



# ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, October 27, 2021  
Belmont Mill & Zoom  
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members; David Dunham and Sharon Ciampi.  
Members Absent: Mark Mastenbrook (E)  
Alternates Present: John Froumy  
Staff: Elaine Murphy, Rick Ball and Candace Daigle.

The Chairman opened the meeting at 6pm and welcomed those in attendance and announced that the Belmont Selectmen have adopted a mask mandate for public buildings. He announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

The Chairman appointed John Froumy as a voting member for tonight's meeting. He asked the Board to start the meeting by taking a roll call attendance, with each attendee stating their name and that they report if they are attending via Zoom.

Chairman Peter Harris, meeting room  
Norma Patten, zoom  
Mark Mastenbrook, meeting room  
John Froumy, meeting room  
Sharon Ciampi, meeting room  
Candace Daigle, Elaine Murphy and Rick Ball meeting room

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.

**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 (4.3') to the side property line than allowed (25'). ZBA # 3621Z
- B. Closer (19.4') to an unrelated structure (garage) than allowed (30'). ZBA #3721Z

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

The chairman read the history of the lot. In 2020 they got a mechanical permit for LP gas. In 2019 they submitted an application for a carport. Staff requested a DES shoreland permit and that the carport be moved to meet setbacks or ZBA relief be sought. In 2019 the current owner purchased the property and there were interior alterations and a new porch within the footprint. In 2002 there were interior renovations done and a wheel chair ramp added. In 1996 an application for a porch expansion was denied. A second story was added in 1995 and the structure was squared off. Also in 1995 the ZBA denied a special exception for a 2<sup>nd</sup> floor, then allowed a rehearing and then approved the special exception. The sewer was connected in 1983.

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

The motion was seconded by D. Dunham and carried. Roll Call N. Patten, P. Harris, J. Froumy, D. Dunham and S. Ciampi. (5-0)

The chairman read the Department Heads' responses. The Code Enforcement Officer stated the structures seem to be on top of each other and very close in that area. The Building Official stated the applicant built without a permit; not in favor of granting variances. The Land Use Technician had no comment from the stormwater management standpoint. The Fire Department submitted a letter addressing their concerns.

Mr. & Mrs. Chris Bouchard, Atty. Philip Hastings, Mr. Joshua Brien and Mr. Norman Skantze presented the application.

Atty. Philip Hastings stated that the applicant came before the Board on July 28<sup>th</sup> for two variances and they were denied mainly for safety reasons. Mrs. Bouchard then hired Mr. Norman Skantze, Fire Risk Management, to investigate misapplied fact for the standards to grant variances. On September 22<sup>nd</sup> they were given the opportunity to come back with a new application without the prenotation of the previous meeting. At the September 22<sup>nd</sup> meeting one or more members stated they would not change their mind. They cannot prejudge the application and stated if they feel that way, they need to recuse themselves. J. Froumy stated he was present at the meeting and it is his interpretation that the members wanted to make it clear that just because they granted a rehearing does not mean they would change their mind without new information. S. Ciampi stated that the comment came from her and it was her intention if it was the same application as the original, she would not change her mind. This is a new application and she has no preconceived notion formed.

Atty. Hasting stated that Mr. Joshua Brien was present to explain what is being proposed and what was done. The structure is already built but a variance is based on the land. They regret that the violation happened but the carport does not have an impact on the neighborhood.

Mr. Joshua Brien explained the history of the property. The Bouchards purchased the property in 2019 and they had an interior renovation permit that expired in 2019. In 2020 the Town Planner explained to them what is needed for relief for the carport. In 2021 the Building Official reached out requiring a new permit. In 2021 they submitted a ZBA application and were in contact with R. Wheeler, Building Official, and D. Sassan, Town Planner, in March and April. In May of 2021 he was in contact with D. Sassan who told them they needed a DES Shoreland permit because the carport is over impervious surface. They went to DES and no DES permit was needed. They went to the ZBA in June, July and September for the carport. The carport is over the area where there was preexisting gravel. There is new pavement over the gravel. The carport is positioned out of the way so not to interfere with access or egress and is in the most beneficial place to put it. It limits the amount of parking. Concerning the question of overcrowding the structure has no plumbing or walls. DES stated that there is no problem because they built and paved over existing gravel and there is no impact.

