



46 must consider when making a determination. The purpose of the hearing is not to gauge the  
47 sentiment of the public or to hear personal reasons why individuals are for or against an appeal,  
48 but all facts and opinions based on reasonable assumptions will be considered. In the case of an  
49 appeal for a Variance, the Board must determine facts bearing upon the five criteria as set forth  
50 in the State's Statutes. For a Special Exception, the Board must ascertain whether each of the  
51 standards set forth in the Zoning Ordinance have been or will be met.

52 **APPROVAL OF AGENDA**

53 Ms. Ditri noted there is a correction to Case Z24-38, it should be Article 300 Section 320 J.3, 4,  
54 5, and 6.

55  
56 **MOTION: To approve the agenda as amended. Motion by Mr. Rich. Second by Mr.**  
57 **LaRochelle. Motion passed unanimously.**

58  
59 Vice Chair Lee stated the Board will do their best to get through all the cases on the Agenda but  
60 no cases will be started after 10:00PM.

61  
62 **1. CONTINUED APPLICATIONS**

<b>Case #Z24-28 Shawn Dunphy, Esq. Agent for Steven Boccelli, Owner</b>	<b>Map 36 Lot 12 115 Mount Major Highway</b>	<b>Administrative Appeal Residential Zone (R)</b>
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63 **An Administrative Appeal** is requested in reference to a letter regarding unpermitted Short  
64 Term Rental.

65  
66 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
67 completeness.

68  
69 John Bisson, Esq., representative for the applicant, stated additional documents have been  
70 submitted as requested at the last meeting. He stated there are two issues including the short term  
71 rental and the accusations by the Code Enforcement Officer that there has been obnoxious  
72 behavior by the renters and property owner. Ms. Bisson presented information showing the  
73 property has been used as a short term rental, pre-dating the March 2023 ordinance amendment.  
74 He stated the use was preexisting so therefore permitted; he outlined the conditions contained  
75 within the ordinance and stated the none of the conditions of Article 321, impact the conclusion  
76 of Section A, for a lawful use which shall be allowed to continue.

77  
78 Mr. Bisson stated the conclusion by the Code Enforcement Officer in the Cease and Desist letter  
79 of July 1, 2024, that there has been obnoxious behavior, but that term is not defined in the  
80 ordinance. He stated a seven police reports were presented at the last meeting however, three  
81 were responses to the property at the request of the property owner; the second series of reports  
82 are limited and deal with a complaint from a neighbor about a pile of dirt in the driveway and the  
83 police responded to that; a neighbor called to have the people charged for going on his dock.  
84 However, Mr. Boccelli advised at that time that no one was staying on the property so whoever  
85 was on the dock, was not affiliated with this property. There was a July 5, 2023 report for a party  
86 going on at 5:00PM; on March 4, 2023 subjects were listening to music in a hot tub, advised to  
87 turn the music down and were cooperative. A report on July 5, 2021 was filed by Mr. Boccelli of

88 a neighbor taking pictures of people on his property. Mr. Bisson stated he received an update  
89 from the Code Enforcement Officer for a report dated August 28, 2024, concerning the fact a  
90 neighbor feels the property is “party central” with twenty five people on the property at any time  
91 but that does not violate any ordinance; there is also a concern that the No Trespassing signs are  
92 ugly; parking has been an issue per the neighbor and he doesn’t believe that the property  
93 enhances his property value. Another police report is regarding females getting out of a boat on  
94 to a dock that is posted “No Trespassing” however the police officer determined the reporter did  
95 not witness the behavior. Mr. Bisson stated it is the conclusion that three to four incidences over  
96 the last few years, are of young people outside and enjoying the area; each time the people were  
97 addressed by police, they were apologetic and modified their behaviors, per the police reports.  
98 He stated this is a situation where it is a tight space, a shared driveway and when people don’t  
99 get along, it doesn’t rise to the level of a Cease and Desist from the Code Enforcement Officer  
100 for a use that is allowed. He stated he has discussed the issue of non-conforming use with Town  
101 Counsel.  
102

