



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, June 23, 2021
Belmont Mill and Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members David Dunham, Mark Mastenbrook and Sharon Ciampi; Alternate Member John Froumy.
Staff: Dari Sassan and Colleen Akerman.
Zoom: Andrea Lubiens.

The Chairman opened the meeting at 6 pm and welcomed those in attendance. He apologized for having a “short board” last month.

1. Abutter’s Hearing – Tracey LeClair: Continuation of a request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (chickens) in an “RS” zone on a lot less than 3 acres. Property is located at 321 Brown Hill Road, Tax Lot 229-061-000-000, ZBA #1521Z.

D. Dunham recused himself from this application. Alternate Member J. Froumy was appointed for this application.

Members M. Mastenbrook, S. Ciampi, N. Patten and Alternate Member J. Froumy viewed the site.

The Chairman stated the application does meet the criteria for a Special Exception, it is not within the Aquifer Protection District and an NHDES Shoreland Permit is not required.

The chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: M. Mastenbrook moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

The Chairman noted there were no comments or concerns from the Departmental Responses.

The Chairman read from the Staff Comments: “The request qualifies for Special Exception approval, as the applicant has demonstrated that the following criteria will be satisfied:

- a. Animal buildings, keeping areas and waste material storage areas shall be a minimum of 50' from all property lines, wells, water bodies and wetlands areas. Grazing areas are not subject to the 50' setback, but animals shall be prevented from accessing wetlands and water bodies.
- b. All grazing and keeping areas shall be adequately fenced to contain the animals.
- c. Noise and odors should not exceed those levels expected from normal operating procedures following Best Management Practices. No pollution or contamination shall result from surface water runoff.

Siting and operation shall be subject to the application of the NH Department of Agriculture, Markets and Food Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, dated April 2002, as amended. The applicant stated in her application she will not sell eggs, she will not have roosters and the chickens will be kept in a fenced area.”

Ms. Tracey LeClair and Mr. Michael LeClair were present for this application.

The Chairman opened the public hearing.

He said the request seems clear and asked if there were any abutters present. Mr. David Dunham said yes, and he previously provided written support for the request.

J. Froumy asked the LeClairs if they were familiar with the Staff Comments and in agreement with them. Mr. LeClair said yes. M. Mastenbrook confirmed there will be no more than 15 chickens. Ms. LeClair agreed. M. Mastenbrook explained a previous approval for chickens was approved with more land and a maximum of 8 chickens. There is less land, but the number of chickens is doubled. He asked if 15 are needed, or could they do less. Mr. LeClair said they are comfortable with a maximum of 15 chickens. M. Mastenbrook asked for confirmation that there will be no roosters. Mr. LeClair said yes, it is stipulated in the conditions.

J. Froumy explained it is important to address the number of chickens, 8 versus 15. He recalled the situation where the applicant asked for 8 chickens. It is important to recognize that while this property is in the RS area, both locations have rural character. A requirement to granting an approval is to consider if the proposal is appropriate for the area. The character is important, not the number of chickens. S. Ciampi asked if part of the decision would be to limit the LeClairs to 15 chickens. J. Froumy said yes, but even if it was not, the fact that it was discussed as part of the hearing means it becomes part of the record, and there is a clause at the end of the motion that everything discussed becomes part of the granting. P. Harris noted if all of the criteria are met, it would be possible to come back for an increased number of chickens if standards are met. S. Ciampi explained that she asked at the last meeting about agricultural limits and found there were none; it falls under the noise ordinance. P. Harris asserted that Best Management Practices are strict. It isn't

easy to put a number in there. As long as complaints don't come in, the LeClairs could add more chickens with the same standards.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

Board's Action – Tracey LeClair:

MOTION: M. Mastenbrook moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (chickens) in an "RS" zone on a lot less than 3 acres as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance Article 5, Table 1.
2. The Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because the number of chickens will be kept to a maximum of 15 hens and the applicant agreed to keep no roosters, which will minimize noise. The applicant is making an effort to minimize the noise and will use Best Management Practices for the keeping of agricultural animals. Manure will be maintained.
4. The proposed location is of adequate size. The lot is 1.24 acres and the ordinance states it is sufficient for the use with Special Exception approval.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The chickens will be kept in a coop and it is not a commercial use so there will be no commercial traffic. There are no safety issues as the chickens will not be free-range chickens.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street because the chickens will be in a coop. There will not be a great amount of water used for them.
7. The proposal does not create excessive demand for municipal services and facilities. The approval is for chickens and it is unlikely any services will be impacted.
8. The proposal does not create hazards to the health, safety or general welfare of the public. The applicant agreed to use Best Management Practices and will not have roosters. The health, safety and general welfare of the public will not be affected.
9. Additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval.
 - C. Required permits, inspections and certificates shall be obtained.
 - D. No roosters are permitted.
 - E. Use shall remain in compliance with the all minimum standards for agricultural animals set forth in Zoning Article 4.J, including that animal

buildings, keeping areas and waste material storage areas shall be a minimum of 50' from all property lines, wells, water bodies and wetlands areas, all grazing and keeping areas shall be adequately fenced to contain the animals, and noise and odors should not exceed those levels expected from normal operating procedures following Best Management Practices.

- F. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

D. Dunham rejoined the Board and J. Froumy stepped down.

2. Abutters' Hearing – Nancy Vanagel for Winnisquam Beach Association: Continuation of a request for two Special Exceptions of Article 4 of the Wetland Ordinance:

- A. To replace a manufactured unit closer (12.6') to the wetlands than allowed (35') but not closer than the existing manufactured unit. ZBA# 1621Z
- B. To construct an addition closer (20') to the wetlands than allowed (35') but not closer than the existing structure. ZBA # 1721Z

Property is located at 8 Donway Drive in an "RS" Zone, Tax Lot 117-015-000-018.

M. Mastenbrook recused himself from this application. Alternate Member J. Froumy was appointed for this application.

Members P. Harris, S. Ciampi, D. Dunham, N. Patten and Alternate Member J. Froumy viewed the site.

The Chairman stated the application meets the Special Exception criteria. Staff calculated the size of the proposed manufactured unit to represent a 28% increase to the existing manufactured unit. The proposed addition structure is the same size as the existing addition structure. The property is located in the Aquifer Protection District and does not require an NHDES Shoreland Permit.

MOTION: N. Patten moved that the proposal does not have a potential regional impact.

The motion was seconded by D. Dunham and carried. (5-0)

The Chairman noted there are no departmental concerns.

Ms. Nancy Vanagel and Mr. Bryan Bailey, LLS were present for this application.

The Chairman opened the public hearing.

Mr. Bailey explained that this application is for an upgrade and to modernize an existing unit in Winnisquam Beach Campground. It is a pre-existing, non-conforming "white elephant". The property at 8 Donway Drive is the main road that leads from Grey Rocks Road, parallel to the power

lines and it is not near the lake. It does not require a Shoreland Permit. There is an existing mobile home, which is a rare occurrence. It was placed during early development from the 1960s to the 1990s. It has been there a while and is no longer sufficient and suitable to serve the needs of the owners. It will be an improvement to upgrade to 2021 standards. There is an existing 14' x 68' mobile home with an attached 10' x 18' enclosed three-season porch. There are no changes to the location of the shed and the attached 4' x 8' lean-to. They are expanding the footprint of the original non-conforming structure but it will not be further into the setback and it does not exceed 40% of the existing structure. The existing structure is 1,132sf and the proposed structure is 1,396sf. A 264sf expansion is a 23.3% expansion.

