in the sense that it would disallow other racquet sports like pickleball. He asked Mr. Guyot for suggested wording. Mr. Guyot replied that they could say, "squash and related racquet sports," or something to that effect. He continued that squash courts are unique in size and structure, based on the nature of the game. Potentially, it could be converted to a handball court, but probably the dimensions are not right for it to be used for tennis or pickleball. Trying to be fair to the Applicant and keep the theme of what they are trying to accomplish here, maybe "squash and related racquet sports" would work.

Mr. Clements asked Mr. Lefebvre if he thinks they are splitting hairs for no reason. He asked if it is fair to say this will never be anything else. He does not want to tie the ASC&DC's hands here unnecessarily. For example, if people play a game other than squash in the building, it is not like someone is going to come enforce it.

Randall Lake of 73 Dunn Rd. stated that the squash court is wall to wall. He continued that it is a little different than a regular-sized squash court, as it was made for hardball squash, which is old. There is nothing else you can do with the building. It is not big enough for pickleball, and it is a different size than handball. Racquetball uses a slightly different size court but is similar to squash.

Chair Clough asked if they should then just let it ride the way it is. Mr. Lefebvre replied yes, and if someone wanted to change the use, they would have to come back to the Board.

Mr. Schrantz stated that "indoor recreation/entertainment facility" sounds broad, which is why they were restricting it to squash, so someone cannot come in and create an entertainment facility there next to the neighborhood. Mr. Clements replied that he will read the definition: "*A facility for spectator and participatory uses conducted within an enclosed building, including but not limited to movie theaters, live performance venues, nightclubs, indoor sports arenas, bowling alleys, skating centers, physical adventure facilities, and pool halls.*" Mr. Lefebvre replied that you would not be able to pull any of those off, especially with no parking. He continued that with the setbacks the way they are, they have limited the building to nothing. No expansion. Mr. Clements replied that on the other hand, you could probably throw some billiard tables in there and convert it to a very different use. Raves in random places are no longer a common occurrence, but "nightclub," who knows. Maybe they should limit it to "racquet sports."

Mr. Schrantz made a motion to approve ZBA-2025-18, for a Variance to allow a Recreation/Entertainment Facility – indoor use when the use is not normally permitted for property located at 150 Congress St., Tax Map # 598-002-000-001-002, as shown in the plan titled "Zoning Board of Adjustment Exhibit" dated August 15, 2025, at a scale of 1" = 100',

prepared by Fieldstone Land Use Consultants and in the application and supporting materials received on September 5, 2025, with the condition that racquet sports are the only allowed use. Mr. Guyot seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

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

Met with a vote of 5-0.

The motion to approve ZBA-2025-18 with the condition passed unanimously.

Chair Clough called for a five-minute recess and called the meeting back to order at 8:00 PM.

E) CONTINUED ZBA-2025-15: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot that does not meet the parking surface requirements per Article 9.4.2 of the Zoning Regulations.

Chair Clough introduced ZBA-2025-15 and asked to hear from staff.

Mr. Clements stated that this request is related to the parking lot setback requirements within Article 9 of the Zoning Regulations. Within Article 9 is Table 9-2, which is included in the staff report. Table 9-2 requires a certain amount of a green space “collar” around parking areas, based on the size of the parking lot. Parking lots of less than 10,000 square feet are required to have 8-foot front, side, and rear green space setbacks, and then it moves up from there. For parking lots between 10,000 and 30,000 square feet, it is a 10-foot front setback and 8-foot side setbacks, and for parking lots greater than 30,000 square feet but less than 2 acres, it is a 15-foot front setback and 10-foot side setback. Parking lots greater than 2 acres requires a 20-foot front and 15-foot side and rear setbacks. The Applicant is requesting to have an 8-foot parking lot setback where 10 feet is normally required. He will let the Applicant explain that in greater detail.