Mr. Norm Skantze, Fire Risk Management, stated he is a consultant for fire and life safety. He has backgrounds in safety, fire service, Code Enforcement and Building Inspector. He has been retained by the Bouchards for an initial inspection analysis and to look at the carport and give them his opinion if in the Building Code there is an issue to where it is located. The purpose of the State fire codes and specifically the life safety codes are to address construction, protection and occupancy features necessary to minimize danger to life from the effects of fire, including smoke, heat and toxic gases created during a fire. The State Fire and Building Codes concern is the accessibility to water flow. The carport allows access to the front door by limiting the parking. His observation is the distance to the adjacent building is 19.4' and 4' to the fence. In the code, the clearance structures have from each other is 5' and this is more with no additional hazard. The carport has no walls and is not occupied. There is no permit required by the State and it doesn't pose any additional hazards. It increases safety by parking away from the building.

J. Froumy wanted to know if Mr. Skantze visited the site and how the carport increases safety. Mr. Skantze stated he had visited the site several times and that if there was no carport anyone could park anywhere on the property. The carport puts vehicles in a designated area with minimal impact on the area. They will not be storing lawnmowers or gasoline in the carport. J. Froumy stated it doesn't increase the safety of the property. He inspected lot 64 Sunset Drive and they are 3' from the lot 64 Sunset Drive to 76 Sunset Drive. If cars are parked in that area in and there was an emergency at 64 Sunset Drive the emergency responders would remove the fence. If there is a car parked in the carport how would that work. The carport would not make a difference if cars are parked there. Mr. Skantze stated there are similar situations around the lakes. There are a lot of instances on the lakefront that are tight. The carport is better than a garage. Looking at it from a safety perspective there is no problem; it is not an occupied structure. J. Froumy wanted to know if it would in any fashion restrict access to 64 Sunset Drive, there is no other way to get to it except through the fence. The fence is a problem but emergency responders will just go through it and they can't do that with the carport. Overcrowding in the area is a problem but they don't want to exacerbate the situation. Mr. Skantze stated that looking at the site plan there is no way to position it

to get around the buildings. Emergency apparatus would not be driving around the building in that area because it is a tight spot. They could walk through the carport with the hoses.

Atty. Hastings stated the Board has to look at the variance standards and are obligated to determine if the variance meets the standard. The unnecessary hardship standard is a two-prong test. The application's proposed use is reasonable in this situation and doesn't hinge on whether it is necessary. If it is necessary is irrelevant if the use is reasonable. Nor is it irrelevant if it is permitted except for the setbacks this Board has to consider. It is a reasonable use of the property. The carport is well built and designed and there is no harm to others. It is clear there is no harm to the public safety, it is a standard carport and will not alter the neighborhood. It is similar to other properties in the area and there is no reasonable way to build the carport within the setbacks.

There is no fair and substantial relationship between the general public purpose of the ordinance because the purpose is to prevent overcrowding. The concept is about population and density with too many people in small area. A carport is a shelter over a paved parking area. The structure is compliant for safety and is not conducive to storage of flammable material. The variance hardship has been satisfied.

The Spirit of the ordinance is observed. They are not threatening the health, safety, or welfare of the public. There are other structures in the neighborhood and this is inconspicuous and blends in the area. The neighbors are overwhelming supporters of this even the owner of 64 Sunset Drive supports it. There is no health or safety risks and it is consistent with the ordinance.