Mr. Bailey said the request is specifically authorized as a Special Exception and the Special Exception criteria set forth in Ordinance Article 13.F does not apply. It will not be incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because the location is within Winnisquam Beach Campground and all limited common areas are seasonally occupied and acknowledge the primary seasonal use such as camping, and being in close proximity to others. The location is of adequate size because it does not include expanding the original structure's footprint and complies with the allowed use for a nonconforming structure. The proposed location will move away from the wetland setback making the unit more nearly conforming. There are no changes in use. The use now will be the same in the future. There is no expansion in the number of occupants. There will be no additional traffic and no degradation to safety. The unit is located on private roads within the campground. Water and drainage will not be overloaded because the expansion to the footprint is within a gravel area currently used for parking and no additional runoff will result by repositioning in areas that are already disturbed. There is no change in impermeable surfaces, just a minor shuffle within disturbed areas. There is no change in runoff. The proposal will not create excessive municipal demand because there is no change in the use. It will not create hazards because the location is within Winnisquam Beach Campground and not near the exterior limits, near the lake or the roads. There is no public impact. There is no impact to the neighbors either. As identified in the notice, the porch is currently 14' from the wetland and the proposal is 23.9'. The mobile home is 3.6 feet and the proposal is 12.6'. The square footages are within the designated required percentages. The mobile home setback from the road is 32.7' and the proposal is 15'.

P. Harris observed that the Board looks favorably on upgrades for safety and health reasons because there are tight quarters in there. Mr. Bailey said this upgrade will enhance the safety and longevity of the structure. All that is being done is improvements.

The Chairman noted there were no abutters present for this application.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

Board's Action – Nancy Vanagel for Winnisquam Beach Association:

MOTION: N. Patten moved to grant a Special Exception of Article 4 of the Wetland Ordinance to replace a manufactured unit closer (12.6') to the wetlands than allowed (35') but not closer than the existing manufactured unit as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts.
4. The proposed location is of adequate size.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.
7. The proposal does not create excessive demand for municipal services and facilities.
8. The proposal does not create hazards to the health, safety or general welfare of the public.
9. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-018.
 - B. All setbacks certified at the commencement of construction and as may otherwise be required.
 - C. Comply with Aquifer Protection Ordinance.
 - D. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - H. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by D. Dunham and carried. (5-0)

MOTION: N. Patten moved to grant a Special Exception of Article 4 of the Wetland Ordinance to construct an addition closer (20') to the wetlands than allowed (35') but not closer than the existing structure as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts.

4. The proposed location is of adequate size.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.
7. The proposal does not create excessive demand for municipal services and facilities.
8. The proposal does not create hazards to the health, safety or general welfare of the public.
9. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-018.
 - B. All setbacks certified at the commencement of construction and as may otherwise be required.
 - C. Comply with Aquifer Protection Ordinance.
 - D. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - H. Enclosed living area must remain subordinate and accessory to an on-site RV and cannot be used separate from an on-site RV. The combined camping unit shall be operated only as a temporary living quarters for recreation or vacation purposes.
 - I. Approval expires on 06/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by D. Dunham and carried. (5-0)

M. Mastenbrook recused himself from the following (Stanton) application. Alternate Member J. Froumy remained seated on the Board.

3. Abutters' Hearing – Robert Stanton for Mallards Landing Association: Continuation of a request for three Variances of Article 5 Table 2 of the Zoning Ordinance to construct a two-story addition:

- A. Closer (20.9') to a porch (1 Fifth Street) than allowed (30'). ZBA # 1821Z
- B. Closer (17.9') to a shed (1 Fifth Street) than allowed (30') ZBA # 2021Z
- C. Closer (18.8') to a shed (20 Mallards Landing Road) than allowed (30'). ZBA # 1921Z

Property is located at 22 Mallards Landing Road in an “RS” Zone, Tax Lot 110-002-000-129.

The Chairman noted this application meets the criteria for granting a variance. The property is within the Aquifer Protection District and does not require an NHDES Shoreland Permit.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

The Chairman noted there were no departmental responses or concerns.

The Chairman opened the public hearing.

Mr. Robert Stanton was present for this application.

Mr. Stanton explained his proposal to add a 24' x 26' addition as a master bedroom. His son still lives at home to help care for him because he is handicapped and his wife can't take care of him all of the time. Mr. Stanton asserted that he needs the help from his son and has to make more room for his family.

P. Harris asked why Mr. Stanton can't build within the existing setback. Mr. Stanton said there is a shed 6' from the house with a lean-to and he is getting rid of that. The shed and lean-to will be nonexistent in order to accommodate the proposed addition.

J. Froumy asked about the occupied portion of the structure. The addition is going to be a bedroom. This is an occupied structure. What other avenues have been explored? J. Froumy assured Mr. Stanton that the Board does not want to ask questions about a personal issue, but the Board has to look at specific things. There are two things in particular. The first thing is that a variance follows the property. At some point it will not belong to you and the variance stays with the property, not the person applying for the variance. The second thing is that the law doesn't permit variances to be allowed on the premise of personal hardship. If a new structure is built and there is a cliff or a pond, the hardship is created by the character of the land itself. The hardship Mr. Stanton described can't be a reason for granting. Reasons not to grant a variance are that it creates some public safety issue. If it is against another building, that would be a reason not to grant it. To get to the point of Mr. Stanton's specific situation, and with the knowledge of what was said before, the concern is congestion. There is a lot going on with structures. There have been a number of applications for Mallards Landing. Some are granted and some are not. The concerns are safety and emergency services in the event of a fire. There is concern about getting emergency services to the back or side of the building. There was discussion between Mr. Stanton and J. Froumy about the distance of the shed. They agreed that the distance is a little less than 17.9 feet.

J. Froumy asked Mr. Stanton what his feelings are about it being that close and what if emergency services can't get to the back of the house. Mr. Stanton replied that they can get there from Fifth Street or Mallards Landing Road. There was an incident there years ago and there was no problem with them helping him. Everyone's sheds are close to their own personal house, but he is getting rid of his shed.

J. Froumy asked about the size of the house, 24' x 40', and how many bedrooms it will have. Mr. Stanton said there are three bedrooms now and this proposal will add one bedroom. J. Froumy stated the application is for a two-story addition, but will only have one bedroom in the addition. Mr. Stanton explained the downstairs will be storage and a laundry room. There will be a bathroom added upstairs. Mr. Stanton said when his house was originally built it could not be more than 16' high according to Mallards Landing's rules. Now the height can be 18' 6" to make things efficient for decent living. The shed that is 17.9' away belongs to a neighbor. The shed to be removed is in the center of the plan.