Mr. Lefebvre stated that he thanks the Board for granting the Variances related to the ASC&DC, and he knows it will make the ASC&DC very happy. He continued that regarding the remaining property of Markem-Imaje, it would be great to be able to make use of these properties. Markem-Imaje has been approached by several people, but no one wants to lease. They want these buildings to have some use. What they are trying to propose is to make best use of the property. The Industrial Park is limited. It is challenging to determine how to subdivide these buildings, since they are existing – the only way to bring them into conformance would be to take them down. Similarly, they have issues with the parking lots. While they would like to maintain every dimensional requirement, they simply cannot. They did their best to only ask for Variances they felt they were necessities. One is the parking. On the rear of the property, if they move the property line two more feet, it sounds incidental, it gets closer to the building and creates a greater restriction. They are trying to put the division line more in the middle of the two buildings, trying to divide what is there. To them, parking is incidental. Regarding the goal of having that 10-foot setback, his thoughts are that when there is a main road, they want to make sure they are set back far enough. With a property on which new construction is proposed, they want to ensure the neighbors are not violated. In this circumstance, all the infrastructure exists. They are asking for three separate Variances to subdivide the property. The first is the parking. The setback, 8 feet versus 10, is because they are looking at the bigger picture with the buildings involved.

Mr. Lefebvre asked if the Board had any questions before he went through the criteria. Mr. Schrantz replied that he understands what the Applicant is trying to do here. He continued that first, he has a question for Mr. Clements. From a process standpoint, the properties have not been subdivided yet, but they are trying to grant these Variances on properties that have not been subdivided. Mr. Lefebvre replied that they cannot go to the Planning Board and propose violations. He continued that when the Planning Board says, “You do not meet requirements,” they have to say, “We have permission to not meet those requirements.” Thus, they have to come to the ZBA before the Planning Board. Mr. Clements replied that it is interesting that Mr. Schrantz asked that question, because this very question is being discussed in the email listserv for Planners that he is a member of. He continued that statute lets you do it either way. Keene’s practice is to not let applications go to the Planning Board until they have their Zoning squared away. In this case, just like the Applicant just said, they will go to the Planning Board – if the ZBA grants these Variances – with their special permissions in hand. Then, the Planning Board

can look, note the deviations from the Zoning Ordinance, and know that it has already been addressed by the ZBA, so they can approve the subdivision as long as it meets all the other criteria. If the ZBA grants the Variances tonight and something happens and the subdivision changes, those Variances are not necessarily valid anymore. It is a hand-in-hand process. They would reevaluate, to determine whether it was a minor tweak and the spirit of this approval was still maintained, and if it is not, the Applicant might have to come back for changes, new Variances, to adjust. The process is correct, for the Applicant to come to the ZBA first and then the Planning Board.

Mr. Schrantz thanked Mr. Clements for the explanation. He continued that that was his confusion, what would happen if, say, they grant this Variance, but then something changes on the application to the Planning Board. His question was whether there is a stop gap measure to prevent that Variance sitting with the land going forward. Mr. Clements replied yes, if nothing happened, like if Markem-Imaje got their Variances and then completely changed their mind and decided not to subdivide, and to just give the ASC&DC their little lot and keep the Markem-Imaje campus whole, the Variances would just time out in two years of not being acted upon. These Variances are very much related to the subdivision plan that is part of the application materials for these Variances, and which is in the queue for the Planning Board. That is part of why the approval motion language refers specifically to those materials. Thus, if things change, and the Applicant comes in with new materials, it is clear that it is not what they received a Variance for. That is protection in the process.

Chair Clough stated that Mr. Lefebvre can go through the criteria, addressing each one briefly, since the Board has to vote on each criterion. He continued that the Board can proceed with each application individually.

Mr. Lefebvre stated that as he mentioned, they looked at this as a whole, because the first time that Markem-Imaje tried to do something with the property, it was disappointing to see that the person of interest (did not follow through) and it was all for nothing. He continued that this opens the door for opportunity, so if someone wants one building or the other building, they can do it. Everything is in place, like utility separations, for this to work well. The only problem is that when subdividing this, they want the parking lot to stay with the building, but taking the dimensional requirements literally does not allow for that. They would have to pull the parking lot that has been in existence or remove part of a building.