Substantial Justice is any loss to the individual that is not outweighed by a gain to the public is an injustice. There is no safety issue. Denying it would be no benefit to the public and will harm the applicant by not allowing him to keep his vehicles under a safe structure.

This is a unique situation as it is the only residence in the Condominium Association that doesn't have a garage. Its property value is similar to surrounding properties and this increases the value of this and surrounding properties.

P. Harris stated the Board has to make an informed decision. The area was originally crowded with small homes on the lake that have since been built out with larger homes. The area is becoming overcrowded. Everything has to be considered when something is built in an area that is already maxed out, even if it has no walls. The special conditions of the site are the same as others in the area and have the same problems. The 4' setback is the issue. The Master Plan wants to preserve the rural character of Belmont. Similar situations are in Winnisquam Beach Campground and Mallards Landing that started out as a campground and a trailer park and now have two story homes. The Board has to keep restrictions on properties to prevent overcrowding. He likes to use the rule of a 50% setback reduction on an application. Going from a 25' to 4' is a taking.

J. Froumy wanted to know what the uniqueness of the property from other properties. Atty. Hastings stated it is where they are situated. It is the corner property at the end of a shared driveway. There is a fence separating the neighbors from them. There already is a driveway in place and they are not taking any area that was not designated for parking. They are taking the area that was used for parking and adding a carport.

J. Froumy stated the hardship is the property and they are pushing the carport to the end of the property. If they move the carport to the northerly property, it would impact the neighbors to the south and east. Its uniqueness is it already is impervious and used for parking. It is a well-designed structure over an existing area.

J. Froumy stated a carport is a reasonable way to shelter cars and is a reasonable use. A safety professional told us it is his opinion this carport in this location will not impair structures on this or other properties.

J. Froumy stated there may have been a failure to communicate between the Assistant Fire Chief and Mr. Skantze. Mr. Skantze heard that the Assistant Fire Chief had no concerns and that is not what the letter from the Fire Department indicated. He would like to hear from the Fire Department to clarify their position. Assistant Fire Chief said she did not dismiss it as a safe structure but deferred it to the proximity of the property line and zoning regulations. He would like to wait another month and have them present to answer any questions concerning safety.

Mr. Skantze stated on October 6<sup>th</sup> he talked to Code Enforcement and he looked through the files. If the Fire Department had any issues, they should have mentioned it. They didn't have any concerns at that time. It was a misunderstanding. Atty. Hastings stated it is an important issue and they defer deliberation to next month to be able to coordinate with the Fire Department or the Board can approve the application with the condition that the Fire Department has no safety issues. J. Froumy stated the issue is overcrowding, it is nice that the neighbors are approving but they can't make a decision based on the neighbors' feelings. They listen to them but can't rely on them to make a judgement. They have to follow the regulations the voters of Belmont approved. Each application relates to the unique property and situation. Reasonability doesn't stand by itself. In Simplex the safety of 64 Sunset Road and the owner's willingness to allow the carport doesn't make a difference if the house is on fire and it is difficult to get there.

Atty. Hastings stated that on properties the argument is a balancing act. You have to look at the law and history of the property, what standards apply and what is a reasonable use of the property. In cases you look at facts, other things that are reasonable, you hear from the neighbors as to if the character of the neighborhood is being altered.

J. Froumy stated if it is ok to have overcrowding is it ok that we exacerbate it more with additional overcrowding. Atty. Hastings stated it is an over-crowded area and structures are close to each other; does it elevate, neutralize or improve the situation?

Mr. Brien stated it is a unique property because each unit has a limited common use area around each unit. The only access is through the corner and you can't do anything in front because of the shoreland. They have to put it in the area. He stated he is a fireman and they would not go between the buildings, they would park in the open area and bring in hoses; not between the units but would cut the fence and go through the carport.