S. Ciampi asked if the house is currently one story or two. Mr. Stanton said it is 1 and ½ stories. Photos were shown to S. Ciampi as she did not view the site due to trespassing concerns. Mr. Stanton said they are gaining more room with the proposal because the lean-to will be gone. S. Ciampi confirmed the addition will have a master bedroom and bathroom upstairs.

J. Froumy said he did not walk around the building and asked Mr. Stanton if he has propane and how he heats his home. Mr. Stanton replied there are no propane tanks and the kerosene will be moved inside. S. Ciampi noted there was a fire in 1998. Mr. Stanton responded that there was no problem with access at that time but the home was under construction.

The Chairman noted there were no abutters or members of the public present for this application and closed the public hearing.

P. Harris spoke of the long-time concern about this location moving from a campground to full-fledged living. The Board tries to control the health, safety and welfare and looks at impacts to the area and safety. In Alton there was a property with a fire where there were multiple sheds which likely contained lawn mowers and fuel. It is difficult to not feel responsible when the Board looks at a proposal. There were additional questions about the setbacks for the screen house.

P. Harris proposed a different configuration. A two-story structure is more of a concern because of the "fall factor" in a fire and it is more dangerous. If the Fire Department had a response to the proposal he would be concerned. The police have no concerns. The Board uses the expertise of Town departments. P. Harris said he wanted to go on record as being concerned about the safety of this development. The Board doesn't know what the "magic number" is. Not everyone is happy in there because of the expansion. He is not speaking against it, and the Board is positive about finding reasons to get things done.

J. Froumy stated the house is 24' x 40' and when Mr. Stanton bought it there was a restriction on the height. Mr. Stanton clarified that he built the home. There was discussion about whether the structure is sufficient for a second story now that the height rules are relaxed. Mr. Stanton responded that he does not like the roof pitch. It is a short 2 and ½ pitch. Mr. Stanton said he considered other options but they cost more money, and that is part of it. J. Froumy told Mr. Stanton that it is important for the Board to know if there is truly an alternative to the proposal. He noted that members can't inject their feelings into their decision. If the proposal is not granted, is there another way to do this. Mr. Stanton said there is another way but it will cost more money. J. Froumy asked if this is a full-time home. Mr. Stanton said yes, he has been there for 24 years.

M. Mastenbrook asked if the proposal was denied and he built up, he would only gain 19". If Mr. Stanton did that, would he still be back here asking for relief. D. Sassan stated that he is not certain. Assuming it meets setbacks, he would not need to. Looking at the plan now it does not show the instances where the structure encroaches unrelated setbacks and he would need to review it in more depth. M. Mastenbrook asked if the house is structurally able to handle going up without adding more structure to the walls to carry the extra weight. Mr. Stanton said no, it is all 2" x 6" frame and 2" x 10" rafters. Mr. Stanton proposed shrinking the addition. D. Sassan said that if a new proposal required ZBA relief within the existing footprint, it would be a Special Exception, not a Variance. J. Froumy noted that a Special Exception is easier to acquire. D. Sassan stated it is not a deviation of the ordinance.

J. Froumy asked for confirmation that there will be one 24' x 46' bedroom. Mr. Stanton said no, it will be a bedroom, bathroom and living room. P. Harris asked if it is possible to move any of the sheds. Mr. Stanton said that shed is his neighbors, but his own shed will be gone. Everybody's sheds are within 5 feet of their houses. With this addition, it is way more than 5 feet away and it is not a shed, just an addition. As far as it being hazardous, they are increasing the distance. M. Mastenbrook said the problem is not your shed, it is your neighbor's shed. It has nothing to do with yours. The problem is the shed is only 17.9' away. J. Froumy declared that we don't know what is in that shed. P. Harris said fuels can be too close to buildings when they are congested. Mr. Stanton said right now he is closer to the shed. If his application is denied, his shed is right there, only 6' from his house. J. Froumy said the Board does not have control over that right now and that is not what is being discussed.

P. Harris asked what is at the back of the house. Mr. Stanton said it is a bedroom and bathroom. The Board discussed other alternative options that could provide the additional space in a different configuration that may meet setbacks. Mr. Stanton explained part of the issue is that he didn't want to get into the roofline because of the farmer's porch. P. Harris acknowledged Mr. Stanton is trying to get some extra space without impact. Mr. Stanton said there are options and he can shrink the addition.

J. Froumy observed that D. Sassan hesitated to make suggestions, but made a good point. As an alternative, Mr. Stanton could seek a Special Exception if the addition was designed differently or did not increase the footprint of the building. Mr. Stanton was asked about other possibilities and there were some suggestions. Anything the Board suggests is only a suggestion, and not a guarantee that it would be granted. A Special Exception might be a better approach and they are granted more regularly. There is no guarantee, but there is a much greater chance. Other Board members have a problem with the proximity of the shed. It is reflective of the Board's knowledge and history of structure congestion and threats to life.

S. Ciampi asked Mr. Stanton about decreasing the footprint to reduce the setbacks. J. Froumy maintained the Board can only address the request for a variance as it is written. If it is not granted, Mr. Stanton would have the right to come back with a different design. If it is not granted, he cannot come back with the same design unless he appeals it. If the proposal shrinks, it would be considered a completely new variance. Mr. Stanton asked if that meant he would need a surveyor again. J. Froumy answered yes. He explained that when the Board spoke earlier they hesitated to make suggestions because there have been cases where a suggestion was made and the new proposal

was denied. That creates additional costs for the applicant and it becomes difficult. It behooves the Board to study the ordinances and apply an idea of the ordinance rather than building designs.

S. Ciampi said she understands the Board is looking at safety and everyone is talking about fire, but the Fire Department had no response. M. Mastenbrook asked if the Fire Department went down there for an inspection. Mr. Stanton said yes.

P. Harris said the Board's hearts go out to him, but the bottom-line issue is that the standard for everyone for this much relief leads to trouble down the road. The criteria go with the application and it sets a precedent. This is not a small addition. You could reduce the footprint so there is a less hardship to try to meet in the middle. Mr. Stanton explained that he can't walk upstairs, and his wife needs help to care for him. His son and fiancée would be moving in. He said none of his neighbors complained about it and they are all for it. Everyone is gaining a little bit of space and it is not hurting anyone. P. Harris reiterated that this started as a seasonal campground years ago and as it is developed the schools are impacted, families move in. We try to all work together. The Board would have a hardship to grant that much relief if there is an option with less impact. Money and personal situations are not the basis for granting a variance.

N. Patten commented the proposal can be made more conforming by changing a few things. She can't believe the Fire Department did not have any response. A fire truck couldn't get through there. Mr. Stanton said Fifth Street is supposed to be an access road and he does not know how they got the shed in there. N. Patten asked if there is an association he can complain to. Mr. Stanton said he does not know why the association approved it, because it is supposed to be an access road for police/fire/emergency.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

J. Froumy announced that the record will reflect three motions, and each of these has some dependency on the other. If the sheds were not placed as they are, it would have changed the deliberation of the Board. One motion does not prejudice another motion. If the motions are granted or denied, and one is satisfied and another corrected, it may later be granted. D. Sassan stated one denial does not prejudice another.