103 Mr. Monziona stated it is his understanding that an appeal is reflective of an interpretation of an  
104 ordinance. Mr. Bisson stated that is correct; it was the decision of the Code Enforcement Officer  
105 that certain sections of the ordinance were violated. Mr. Monziona stated the Board is confined  
106 to dealing with the interpretation of the provision of the ordinance. Mr. Bisson stated they are  
107 also appealing the definition used by the CEO for “obnoxious”.  
108

109 Ms. Ditri presented a staff review for the Board, outlining the process for an appeal. She stated  
110 there is a definition for “obnoxious” within the ordinance, Section 321; she stated the behavior  
111 from many complainants led her to the conclusion that there is a violation; specifically, “a  
112 reasonable expectation of comfort, peace, quiet enjoyment of the community and neighborhood.”  
113 Mr. Bisson stated that is not what the Cease and Desist letter indicates; the conclusion is that the  
114 applicant has rented the property in a residential district for short term rental; tenants and  
115 landlord have exhibited obnoxious behavior, but it does not indicate that is disturbing the peace,  
116 which would be inline with the ordinance. He stated the appeal is for this Cease and Desist as it  
117 calls the owner obnoxious.  
118

119 Mr. Monziona confirmed the CEO is that the use was not grandfathered but Mr. Bisson argues it  
120 is because the use was existing before the ordinance amendment. He stated one of the things that  
121 would cause grandfathering to be lost is “obnoxious” behavior. Mr. Bisson stated he disagrees  
122 and these two issues are not tied together. He stated each should be considered separately.  
123

124 Vice Chair Lee stated the CEO appears to be looking out for the best interest of the community;  
125 she acted on reports of a short term rental being operating on a residential zone, which was not  
126 permitted as of March 2023 and would not have known it was preexisting, based on the  
127 information provided to her; it is his opinion that the procedure was followed properly. Mr.  
128 Bisson suggested the CEO have more dialog to determine preexisting use before issuing a Cease  
129 and Desist, especially when there are recent amendments to the ordinances. He stated there is a  
130 healthy record to show the short term rental was preexisting.  
131

132 Vice Chair Lee opened the hearing to input from the public.  
133

134 Vince Bodart, abutter, stated he is concerned that the attorney refenced information that he  
135 provided to the Board and stated it wasn't intended for him but only the Board and the Planning  
136 office. Mr. Bobart stated he had people and kids on his boathouse and took pictures; he stated  
137 when he approached people to leave it, they swore at him. He stated in 2020, he brought this  
138 short term rental to the attention of the Town Manager, who referred him to the Town Planner  
139 and the Building Inspector. He stated his concerns about this short term rental is nothing new; he  
140 state the zoning is "permissive" so if its not permitted, it can't be done so prior to the ordinance  
141 amendment it was not permitted. Mr. Bodart stated this property is a full time business and there  
142 is no residence by the property owner, which is required as of the ordinance in 2017. He stated  
143 he has owned his property since the 1980s and never had to call the police until this property  
144 became a short term rental; he stated this was the direction offered by the Town officials. He  
145 stated the obnoxious behavior at this short term rental is affecting his peaceful enjoyment of his  
146 property.

147  
148 Bill O'Brien, resident, stated he called the police twice; both times were at 1:30 PM in the  
149 morning due to noise; he stated he doesn't have a problem for renters who are there for a week  
150 but the ones that come for a weekend are disruptive.

151  
152 Mary O'Brien, resident, presented a letter from Howard Newton, an abutter, who was unable to a  
153 attend.

154  
155 Vice Chair Lee closed the hearing to input from the public.

156  
157 Mr. Monziona stated short term rentals are a specific use and outlined the requirements for  
158 permitting and questioned if this property met the criteria of a preexisting use. Mr. Bisson stated  
159 the ordinance doesn't apply to this property because it was not enacted prior to the short term  
160 rental operation; he reiterated that is not the topic addressed in the Cease and Desist.