S. Ciampi wanted to know where they park cars if there is no carport. Mr. Brien stated they would park anywhere alongside the property. Mr. Chris Bouchard stated if you have kids they would park in front of the house. S. Ciampi wanted to know if the area has been resurveyed. Mr. Brien



stated there is no new survey. S. Ciampi wanted to know why the setbacks are different than the original survey. Mr. Brien stated the original survey measured from the soffits and Belmont allows for a 24" soffit.

Mr. Brien stated 94 Sunset Drive was granted a waiver for being 7' from the property line and has a similar setback.

The chairman opened the hearing to public comment.

Mr. Dan Clair, 64 Sunset Drive, an abutter, stated he has been there for 12 years and plans to retire there. All the lots are nonconforming. He has no issues with the carport being close to his property. There will be no extra water draining onto his property. D. Dunham wanted to know if he had problems with the Fire Department going through or around his property with hoses to fight a fire. Mr. Clair stated they wouldn't be coming through his property to fight a fire at 72 Sunset Drive they would go through the fence and that doesn't have anything to do with the carport.

Mr. Colby Dyess, 70 Sunset Drive, an abutter, stated he supports this application and is not worried about a fire. The unrelated garage is on his property. The improvements will increase the values in the neighborhood.

Mrs. Maria Cantor, 74 Sunset Drive, an abutter stated she has owned her property for 10 years and is the president of the association. She was close to the former owner and there were multiple cars, a shed and a boat in that area and the area was unkept. She had more concern for access when they were there then having the carport. The carport is clean and organized and she isn't concerned with overcrowding. She thinks the carport is aesthetically pleasing and the construction matches the carport and improved the area. The carport is out of sight. The driveway is a common driveway and they have landscaped the area. They are good neighbors and helpful. Emergency vehicles have more than enough room to access the area, there are no cars that drive past the carport to get to 64 Sunset Drive, they have their own separate driveway. She stated the condominium has 8 free-standing units and has been there for 50 years. They are seasonal residents and 1 out of 8 owners live there. The units are separated and have good spacing between units. She is proud of what they have and there are no issues with safety.

N. Patten left the meeting at 8:10. Atty. Hastings wanted to know if he now had a Short Board. C. Daigle stated he does and asked him if he wanted to continue. Atty. Hastings stated he would proceed.

J. Froumy stated they are in general agreement if there was fire the driveway doesn't mean they would go in that way. They might use the side of the house where the fence is. Overcrowding can be objective and subjective. It can include aesthetics, safety and other things.

P. Harris stated he is concerned that they are not dragging this out but they have new information and they are working with it. One more meeting with the Fire Department being present will help them understand the fire codes and how they interact with zoning setbacks. S. Ciampi stated that Mr. Skantze, Mr. Bouchard talked to the Fire Chief and Assistant Chief at the recent

Planning Board meeting and it would be a good idea to include them in the Zoning meeting next month.

J. Froumy stated we need more information and Atty. Hastings is willing to wait until the Fire Department can be present to answer additional questions. S. Ciampi stated her concern is safety and she appreciates what the applicant has presented but she would like someone specifically trained in water rescue to answer some questions. J. Froumy stated they need to validate the expert's decision and having someone from the Fire Department can do that. S. Ciampi stated that she has issues with the 4' and would feel better with the Fire Department's input.

C. Daigle stated she contacted Assistant Chief Black when she read Mr. Skantze's report and the Assistant Fire Chief stated she didn't have a chance to look at it. The Fire Department was instrumental in adopting the 30' setback. J. Froumy stated if it was a 4-sided building it would be a lot easier to make a decision. The issue is the closeness of other structures. Atty. Hastings agreed to the continuance to get clarification from the Fire Department. The only topic that would be discussed at that meeting is the Fire Department's concerns.

#### **BOARD ACTION – JENNIFER BOUCHARD FOR SUNSET BEACH CONDOMINIUM:**

**MOTION:** J. Froumy moved to Table for two Variances of Article 5 Table 2 of the Zoning Ordinance to allow a carport closer (4.3') to the side property line than allowed (25') and closer (19.4') to an unrelated structure (garage) than allowed (30') to November 17, 2021 at 6:00 PM to allow additional expert input on fire safety and to resolve fire safety issues with the Fire Department. They will be present at the next meeting. The applicants will not have to renotice.