Board's Action – Robert Stanton for Mallards Landing:

MOTION: J. Froumy moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story addition closer (20.9') to a porch (1 Fifth Street) than allowed (30') based on the criteria below. The motion to deny is made without prejudice in regards to the two other motions.

1. The variance is contrary to the public interest because there is potential for harm for the present occupant or future occupants, and the ability for fire services to access this building in an emergency.
2. The spirit of the ordinance is not observed because the request is to construct with a closer than allowed distance and this closeness creates a hazard to safety and welfare.

3. Substantial justice is not upheld.
4. The variance would diminish the value of surrounding properties because if it is granted, the conditions would create a hazard.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would not result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because there is no physical hardship except a man made one. If the structure is not built, no hardship exists.and
 - b. the proposed use is not a reasonable one because there are other reasonable alternatives to satisfy the applicant's desires for a larger structure.

The motion was seconded by N. Patten and carried. (4-1) S. Ciampi opposed.

MOTION:

J. Froumy moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story addition closer (17.9') to a shed (1 Fifth Street) than allowed (30') based on the criteria below. The motion to deny is made without prejudice in regards to the two other motions.

1. The variance is contrary to the public interest because there is potential for harm for the present occupant or future occupants, and the ability for fire services to access this building in an emergency.
2. The spirit of the ordinance is not observed because the request is to construct with a closer than allowed distance and this closeness creates a hazard to safety and welfare.
3. Substantial justice is not upheld.
4. The variance would diminish the value of surrounding properties because if it is granted, the conditions would create a hazard.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would not result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the

property because there is no physical hardship except a man made one. If the structure is not built, no hardship exists.

and

- b. the proposed use is not a reasonable one because there are other reasonable alternatives to satisfy the applicant's desires for a larger structure.

The motion was seconded by N. Patten and carried. (4-1) S. Ciampi opposed.

MOTION:

J. Froumy moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a two-story addition closer (18.8') to a shed (20 Mallards Landing Road) than allowed (30') as it meets all of the criteria below. The motion to deny is made without prejudice in regards to the two other motions.

1. The variance is contrary to the public interest because there is potential for harm for the present occupant or future occupants, and the ability for fire services to access this building in an emergency.
2. The spirit of the ordinance is not observed because the request is to construct with a closer than allowed distance and this closeness creates a hazard to safety and welfare.
3. Substantial justice is not upheld.
4. The variance would diminish the value of surrounding properties because if it is granted, the conditions would create a hazard.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would not result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because there is no physical hardship except a man made one. If the structure is not built, no hardship exists.
 - b. the proposed use is not a reasonable one because there are other reasonable alternatives to satisfy the applicant's desires for a larger structure.

The motion was seconded by N. Patten and carried. (4-1) S. Ciampi opposed.

Mr. Stanton expressed extreme displeasure and left the room. He then returned momentarily to further express displeasure.

M. Mastenbrook rejoined the Board. Alternate Member J. Froumy stepped down.

4. Abutters' Hearing – Neil R. Smith for Mallards Landing: Request for a one-year extension (6/26/22) of two variances of the Zoning Ordinance:

A. Article 5 Table 2 to construct a single-family dwelling unit closer (20.4') to Unit 223 than allowed (30'). ZBA #2321Z

B. Article 8.B.9.f.1.a to construct a single-family dwelling unit closer (13.7') to Unit 223 shed than allowed (20'). ZBA # 2421Z

Property is located at 40 First Street in an "RS" Zone, Tax Lot 110-002-000-225.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

The Chairman opened the public hearing.

Mr. Neil R. Smith was present for this application.

Mr. Smith stated the proposal has not changed since his last application; they just need additional time. They expected to start in the Spring of 2020 but because of medical conditions and the pandemic, they felt it was prudent to postpone construction, so they need a one-year extension.

P. Harris said there are no problems with the application and there have been no changes in the laws.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

Board's Action – Neil R. Smith for Mallards Landing:

MOTION: M. Mastenbrook moved to grant a one-time, one-year extension of a Variance of the Zoning Ordinance, Article 5 Table 2, to construct a single-family dwelling unit closer (20.4') to Unit 223 than allowed (30'), to 06/26/2022. The applicable terms of the Ordinance have not changed since the original approval. The characteristics of the lot and its surroundings have not changed in any way that would cause the initial review and action to be invalid. All of the conditions of the original approval shall remain in place. The Ordinance does not allow for subsequent extension of this approval.

The motion was seconded by D. Dunham and carried. (5-0)

MOTION: M. Mastenbrook moved to grant a one-time, one-year extension of a Variance of the Zoning Ordinance, Article 8.B.9.f.1.a, to construct a single-family dwelling unit closer (13.7') to Unit 223 shed than allowed (20'), to 06/26/2022. The applicable terms of the Ordinance have not changed since the original approval. The characteristics of the lot and its surroundings have not changed in any way that would cause the initial review and action to be invalid. All of the conditions of the original approval shall remain in place. The Ordinance does not allow for subsequent extension of this approval.

The motion was seconded by D. Dunham and carried. (5-0)

5. Abutters' Hearing – Scott & Maryanne MacKay: Request for two Special Exceptions of Article 11.A.3.c of the Zoning Ordinance to add useable space in the existing footprint:

A. Closer (27.1') to the highwater mark than allowed (50') ZBA # 2121Z.

B. Closer (7') to the side property line than allowed (12.5'). ZBA # 2221Z.

Property is located at 94 Sunset Drive in an "RS" Zone Tax Lot 107-145-000-000.

D. Dunham recused himself from this application. Alternate Member J. Froumy was appointed to serve on this application.

Members M. Mastenbrook, P. Harris, N. Patten, J. Froumy and S. Ciampi viewed the site.

The Chairman noted this application does meet criteria for a Special Exception. It is located in the Aquifer Protection District and does not require an NHDES Shoreland Permit.

MOTION: M. Mastenbrook moved that the proposal does not have a potential regional impact.

The motion was seconded by J. Froumy and carried. (5-0)

The Chairman announced there were no departmental concerns. He read the Staff comments into the minutes: Although the proposed structure includes space above the proposed second story, the applicant has confirmed that the space will not be accessible and therefore not constitute "useable space". In Article 11.A.3.c the Ordinance specifically identifies that creating useable floor space within the existing footprint requires a Special Exception. Thus, if the applicant ever wishes to convert the space above the second story into useable floor space, an additional Special Exception may be required. This is addressed in the proposed conditions of approval.

The Chairman opened the public hearing.

Mr. Scott MacKay was present for this application. He explained that they are trying to add a second story within their existing footprint. Three bedrooms is not enough for the family. The plan is to take two bedrooms away from the first floor and add four bedrooms and a bath on the second floor. The attic space has a dormer for looks but it is not large enough to be occupied. There is a dormer on the other end as well. The proposal is in keeping with other area single-family residences of varying sizes. Other homes have been expanded and there is a two-story house next door. Town services and traffic will remain the same. There is no noise, fumes, lighting or other impacts. Everything will remain the same as far as the general public goes. Mr. MacKay said he would be happy to answer any questions.