Mr. Lefebvre continued that there are three more applications tonight. This first one is for parking. They were looking more at the building separation than at parking. Rather than having a bunch of jig jogs around stuff and removing some pavement, this is what is in place. It is an incidental request, when you look at it as a whole, especially when you look at the dimensional requirements. The lot line they are creating and the separation to the parking lot is internal. The public will not see it unless they physically come onto the property, and they would not know the difference between the two properties.

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

Mr. Lefebvre stated that they do not believe it conflicts with the public interest. He continued that the primary purpose of the parking setback deals with proposed development, visual properties, and does not necessarily deal with structures that predate the Ordinance.

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

Mr. Lefebvre stated that the spirit of the Ordinance is to ensure parking lots are not adjacent across from roads or properties to guarantee visual appeal. He continued that if someone buys this property, they are buying it with that setback in place. There is no room for someone to come in and do something. They are solely asking for what is existing.

Mr. Lefebvre stated that he could read through the rest of the criteria, but essentially, it speaks to the fact that they have existing improvements and are trying to do the best they can to separate the properties to make use of them, just as the Master Plan asks for. The Master Plan says it would like to see properties being used. The industrial zone is small. The incidental parking setback is what they are asking for.

Mr. Schrantz stated that Mr. Lefebvre talked about jigs and jags in the property line. He continued that on page 102 of the packet of information, in between proposed lot 2.2 and 2.3, there is a red line that goes through the median. He thinks that is where the setback question is. He asked Mr. Lefebvre to help them understand why they did not just move the property line two feet to the right, where it looks like it could be in the median.

Mr. Lefebvre replied that they are trying to have the parking lot go along the fence line that exists and already separates the properties. Indicating on the plans, he showed the loading dock that they want to own and showed the area that would be easement to access it. He continued that after that is the parking lot where there will be some snow plowing, and they want to be able to have and maintain that area. Thus, they went along the fence line. It was about trying to make as few jogs as possible for the improvements that exist. Where the line is proposed, there is a parking lot and fence there.

Mr. Clements stated that to conform with the regulation, they would have to rip out two feet of the parking lot, and then they would eliminate all those parking spaces along that part of the parking lot. Mr. Lefebvre replied that they are trying to make sure the area that Markem-Imaje is utilizing for snow storage is still part of the parking lot. Right after that they have the property. They have to come up to the loading dock. It would be very hard for someone to maintain jigs and jogs. They want it to be the most pleasant separation of the properties, with any necessity such as utilities dealt with as a blanket easement or easements where required. They want the improvements relative to that building to exist with the least amount of jigs, jogs, and angle points.

Chair Clough asked if there were further questions. He asked if the Board feels that they have enough information to deliberate and vote. He closed the public hearing and asked the Board to deliberate on the criteria.

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

Chair Clough stated that seeing as it is contained away from the public in the first place, it does not seem that there would be any impact whatsoever to the public. Mr. Guyot replied that he agrees. He continued that this is in the Applicant's private space, and the public would not see it.

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

Chair Clough stated that regarding the difference of a couple of feet in this particular instance, if they force the Applicant to do it, it would make the parcels unattractive to someone wishing to buy one, as opposed to parcels that make sense to people and they can see, "I can approach and go right to here." Even though it is a slight deviation from what the Zoning asks for.

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

Chair Clough stated that he thinks they are following the path of established construction and altering that construction just to conform to Zoning would not be justice, in his opinion. He continued that that would almost be spiteful.

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

Chair Clough stated that it should have no effect on surrounding properties.

5. *Unnecessary Hardship*

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

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

Chair Clough stated that again, they are making use of existing lines. He continued that if it were a blank slate, they could do a lot more with it, but when things are existing, that creates a special condition. This criterion is always the hardest one to vote on, but in this case, if you do not want someone to have to alter a building or alter parking or access points, that can create an unnecessary hardship.

and

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

(Minute taker note: no comments).