The motion was seconded by P. Harris and carried. Roll Call P. Harris aye, J. Froumy aye, D. Dunham aye, and S. Ciampi aye. (4-0)

#### **ABUTTERS HEARING – JENNIFER BOUCHARD FOR SUNSET BEACH CONDOMINIUM:** Request for.

- A. A Special Exception of Article 11.A.3.d of the Zoning Ordinance to construct a structure closer (28.9') to the highwater mark than allowed (50') but not closer than the preexisting building and not exceeding a 40% increase within the setback. ZBA #4021Z
- B. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a structure closer (23.7') to an unrelated structure (house) than allowed (30'). ZBA #3821Z
- C. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a structure closer (29.9') to an unrelated structure (house) than allowed (30'). ZBA #3921Z

Property is located at 76 Sunset Drive in an "RS" Zone, Tax Lot 107-150-000-004.

Mr. & Mrs. Chris Bouchard, Atty. Philip Hastings, Mr. Joshua Brien and Norman Skantze presented the application. Atty. Hastings agreed to a short Board.

The members that viewed the site were P. Harris, J. Froumy, D. Dunham and S Ciampi.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact. The motion was seconded by J. Froumy and carried. (4-0) Roll call votes no longer required as all members were present.

P. Harris stated there were no comments from the Department Heads.

Mr. Joshua Brien explained the applicant is reconstructing a two-story structure at 76 Sunset Drive. They needed a boundary line adjustment to capture adjusted limited common area and they were granted Planning Board approval on October 25, 2021.

He explained the special exception is for the new footprint closer (28.9') to the highwater mark than allowed (50') but not closer than the preexisting building and not exceeding a 40% increase within the setback. They are removing the front deck from the first floor and adding a cantilever deck on the second floor. The deck will be less than 100sf. The variances are for the 3' soffits which reduce the setback to 23.7'. The foundation and walls are almost in the same spot as they are today.

S. Ciampi stated she viewed the site and it looked like they put up brick covering on the foundation and she wanted to know what the footprint of the house is. Mr. Bouchard stated the building is on stilts and the panels are just for decoration.

J. Froumy stated the 26.67' to an unrelated structure will be reduced it to 23' that is with the 3' soffits. The perimeter of house is not being changed except to square it off and the decorative overhang. The existing deck on the water side is being removed and replaced with a cantilever second floor deck. Atty. Hastings stated they are tearing down and rebuilding.

Mr. Skantze stated he inspected 76 Sunset Drive and it is a 1 story wood building constructed prior to building codes. The garage is unprotected and not separated from the house with a fire wall. The roof is unprotected, has acoustic ceilings. There are 2 battery smokes detectors in the house. The house is on piers and is not insulated. The plumbing and electric look like the home owner did a lot of the repairs and shows signs of rot and decay. The house should not be occupied. They meet the NFPA codes for setbacks and there are 2 dry hydrants less than 1000' from the building. The building is not safe and needs to be torn down and cannot be renovated.

Atty. Hastings stated the is benefits of upgrading a 75-year-old house is huge. They made an effort to minimize the affects on neighbors by going with a flat roof.

J. Froumy wanted to know about the water and sewer utilities. Mr. Bouchard stated they are on municipal sewer and private water.

The chairman opened the hearing to public comment.

Mrs. Clair Peterson, an abutter, stated she has an issue with the boundary line, they are extending into the common area and she has a dock that will have to be removed. She has been there



for 17 years and the boundary line was straight. Now that the line changes she will have no dock and there will be no beach or swimming area for the kids. C. Daigle explained the boundary line adjustment only captured Mr. Bouchard's limited common area and does not affect the beach area or her dock. Mr. Brien stated the area remains the same and showed Mrs. Peterson the boundary line. The lines between limited common area and common area remain in the same area as they are now. The deed and survey will match the original deed and survey. Mrs. Peterson thanked Mr. Brien for the clarification.