P. Harris said he noticed homes in that area are already in close proximity to other buildings. Seventy-five percent of the homes are nonconforming and similar in nature. That is how Sunray Shores is developed.

M. Mastenbrook confirmed with Mr. MacKay that everything will be in the same footprint.

The Chairman noted there were no abutters present and asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

J. Froumy announced to Board members that when making a motion, it needs to take into consideration the character of the neighborhood. This is not a variance, but it is an important part of anything we do. As the applicant pointed out there are many houses in the area with two stories. It is more common with this type of home, and adds to the quality of the neighborhood. It is a nice looking structure, and even with the second story there is ample access for emergency services. There is no change in the footprint with a second floor.

Mr. MacKay noted that this house was built by the original developer of Sunray Shores and he made it the best that he could. S. Ciampi asked if this is a full-time residence. Mr. MacKay said he is hoping it will be.

MOTION: J. Froumy moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to add useable space in the existing footprint closer (27.1') to the highwater mark than allowed (50') as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because it is a continuation of the present use as a residential structure.
4. The proposed location is of adequate size because it is already being used as what it is proposed to be used for. The size is nonconforming but it won't be additionally nonconforming.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety because there is not an increase in traffic. It is not commercial, only residential. Safety is not impaired and the proposal does not extend into pedestrian areas.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. There will be no additional runoff because the roof size will not increase. This property is not on the Belmont water system and the sewer is existing.
7. The proposal does not create excessive demand for municipal services and facilities because it is only a second floor. Police and Fire won't have any increased difficulty.
8. The proposal does not create hazards to the health, safety or general welfare of the public because the building is a new structure and emergency access is not impaired. There is no change in the ability of safety personnel to access the building.
9. Additional conditions:
 - A. Revise final plan to show correct tax lot numbers.
 - B. Approval is for a second story only within existing footprint; no third-floor useable space is approved within setback areas.

- C. All setbacks certified at the commencement of construction and as may otherwise be required.
- D. Comply with Aquifer Protection Ordinance.
- E. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- H. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by M. Mastenbrook and carried. (5-0)

MOTION: J. Froumy moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to add useable space in the existing footprint closer (7') to the side property line than allowed (12.5') as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because it is a continuation of the present use as a residential structure.
4. The proposed location is of adequate size because it is already being used as what it is proposed to be used for. The size is nonconforming, but it won't be additionally nonconforming.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety because there is not an increase in traffic. It is not commercial, only residential. Safety is not impaired and the proposal does not extend into pedestrian areas.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. There will be no additional runoff because the roof size will not increase. This property is not on the Belmont water system and the sewer is existing.
7. The proposal does not create excessive demand for municipal services and facilities because it is only a second floor. Police and Fire won't have any increased difficulty.
8. The proposal does not create hazards to the health, safety or general welfare of the public because the building is a new structure and emergency access is not impaired. There is no change in the ability of safety personnel to access the building.
9. Additional conditions:

- A. Revise final plan to show correct tax lot numbers.
- B. Approval is for a second story only within existing footprint; no third-floor useable space is approved within setback areas.
- C. All setbacks certified at the commencement of construction and as may otherwise be required.
- D. Comply with Aquifer Protection Ordinance.
- E. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- H. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by M. Mastenbrook and carried. (5-0)

Mr. MacKay commended Staff for all of their help. He has the advantage of being the current sitting chair on a Massachusetts ZBA and now understands the process in New Hampshire. Everyone did an excellent job.

D. Dunham rejoined the Board. Alternate Member J. Froumy stepped down.

6. Abutters' Hearing – Jennifer Bouchard for Sunset Beach Condominium: Request for two Variances of Article 5 Table 2 of the Zoning Ordinance to allow a carport.

A. Closer (3.2') to the side property line than allowed (25'). ZBA # 2521Z

B. Closer (17.15') to an unrelated structure (garage) than allowed (30'). ZBA # 2621Z

Property is located at 72 Sunset Drive in an "RS" Zone, Tax Lot 107-150-000-002.

Mr. Joshua Brien of Keach Nordstrom Associates was present for this application and has an affidavit from Ms. Bouchard to represent her this evening.

The Chairman opened the public hearing.

Mr. Brien explained that this project started as a letter from the Code Enforcement Officer (CEO) for a violation on the carport built with expired permits. At that time they went through the process to obtain Shoreland Permits. NHDES does not require a Shoreland Permit for this project. The applicant is asking for a variance closer to the property line. The carport goes over existing pavement. The residence is less than 1 foot from the property line. The carport was already constructed and they are trying to take care of the issue. The location has to be in this general area because otherwise it would impede services.

Mr. Brien showed the CEO letter to J. Froumy and explained there were expired permits. J. Froumy asked what the permit was for and why there was not a variance. Mr. Brien said he was not part of this project when that permit was issued.

J. Froumy asked D. Sassan if this permit would have needed a variance. D. Sassan stated he did not believe a permit was issued for the carport. Back in the winter of 2019 he emailed the Bouchards and indicated a Shoreland Permit would be required from NHDES and the application never made it passed that point. J. Froumy asked how this project escaped the need for a variance. D. Sassan confirmed that a permit was never issued for the carport, there was only a building application.

J. Froumy asked if this project should have an equitable waiver. D. Sassan answered no, it does not qualify. It was installed without a permit in place. No permit was granted. There was no miscommunication or instance where the municipality gave the impression that it was okay to put a carport in that location. The carport is an unpermitted illegal structure.

M. Mastenbrook observed there are two options: deny the application and the applicant will need to tear down the carport, or approve the application and allow it to be kept.

J. Froumy remarked that it is hard to see how this happened. D. Sassan reviewed that the application came in and the review was halted to get NHDES approval. The Town never gave the applicant permission to go ahead with the project. The applicant mis-stepped. J. Froumy questioned that once it was determined a Shoreland Permit was not required, they should have reinitiated another permit. D. Sassan explained that the applicant did resubmit a new application and a denial was issued May 13, 2021. The applicant eventually provided the NHDES information so that review could be completed and the denial issued. CEO Russ Wheeler issued a violation letter for the carport. There were two permits discussed in the CEO letter. One was expired and had nothing to do with the carport.

D. Dunham asked about the attorney's letter. D. Sassan commented he was going to bring the letter to the Board's attention during the public hearing.

M. Mastenbrook asked if the applicants were available. Mr. Brien said they are out of state and he is here representing them.

MOTION: J. Froumy moved that the proposal does not have a potential regional impact.

The motion was seconded by D. Dunham and carried. (5-0)

The Chairman invited abutters to speak.

Ms. Claire Peterson of 78 Sunset Drive addressed the Board and reported that the carport is not what was located there previously. When the house was removed, they paved right up to the next property, #70. Then they added the carport. Ms. Peterson said she moved in 17 years ago. There was a paved road with driveways. It is a wetland and the additional pavement has impacted the amount of water for the common area. It is running under her house. When the additional

paving was completed, Mr. Bouchard was using the neighbor's garage. The pavement that was there before was just enough for a car but now it is a huge impact and the water damage is excessive. Because it is already a wetland, it is causing more damage.