Mr. Burke made a motion to approve ZBA-2025-15 for the Variance to allow 8-foot parking lot surface setback where 10 feet is normally required, for property located at 150 Congress St., Tax Map # 598-002-000-001-002, as shown in the plan titled "Zoning Board of Adjustment Exhibit" dated August 15, 2025, at a scale of 1" = 100', prepared by Fieldstone Lane Use Consultants and

in the application and supporting materials received on August 15, 2025, with no conditions. Mr. Guyot seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

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

Met with a vote of 5-0.

The motion to approve ZBA-2025-15 passed unanimously.

F) CONTINUED ZBA-2025-16: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot that does not meet the minimum lot size requirements per Article 6.3.2 of the Zoning Regulations.

Chair Clough introduced ZBA-2025-16 and asked to hear from staff.

Mr. Clements stated that the purpose of this application is to seek a Variance to allow for a lot that is 3.52 acres in size where four acres is normally required.

Chair Clough asked if there were any questions for Mr. Clements. Hearing none, he asked to hear from the Applicant.

Mr. Lefebvre stated that as mentioned previously, you can see where Markem-Imaje tried to create these lots. Indicating on the plan, he stated that the parking lot is the main entrance for the building. They belong together. The other parking lot belongs with the other building. It comes down to a point where another parking lot belongs to another building. They are really chasing lot lines with existing features, and to meet the dimensional requirements, they would have to move them and ask for a Variance for setbacks, and they would have to remove parking. This lot on the northeast side, too, has as much as it can without interfering with the existing improvements relative to other buildings.

Chair Clough asked if there was anything unique about the criteria for this application that Mr. Lefebvre wants to point out, for the Board to discuss. Mr. Lefebvre replied that he could read the criteria again. He continued that he is stuck with the task of trying to find the best and most appropriate boundary lines for a 31-acre parcel that now wants to be separated and has existing features. He believes the proposal captures the improvements for each one of the buildings, their parking lots, and associated necessities. They just cannot quite make it. Thus, they are asking for 3.5 acres where four acres is the requirement.

Chair Clough asked if the Board had any questions. Hearing none, he stated that it seems clear to him. He does not see anyone from the public here to speak in support or opposition, so they will close the public hearing. He asked the Board to deliberate.

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

Chair Clough stated that he does not think trying to enforce a four-acre lot would change the usage ability here. He continued that it is not like adding another half acre would suddenly give the ability to build some sort of additional industrial space, or anything like that, but he is willing to hear from others. He continued that it looks like the other Board members concur.

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

Chair Clough stated that he thinks it is close enough. He continued that it is 80% of what would be expected for an industrial site. Especially with how things downsize, he thinks it would still be attractive for someone to move into. Three and a half acres would be fairly good. He asked if the rest of the Board members are good with this criterion.

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

Chair Clough stated that it is following the lines that are already established by existing utilities, buildings, and parking. He continued that trying to alter that would not improve any functionality

that he can see, and it is not in a place where the public would notice at all if it were changed. Thus, he thinks it is doing justice there. Mr. Guyot replied that he agrees.

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

Chair Clough stated that probably no one else would even notice, at all.

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.*

Chair Clough stated that that is pretty much what all of the other things led up to. He continued that it would be ridiculous to try to enforce the Ordinance provision for this piece, when there is no benefit to the public and it would just be a hardship for the owner to try and make this work. It would potentially mess up two or three other parts of the parcel. Mr. Guyot stated that he agrees.

Mr. Schrantz made a motion to approve ZBA-2025-16, for the Variance to allow a 3.52-acre lot where four acres are normally required, for property located at 150 Congress St., Tax Map #598-002-000-001-002, as shown in the plan titled "Zoning Board of Adjustment Exhibit" dated August 15, 2025, at a scale of 1" = 100', prepared by Fieldstone Land Use Consultants and in the application and supporting materials received on August 15, 2025, with no conditions. Mr. LeRoy seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

ii. The proposed use is a reasonable one.

Met with a vote of 5-0.

The motion to approve ZBA-2025-16 passed unanimously.