There being no further questions or comments the chairman closed the public hearing.

J. Froumy stated the purpose of the variances is to improve the safety and character of the neighborhood. The distance of the 3' soffit isn't going to make any difference; it does not violate the ordinance. This is an old building and the infrastructure in the building will be improved and will have little impact on the neighborhood.

P. Harris stated what the applicant presented and the reasons they are needed is submitted in the written application and meets the criteria.

### **BOARD ACTION – JENNIFER BOUCHARD FOR SUNSET BEACH CONDOMINIUM:**

**MOTION:** J. Froumy moved to grant approval for a Special Exception of Article 11.A.3.d of the Zoning Ordinance to construct a structure closer (28.9') to the highwater mark than allowed (50') but not closer than the preexisting building and not exceeding a 40% increase within the setback as it meets all the criteria.

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. is not applicable.
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. They are replacing an existing single family residential unit in a residential single-family zone. The proposal replaces the existing unit practically on the same footprint with no increase in services.
4. The proposed location is of adequate size. They are reusing the existing footprint, which is adequate in size as previously proven.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The site is located on a dead-end private road. It is a single-family structure that will not create any additional traffic, pedestrians or additional pavement.
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 properties or street. There is no additional water run off as the roof surface is the same. This is a private water system and municipal sewer.
7. The proposal does not create excessive demand for municipal services and facilities. They are on municipal sewer and have private water. There is no impact on road surface as it is a private road and will no create additional traffic.

8. The proposal does not create hazards to the health, safety or general welfare of the public. Due to the age of the house, safety will be improved inside and out. It will provide better fire protection for the neighbors.

Additional conditions:

- A. All setbacks certified at the commencement of construction and as may otherwise be required.
- B. Comply with all conditions of Shoreland Protection permit.
- C. Comply with Floodplain 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. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- F. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- G. Approval expires on 10/27/23 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. (4-0)

**MOTION:** J. Froumy moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a structure closer (23.7') to an unrelated structure (house) than allowed (30') as it meets all the criteria.

1. The variance will not be contrary to the public interest because it does not conflict with the implicit purpose of the zoning, injure the public health welfare or public rights.
2. The spirit of the ordinance is observed because it does not conflict with the implicit purpose of the zoning, injure the public health welfare or public rights.
3. Substantial justice will be done because approval would not benefit the applicant at the expense of the public. Denial would be a loss to the individual and would not be outweighed by the gain to the general public and would be an injustice.
4. The variance would not diminish the value of surrounding properties because replacing the 80-year-old structure arguably will increase the property values as well as surrounding property values. Aesthetics alone will benefit greatly.
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 it complies with the general character of the neighborhood.and

- b. the proposed use is a reasonable one because they are replacing a single-family structure with a single-family structure in the residential single-family zone and will provide the same accommodations.

Additional conditions:

- A. 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.
- B. All setbacks certified at the commencement of construction and as may otherwise be required.
- C. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
- D. Comply with all conditions of Shoreland Protection permit.
- E. Comply with Floodplain Ordinance.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and unit 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 10/27/23 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.
- I. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
  1. In all instances where a tax map and lot number is used (subject lot, abutter, etc.), correct numbering sequence to map=107, lot=150, subplot=000, unit=004 etc.
  2. Lot ID for lot 107/150/000/002 is missing.
  3. Note 2, there is no “parcel” area; remove .12Ac note or identify it as limited common area. Within the graphic of the limited common area, you have .15Ac; correct one of these.
  4. Note 4 correct side setback to 25’. There is no rear setback on this lot. Delete second paragraph as this is not a preexisting, nonconforming lot.
  5. Use a different line type/identify limited common areas. These look like property (in fee) lines.
  6. In the title block identify as “A Condominium”.