J. Froumy asked how long ago this was. Ms. Peterson explained the house was built a few years ago and the new paving completed in about 2019, within the last year and half or so. Before that it was not paved. J. Froumy asked if that would require a Shoreland Permit. D. Sassan stated the Land Use Office was never contacted regarding any paving work. Mr. Brien said he has no knowledge of the property prior to February 2021. Ms. Peterson said that she probably has pictures. She also mentioned that she has a problem with the applicants that is not related to this current situation. She is concerned that they have done more building and the situation is getting worse instead of better.

P. Harris commented that it is a huge amount of pavement. D. Sassan announced that there is a letter from a lawyer regarding this application that was distributed at the beginning of the meeting. Members may not have had an opportunity to read the letter yet.

P. Harris said having a paved area does not mean there is a buildable area.

J. Froumy maintained that the Town is missing information. The Board does not know if a Shoreland Permit is required for the pavement. The Board can't grant a variance without all of the proper permitting in place. D. Sassan noted there could be a condition of approval added that would require a Shoreland Permit. J. Froumy questioned if the Board should or should not do that.

D. Sassan stated it has generally been procedure, and his understanding, that the Board maintains procedures that Shoreland Permits are required pieces of an application. There are other considerations that may be even more relevant reasons to continue this application. The letter that just came in from the attorney needs to be reviewed. The application is not seeking relief for pavement, they are looking for a carport. P. Harris reiterated the Board needs to make an informed decision. D. Sassan acknowledged the Board has received a lot of new information just now, which is a reasonable justification for a continuation.

J. Froumy asked if the case is continued, could Staff update the history as it is known so the Board is prepared. And photos would help hone in on the matter of the new pavement but not the carport. The pavement may be a state issue, or both a state and town issue. D. Sassan advised that NHDES indicated a Shoreland Permit is not required for the carport because it is installed over an existing pervious area. There was discussion about "how preexisting" the pavement is, and if it should be there.

D. Sassan reminded the Board they need to be careful about continuing for the sole purpose of outstanding permits from other agencies. It may be possible for the Board to read the attorney's letter this evening and determine if there are factors that might lead the Board to being able to make a decision tonight, regardless of additional information.

J. Froumy would like to review the attorney's letter before making a decision. The Board needs to study the letter and see if they agree with it. P. Harris maintained the Board needs to review the letter to make an informed decision.

N. Patten noted violations were reported to the CEO. The applicant knew about the situation prior to construction. Violation notices were sent after the carport was constructed. S. Ciampi asked if the carport was constructed after the pavement was installed. Ms. Peterson said yes, the house was built and they waited for things to settle. Then they paved, and then constructed the carport, all within the last two years.

D. Sassan reported the email sent in 2019 noted the application required something from NHDES and that the carport would need to be outside of the setback or ZBA relief would need to be obtained.

There was discussion about the order of what happened with the property. It is important to know if the person who submitted the application knew they needed a permit when it went up. N. Patten commented that you can't build anything without a permit in this town. D. Sassan told the Board people are required to be familiar with the law and he said that the carport was illegally installed, regardless of the exact sequence of events.

The Chairman read from the Staff Report History: "The tax card indicates the existing structure was originally constructed in 1934. Following a denial and the granting of a rehearing, a Special Exception was granted in 1995 to allow for construction of a partial second floor. The current owner purchased the property in 2019." He said it seems there is a whole building missing from the history.

Board's Action – Jennifer Bouchard for Sunset Beach Condominium:

MOTION: P. Harris moved to continue the application for a Variance of Article 5, Table 2 of the Zoning Ordinance to allow a carport closer (3.2') to the side property line than allowed (25'), to July 28, 2021 at 6 PM.

The motion was seconded by N. Patten and carried. (5-0)

MOTION: P. Harris moved to continue the application for a Variance of Article 5, Table 2 of the Zoning Ordinance to allow a carport closer (17.15') to an unrelated structure (garage) than allowed (30'), to July 28, 2021 at 6 PM.

The motion was seconded by N. Patten and carried. (5-0)

D. Sassan mentioned that this application will not be noticed again because it has been continued to a date certain.

7. Abutters' Hearing – Sandra & Chad Goetz for Winnisquam Beach Association: Request to replace an RV, replace an addition with added deck and relocate a shed:

Variations of Article 8.B.9.f (1), (a) of the Zoning Ordinance:

- A. An RV closer (6.3') to an unrelated structure at 2 Park Place (porch) than allowed (20')
ZBA # 2721Z

- B. An addition with deck closer (17.7') to an unrelated structure at 2 Park Place (porch) than allowed (20'). ZBA# 2821Z

Variances of Article 4 of the Wetlands Ordinance:

- C. An RV closer (32.1') to the wetlands than allowed (35'). ZBA # 2921Z
D. An addition with a deck closer (22.2') to the wetlands than allowed (35'). ZBA #3021Z

Special Exception of Article 8.B.9.f (2) of the Zoning Ordinance:

- E. Relocate a shed closer (12.9') to an unrelated structure at 2 Park Place (porch) than allowed (20') but not closer than the existing location. ZBA #3121Z

Property is located at 4 Park Place in an "RS" Zone, Tax Lot 117-015-000-040.

M. Mastenbrook recused himself from this application. Alternate Member J. Froumy was appointed for this application.

Ms. Sandra Goetz, Mr. Chad Goetz and Mr. Bryan Bailey were present for this application.

The Chairman opened the public hearing.

Mr. Bailey explained this is a similar project to the earlier application he represented. Park Place is at the top of the plan, underneath the power lines parallel with the railroad. Just to the left of the unit there is another unit owned by Mr. Riley, then the bath house near the boat launch. It is away from the lake. That area is rather congested and when they laid out these lots in 1999 as limited common areas, the shapes came to pass with the existing located units; by putting a line between them and boxing off areas that had historically been used. There is a finger of wetlands between each of the lots that were filled in with sand in the 1960s. There are wetlands behind and between the units. The lots are more congested than any other area. There is a travel trailer on the existing conditions plan with bump outs on the rear. Attached is a wood framed, three season room on the eastern side. The applicants want to remove the travel trailer from the site because it is old, leaking and sagging. Buckets are being used under leaks.

Mr. Bailey showed the distances on the plan and the different dimensions from the corners of the structures. The adjacent structure to the west is a modern wood frame park model. To the east there is a fairly expansive yard area. There are wetlands between the two units. It is difficult to comply with the wetlands setbacks in the area. It can never be compliant, but we try to split the difference. There is a fence between units 39 and 40 but it is not on the property line. The plan is to set the new unit parallel with the fence because that is an established line and a reasonable solution. On the second plan are the proposed conditions. There is a ghosted outline under the proposed building location to see how the existing and proposed conditions overlay. This location was never compliant, but the use did not change even if the ownership did.