G) CONTINUED ZBA-2025-17: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow a lot where the building currently encroaches approximately four feet into the 30-foot side setback line on the southwesterly corner per Article 6.3.2 of the Zoning Regulations.

Chair Clough introduced ZBA-2025-17 and asked to hear from staff.

Mr. Clements stated that this is another example of what they have been discussing all evening. He continued that regarding a southwestern corner of one of the buildings, with the way the property line is being proposed to be drawn, it just sneaks into that setback, less than five feet. Thus, the Applicant is requesting a setback of 25.93 feet where 30 feet is normally required.

Chair Clough asked to hear from the Applicant.

Mr. Lefebvre stated that there are two existing buildings, and they propose lot lines, and if they do not have 30 feet between them it is hard to meet that requirement. He continued that they want to divide it, and simply do not have the room, so they are here tonight seeking relief.

Chair Clough asked Mr. Lefebvre to show on the map where this is. Mr. Lefebvre did so. He stated that in these two spots, they do not have the room between the buildings. If they put the lot line "here," one lot meets the requirements and the other does not. There is not 30 feet here. It is one application; it is the same building. They just cannot propose a line because they do not have the room.

Mr. Guyot asked if it is correct that that is the proposed reason – the proposed lot line is not a straight line because of the existing infrastructure. Mr. Lefebvre replied that it is simply because they need 30 feet between buildings in order to meet the 15-foot requirement and they do not have

30 feet, so no matter where they put the line, they will not get it. He continued that they did the best they could with what they had.

Mr. Guyot asked if it is safe to say that if they corrected the encroachment on the setback for this building, they would have an issue on the other building. Mr. Lefebvre replied yes, the only way to correct the situation would be to remove a building that exists. Mr. Guyot replied that that is not practical.

Chair Clough asked if there is anything else unique to this application as opposed to the other ones. Mr. Lefebvre replied no, they are essentially chasing around existing features, looking at requirements, and they simply cannot subdivide it without relief. They are trying to separate ownership and there is no way to do it unless they request Variances.

Chair Clough stated that this particular one they are asking for is, if not in the center, well away from any public thoroughfare. He continued that it would be difficult for the public to even notice this. Mr. Lefebvre replied that is correct. He continued that the two buildings are existing, and the only division that anyone will see is that one building is owned by someone different than the owner of the other building, but all the site features are the same. No one will notice this. No one will be buying a property not knowing what they are getting into. They are creating these lots, doing the best they can with the onsite features. The only way to subdivide this property is to seek relief. There just is not enough room.

Chair Clough asked if there were questions for Mr. Lefebvre. Hearing none, and seeing no members of the public present, he closed the public hearing and asked the Board to deliberate.

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

Chair Clough asked if the Board had thoughts on the first criterion. Mr. LeRoy stated that he has no issues with it. Chair Clough stated that he does not see an issue with it. He continued that no members of the public are present showing any interest in this, and given the location and the small amount that this deviates from the normal zoning, someone would have to be quite eagle-eyed to even notice that the buildings are a little too close together.

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

Chair Clough stated that he does not think anything about this Variance would cause heart palpitations because it was asking to go off the normal course of things. He continued that it seems like just a small deviation, not something asking for something significant.

3. Granting the Variance would do substantial justice.

Mr. Guyot stated that he believes the Variance would do substantial justice because it allows the subdivision to move forward. Chair Clough replied that he agrees. He continued that as stated earlier in their deliberations and from the public, regarding another application, if one thing scuttles this, it scuttles everything, because the applications are tied together. He thinks it would

do justice, because everything is harmonious, in terms of the attempt to do this subdivision. If they forced one thing out it would have a ripple effect on everything else.