The motion was seconded by D. Dunham and carried (4-0)

**MOTION:** J. Froumy moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a structure closer (29.9’) to an unrelated structure (house) than allowed (30’) as it meets all the criteria.

1. The variance will not be contrary to the public interest because it does not conflict with the implicit purpose of the zoning, injure the public health welfare or public rights.

2. The spirit of the ordinance is observed because it does not conflict with the implicit purpose of the zoning, injure the public health welfare or public rights.
3. Substantial justice will be done because approval would not benefit the applicant at the expense of the public. Denial would be a loss to the individual and would not be outweighed by the gain to the general public and would be an injustice.
4. The variance would not diminish the value of surrounding properties because replacing the 80-year-old structure arguably will increase the property values as well as surrounding property values. Aesthetics alone will benefit greatly.
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 it complies with the general character of the neighborhood.and
  - b. the proposed use is a reasonable one because they are replacing a single-family structure with a single-family structure in the residential single-family zone and will provide the same accommodations.

Additional conditions:

- A. 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.
- B. All setbacks certified at the commencement of construction and as may otherwise be required.
- C. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
- D. Comply with all conditions of Shoreland Protection permit.
- E. Comply with Floodplain Ordinance.
- F. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- G. The applicant and unit 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 10/27/23 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.
- I. Submit final plan sets (3 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies. Make the following changes/corrections:
  1. In all instances where a tax map and lot number is used (subject lot, abutter, etc.), correct numbering sequence to map=107, lot=150, subplot=000, unit=004 etc.
  2. Lot ID for lot 107/150/000/002 is missing.
  3. Note 2, there is no "parcel" area; remove .12Ac note or identify it as limited common area. Within the graphic of the limited common area, you have .15Ac; correct one of these.

4. Note 4 correct side setback to 25'. There is no rear setback on this lot. Delete second paragraph as this is not a preexisting, nonconforming lot.
5. Use a different line type/identify limited common areas. These look like property (in fee) lines.
6. In the title block identify as "A Condominium".

The motion was seconded by D. Dunham and carried (4-0)

**ABUTTERS HEARING – MATTHEW GAULT:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for a contractor's yard, storage of equipment trailers, aluminum frames and pressure treated lumber, in the commercial zone. Property is located at 682 Laconia Road, Tax Lot 230-043-000-000, ZBA #4121Z

C. Daigle stated that the applicant asked to table his application to allow him more time to submit a completed application. She stated that he will resubmit the application when his engineer has completed it and they will have to renotice.

**BOARD ACTION – MATTHEW GAULT:**

**MOTION:** S. Ciampi moved to Table the Special Exception of Article 5 Table 1 of the Zoning Ordinance for a contractor's yard, storage of equipment trailers, aluminum frames and pressure treated lumber, in the commercial zone to allow the applicant more time to submit a completed application.

The motion was seconded by J. Froumy and carried. (4-0)

**OTHER BUSINESS:**

**BOARD'S ACTION -MINUTES:**

**MOTION:** On a motion by P. Harris, seconded by J. Froumy it was voted unanimously to accept the minutes of September 22, 2021 as written. (4-0)

**DECISIONS:**

J. Froumy wanted to clarify how decisions are made. The Board has to make sure that decisions are based on fact and are not subjective. The decision of overcrowding for any application can be a visual thing but it has to be based on facts. The Board can refute a professional's opinion as long as it is supported by facts. He was on a jury and the judge allowed them to refute a professional's opinion as long as there were facts to validate it. You can refute an expert's opinion on overcrowding as long as the deliberation can be validated.

**ADJOURNMENT:**

**MOTION:** On a motion by J. Froumy seconded by D. Dunham it was voted unanimously to adjourn at 8:36pm. (4-0)

Respectfully submitted,

Elaine M. Murphy  
Administrative Assistant