Mr. Bailey suggested that all four variances have the same answers to the questions. The variances are not contrary to the public interest because the location is not viewed by the public nor does it have any negative impact to public roads, waterways or wetlands. They are trying to strike a balance with the setbacks to structures and the wetlands. The spirit of the ordinance is observed because updating the pre-existing non-conforming structure will bring it to a more nearly

conforming condition. Substantial justice will be done because it will allow continued use of the property that has been established prior to current rules and regulations. The existing travel trailer is in disrepair and the proposed park model is a safer dwelling and adequate living area. The variances would not diminish the value of surrounding properties because they will improve the overall value of the site and therefore will have a positive effect on the value of surrounding properties. It is a brand-new park model versus an old travel trailer. There is no question there is improvement. A denial would be an unnecessary hardship because the proposal will have no negative impact on the general public, or the welfare or safety of abutting properties. The use and lay of the land were established prior to Zoning. The proposed use is a reasonable because it is the same as what has been established since the 1960s and it is allowed in this zone.

Mr. Bailey said the dimensions are all identified on the plan. The new unit is set a little closer to unit 2, but in all instances, it is further away from the wetlands.

There was discussion about some of the measurements on the plan which were clarified by Mr. Bailey. He explained that some of the measurements are affected by the bump outs.

P. Harris noted the Board dealt with this 20 years ago when the campground made a lot of changes. They were trying to fix things but it has gotten worse. It was a campground, but now it is a trailer park that resembles a residential neighborhood. Mr. Bailey responded the major upgrade from 1985-1999 was to bring in the sewer. P. Harris observed that safety is a concern for the Board.

There was discussion that the property is only 50' wide and it would be impossible to use it without relief of some sort. This is a reasonable request. The character of the area is not affected by granting the variance.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

MOTION: J. Froumy moved to approve a Variance of Article 8.B.9.f (1), (a) of the Zoning Ordinance to replace an RV, replace an addition with added deck and relocate a shed by allowing an RV closer (6.3') to an unrelated structure at 2 Park Place (porch) than allowed (20') as it meets all of the criteria below:

1. The variance will not be contrary to the public interest because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
2. The spirit of the ordinance is observed because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.

3. Substantial justice will be done because a denial would render this property essentially useless. There is no harm done to others.
4. The variance would not diminish the value of surrounding properties because it is a new structure with aesthetic improvement and adjoining properties will benefit.
5. 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 of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the campground is an established distinguishment in and of itself. The ordinance is not intended to deny the use of a camper in a campground on a campsite. A denial would deny the use of the property which is not the intent of the ordinance. The proposal is similar to other sites in the campground.

and
 - b. the proposed use is a reasonable one because it is a camper and accessory structure situated in a campground. The use is reasonable.
6. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-040.
 - B. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - C. All setbacks certified at the commencement of construction and as may otherwise be required.
 - D. Comply with Aquifer Protection Ordinance.
 - E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - H. Enclosed living area must remain subordinate and accessory to an on-site RV and cannot be used separate from an on-site RV. The combined camping unit shall be operated only as a temporary living quarters for recreation or vacation purposes.
 - I. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by D. Dunham and carried. (5-0)

MOTION: J. Froumy moved to approve a Variance of Article 8.B.9.f (1), (a) of the Zoning Ordinance to replace an RV, replace an addition with added deck and relocate a shed by allowing an addition with deck closer (17.7') to an unrelated structure at 2 Park Place (porch) than allowed (20') as it meets all of the criteria below:

1. The variance will not be contrary to the public interest because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
 2. The spirit of the ordinance is observed because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
 3. Substantial justice will be done because a denial would render this property essentially useless. There is no harm done to others.
 4. The variance would not diminish the value of surrounding properties because it is a new structure with aesthetic improvement and adjoining properties will benefit.
 5. 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 of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the campground is an established distinguishment in and of itself. The ordinance is not intended to deny the use of a camper in a campground on a campsite. A denial would deny the use of the property which is not the intent of the ordinance. The proposal is similar to other sites in the campground.
- and
- b. the proposed use is a reasonable one because it is a camper and accessory structure situated in a campground. The use is reasonable.
6. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-040.
 - B. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - C. All setbacks certified at the commencement of construction and as may otherwise be required.

- D. Comply with Aquifer Protection Ordinance.
- E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- H. Enclosed living area must remain subordinate and accessory to an on-site RV and cannot be used separate from an on-site RV. The combined camping unit shall be operated only as a temporary living quarters for recreation or vacation purposes.
- I. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

MOTION:

J. Froumy moved to approve a Variance of Article 4 of the Wetlands Ordinance to replace an RV, replace an addition with added deck and relocate a shed by allowing an RV closer (32.1') to the wetlands than allowed (35') as it meets all of the criteria below:

1. The variance will not be contrary to the public interest because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
2. The spirit of the ordinance is observed because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
3. Substantial justice will be done because a denial would render this property essentially useless. There is no harm done to others.
4. The variance would not diminish the value of surrounding properties because it is a new structure with aesthetic improvement and adjoining properties will benefit.
5. 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 of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the campground is an established distinguishment in and of itself. The ordinance is not intended to deny the use of a camper in a

campground on a campsite. A denial would deny the use of the property which is not the intent of the ordinance. The proposal is similar to other sites in the campground.

and

b. the proposed use is a reasonable one because it is a camper and accessory structure situated in a campground. The use is reasonable.

6. Additional conditions:

- A. Revise final plan to show correct tax lot number 117-015-000-040.
- B. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
- C. All setbacks certified at the commencement of construction and as may otherwise be required.
- D. Comply with Aquifer Protection Ordinance.
- E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- H. Enclosed living area must remain subordinate and accessory to an on-site RV and cannot be used separate from an on-site RV. The combined camping unit shall be operated only as a temporary living quarters for recreation or vacation purposes.
- I. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

MOTION:

J. Froumy moved to approve a Variance of Article 4 of the Wetland Ordinance to replace an RV, replace an addition with added deck and relocate a shed by allowing an addition with deck closer (22.2') to the wetlands than allowed (35') as it meets all of the criteria below:

- 1. The variance will not be contrary to the public interest because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.

2. The spirit of the ordinance is observed because this is a private campground, not a public area. The character of the area includes close proximity of structures and units. This proposal is similar to all other structures in the campground.
3. Substantial justice will be done because a denial would render this property essentially useless. There is no harm done to others.
4. The variance would not diminish the value of surrounding properties because it is a new structure with aesthetic improvement and adjoining properties will benefit.
5. 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 of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the campground is an established distinguishment in and of itself. The ordinance is not intended to deny the use of a camper in a campground on a campsite. A denial would deny the use of the property which is not the intent of the ordinance. The proposal is similar to other sites in the campground.

and

- b. the proposed use is a reasonable one because it is a camper and accessory structure situated in a campground. The use is reasonable.
6. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-040.
 - B. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - C. All setbacks certified at the commencement of construction and as may otherwise be required.
 - D. Comply with Aquifer Protection Ordinance.
 - E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - H. Enclosed living area must remain subordinate and accessory to an on-site RV and cannot be used separate from an on-site RV. The combined camping unit shall be operated only as a temporary living quarters for recreation or vacation purposes.