Mr. LeRoy asked if this is pre-emptive to market these properties, or if sales are contingent upon these subdivisions. Mr. Lefebvre replied that there is nothing contingent upon. He continued that there was something that was contingent the last time Markem-Imaje came to the Board. Someone had approached them with a realistic goal, and they invested a lot of money in it, and it went nowhere. Markem-Imaje is still looking to do something with these buildings. A few people have shown interest, but no one wants to lease; anyone who wants to invest money into the property wants to own it. The intention is to give Markem-Imaje an opportunity to use what they use and let other people use what Markem-Imaje does not use. This is a great opportunity for these vacant buildings to be used and allow for jobs and opportunities. He thinks everything aligns with the Master Plan. No, they do not have anything now, but they hope the plans they drew up are attractive enough to get people to come in and want to use this and see the opportunity. The Industrial Park is limited, so this does allow for some opportunity.

Chair Clough stated that for the record, they paused deliberations for a moment to get that information.

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

Chair Clough stated that surrounding properties are fine. He continued that he thinks the Board is fine with this criterion.

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.*

Chair Clough stated that he sees people nodding. Mr. Schrantz stated that clearly; to accomplish the subdivision, you would need to move a building or take down a portion of a building, and that seems like a substantial hardship at this point.

Chair Clough replied yes, it is much more attractive (to have this Variance) so they can say, “The building’s all there. All you have to do is move in.”

Mr. Guyot made a motion to approve ZBA-2025-17 for the Variance to allow a 25.93-foot setback where 30 feet is normally required for property located at 150 Congress St., Tax Map #598-002-000-001-002, as shown in the plan titled “Zoning Board of Adjustment Exhibit” dated August 15, 2025, at a scale of 1” = 100’, prepared by Fieldstone Land Use Consultants and in the

application and supporting materials dated August 15, 2025, with no conditions. Mr. LeRoy seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

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

Met with a vote of 5-0.

The motion to approve ZBA-2025-17 passed unanimously.

V) New Business

A) Rules of Procedure Updates

VI) Staff Updates

Mr. Clements stated that he and Corinne Marcou, Zoning Clerk, are working on amending the ZBA's Rules of Procedure. He continued that one of the changes is to clarify what happens when an alternate is asked to sit in on an application and that application is then continued to subsequent meetings. A situation like that recently happened with the Planning Board, so the Planning Board is updating their Rules of Procedure, and staff wanted to update the ZBA's Rules

of Procedure, too, so it is clear. If an alternate is asked to sit in on an application as a voting member, they will follow that application for its duration. If it gets continued to the next meeting and the regular member, who was previously absent attends that next meeting, they will still be able to sit and deliberate, but their voting right has been transferred to the alternate who has seen that application through in its entirety. That is a simple addition to the Rules of Procedure.

Mr. Clements continued that he noticed a strike-through from a previous update that was never removed from the Rules of Procedure, so he will clean that up. There are a few more small tweaks like that. The one substantive change will be the application timeline, which is to prevent the need for him to write seven staff reports in a week, like what happened with this bucket of applications. They will change when the application deadline is and when the Board packet needs to go out, which will buy him about a week and a half of extra time to look at everything and give better staff reports. Thus, when there are months with six to eight applications, it is a little more controlled.

Mr. Clements continued that the way the process works is staff introduces the Rules of Procedure changes in one meeting, and then the Board votes on the changes at the next meeting. It is unclear whether the Board needs to have the draft changes in writing for that first meeting, or if just talking about it in public is enough. At the next meeting, they might vote on it, or he might give the Board the draft changes in writing and that will count as the first meeting, with the vote to follow in December.

Chair Clough thanked Mr. Clements and asked if there was anything else. Mr. Clements replied that the new Master Plan is officially adopted. He continued that they are no longer working with the 2010 Master Plan; they are now working with the 2025 Master Plan. That is on the website. They will make a few print copies to have on the fourth floor, if anyone wants to look at it that way. That whole process took about two years, and it is “the end of the beginning.” There is a strong push to continue the collaborative, community-building work that the project started. They will potentially create task groups to target some of the goals that have been articulated in a meaningful way.

VII) Communications and Miscellaneous

VIII) Non-Public Session (if required)

IX) Adjournment

There being no further business, Chair Clough adjourned the meeting at 8:45 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Board Clerk