- I. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

The Chairman opened the public hearing for the Special Exception.

Members N. Patten, P. Harris and J. Froumy viewed the site.

Mr. Bailey explained this proposal will relocate the shed closer to unrelated structures. The Special Exception is specifically authorized by the ordinance and Article 13.F does not apply. It is not incompatible to other uses in the area because the proposed use is the same use that has been established in the area. They are just relocating an existing shed. It is of adequate size because the area is cleared within the fenced in area of the lot. The proposed location is coincident with gravel and will have a minimum disturbance. It will not create traffic because it does not create any new impacts for vehicles or pedestrians because it is located on the backside of the lot. It will not overload water or stormwater runoff because the proposal does not impair or overload or increase runoff. It is the same structure slightly relocated. There is no increased municipal demand. There is no impact to sewer, water, police or traffic. It does not create a hazard to health and safety. It is not in view of, or located in a way to cause hazards to the public or impact adjacent wetlands.

The Chairman noted there were no concerns from departments. J. Froumy clarified the existing and proposed distances with Mr. Bailey. The shed will now be further away than it is now.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

MOTION: J. Froumy moved to grant a Special Exception of Article 8.B.9.f (2) of the Zoning Ordinance to relocate a shed closer (12.9') to an unrelated structure at 2 Park Place (porch) than allowed (20'), but not closer than the existing location, as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because the character of the structure is that it is not an inhabited structure. The use is subordinate to the existing building. There is no impact greater than that of the existing shed.
4. The proposed location is of adequate size because the area behind the proposed park model is sufficient to fit in without a violation of dimensions.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety because it is a shed and there is no traffic or pedestrians and it is not near a street or walkway. There will be no additional vehicles.

6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street because the shed is not provided with those.
7. The proposal does not create excessive demand for municipal services and facilities because the uninhabited structure is only for storage. The characteristics are such that it is not expected to demand additional services.
8. The proposal does not create hazards to the health, safety or general welfare of the public because it is small and behind the building. It is subordinate to the existing building. There are no characteristics that make it inaccessible for the Fire Department. The public is not exposed in any fashion.
9. Additional conditions:
 - A. Revise final plan to show correct tax lot number 117-015-000-040.
 - B. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - C. All setbacks certified at the commencement of construction and as may otherwise be required.
 - D. Comply with Aquifer Protection Ordinance.
 - E. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
 - F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - G. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - H. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by D. Dunham and carried. (5-0)

M. Mastenbrook rejoined the Board. Alternate Member J. Froumy stepped down.

8. Abutters' Hearing – Andrea R. Lubiens: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (chickens) in the “I” zone on a lot less than 3 acres. Property is located at 280 Depot Street, Tax Lot 236-009-000-000, ZBA #3221Z.

S. Ciampi recused herself from this application. Alternate Member J. Froumy was appointed for this application.

Members M. Mastenbrook, N. Patten, and P. Harris viewed the site.

The Chairman said the application does meet the Special Exception criteria, it is not within the Aquifer Protection District and it does not require an NHDES Shoreland Permit.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by M. Mastenbrook and carried. (5-0)

The Chairman noted there were no comments or concerns from the Departmental Responses.

The Chairman read from the Staff Comments: "The request qualifies for Special Exception approval, as the applicant has demonstrated that the following criteria will be satisfied:

- a. Animal buildings, keeping areas and waste material storage areas shall be a minimum of 50' from all property lines, wells, water bodies and wetlands areas. Grazing areas are not subject to the 50' setback, but animals shall be prevented from accessing wetlands and water bodies.
- b. All grazing and keeping areas shall be adequately fenced to contain the animals.
- c. Noise and odors should not exceed those levels expected from normal operating procedures following Best Management Practices. No pollution or contamination shall result from surface water runoff.

Siting and operation shall be subject to the application of the NH Department of Agriculture, Markets and Food Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, dated April 2002, as amended. The applicant stated in her application that eggs are for family use, she will not have roosters and the chickens will be kept in a fenced area."

The Chairman opened the public hearing.

Ms. Hillary Horn was present for this application on behalf of her cousin. Ms. Lubiens was unable to remain on Zoom for the meeting. Ms. Horn explained that no one knew that a permit was needed. Ms. Lubiens has a 10' x 12' chicken coop with 16 chickens and 4 guinea fowl. She uses the compost for gardening.

The Chairman commented that this is a popular request for the Board and asked if anyone had any concerns. M. Mastenbrook was concerned about the smaller acreage and number of chickens. There was discussion about guidelines for future applications with limitations because more people are going to want to raise chickens in Belmont.

Ms. Horn responded that her cousin did not intend to have that many chickens however she took on some additional ones when someone else needed to find a new home for their chickens. She did not realize that she needed a permit. There is a total of 20 birds.

The Chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

J. Froumy noted that the point is well taken about having a limit. It is a good idea and will depend on if the areas are residential or more rural. He doesn't know the answer but this should be addressed.

MOTION: M. Mastenbrook moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (chickens) in the “I” zone on a lot less than 3 acres as it meets all of the criteria below:

1. The proposal is specifically authorized as a Special Exception by the ordinance Article 5, Table 1.
2. The Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because the number of chickens will be kept to a maximum of 20 hens and the applicant agreed to keep no roosters, which will minimize noise. The applicant is making an effort to minimize the noise and will use Best Management Practices for the keeping of agricultural animals. Manure will be maintained.
4. The proposed location is of adequate size. The lot is 1.1 acres and the ordinance states it is sufficient for the use with Special Exception approval.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The chickens will be kept in a coop and it is not a commercial use so there will be no commercial traffic. There are no safety issues as the chickens will not be free-range chickens.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street because the chickens will be in a coop. There will not be a great amount of water used for them.
7. The proposal does not create excessive demand for municipal services and facilities. The approval is for chickens and it is unlikely any services will be impacted.
8. The proposal does not create hazards to the health, safety or general welfare of the public. The applicant agreed to use Best Management Practices and will not have roosters. The health, safety and general welfare of the public will not be affected.
9. Additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval.
 - C. Required permits, inspections and certificates shall be obtained.
 - D. No roosters are permitted.
 - E. Use shall remain in compliance with all minimum standards for agricultural animals set forth in Zoning Article 4.J, including that animal buildings, keeping areas and waste material storage areas shall be a minimum of 50' from all property lines, wells, water bodies and wetlands areas, all grazing and keeping areas shall be adequately fenced to contain the animals, and noise and odors should not exceed those levels expected from normal operating procedures following best management practices.
 - F. Approval expires on 6/23/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

S. Ciampi rejoined the Board. J. Froumy stepped down.

Approval of Minutes 05/26/2021:

MOTION: On a motion by D. Dunham, seconded by S. Ciampi, it was voted unanimously to accept the minutes of May 26, 2021 as written. (5-0)

ADJOURNMENT:

MOTION: On a motion by N. Patten, seconded by M. Mastenbrook, it was voted unanimously to adjourn at 9:35 pm. (5-0)

Respectfully submitted,

Colleen Akerman
Building & Land Use Clerk