161  
162 The Board discussed the information and testimony presented. Mr. Monziona stated he believes  
163 the use of the property as a short term rental was consistent prior to the enactment of the  
164 ordinance; he stated the definition of "obnoxious" is broad but believes it was interpreted  
165 correctly with regard to the reasonable expectation of enjoyment of the property. Mr. LaRochelle  
166 the use may be grandfathered but a permit is still needed, and the ordinance criteria have to be  
167 met. Mr. Rich stated it seems the Cease and Desist was appropriate for one issue but not the  
168 other.

169  
170 **MOTION: That the appeal be granted Map 36 Lot 12, 115 Mount Major Highway with**  
171 **regard to the first grounds of the appeal which is that the use is grandfathered and**  
172 **therefore the interpretation by the Code Enforcement Officer for the Cease and Desist was**  
173 **a misinterpretation of the zoning ordinance based on these facts. Motion by Mr. Monziona.**  
174 **Second by Mr. Rich. Motion passed 5-0-0.**

175  
176 **MOTION: That the appeal for Map 36 Lot 12, 115 Mount Major Highway with regard to**  
177 **the second grounds of the appeal in regard to the obnoxious use and the use presented by**  
178 **abutters and evidence meets the definition in the zoning ordinance, Section 321, and**  
179 **therefore the interpretation by the Code Enforcement Officer was correct and the appeal is**

180 denied. Motion by Mr. Monziona. Second by Mr. Rich. Motion passed 5-0-0.  
181

182 **2. NEW APPLICATIONS**

<b>Case #Z24-35 Camp Five Trust, Keith Derosa, Applicant for Jay and Julie Cleary, Owners</b>	<b>Map 12 Lot 70 Bear Pond Road</b>	<b>Variance Rural Zone (RU)</b>
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183 A Variance is requested from Article 400 Section 452.A.1 to allow a non-conforming lot of  
184 .41 AC due to subsequent Lot Line Adjustment where lots under two (2) AC are not  
185 permitted.  
186

187 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
188 completeness.  
189

190 **MOTION: To accept the application as complete. Motion by Mr. LaRochelle. Second by**  
191 **Mr. Rich. Motion passed unanimously.**  
192

193 Keith Derosa, applicant, stated he has a small cabin on lot 71; about 20 years ago, a septic  
194 system was installed but the boundaries were not measured correctly; he stated Northway Plains  
195 recently surveyed the property and determined the leach field was on the abutting property. Mr.  
196 Derosa stated he has made an agreement with the Clearys to purchase 5,000 square feet and  
197 make the adjustment for the boundary to lot 70. The increase is .086 acres for a total lot size of  
198 0.41 acres. There is no purchase and sales agreement until the adjustment is approved by the  
199 Board.  
200

201 Vice Chair Lee closed the hearing to input from the public. None was indicated.  
202

203 Vice Chair Lee closed the public hearing.

204 **Discussion Case #24-35**

205 *The Board must find that all the following conditions are met in order to grant the Variance:*

206 Vice Chair Lee stated granting the variance **would not** be contrary to the public interest. He  
207 stated the lot will be less nonconforming and is in the best interest of all parties involved. The  
208 Board agreed.

209 Mr. Monziona stated the request **is** in harmony with the spirit of the ordinance and the intent of  
210 the Master Plan to maintain the health, safety and character of the direct district within which it  
211 is proposed. He stated it will be in line with the Master Plan to have the leach field on the  
212 property that it serves. The Board agreed.

213 Mr. Mankus stated that by granting the variance, substantial justice **will be** done. The Board  
214 agreed.

215 Mr. Larochelle stated the values of surrounding properties **will not be** diminished. He stated  
216 nothing is changing other than a lot line adjustment. The Board agreed.

217 Mr. Rich stated that for the purposes of this subparagraph, *“unnecessary hardship” means that,*  
218 *owing to special conditions of the property that distinguish it from other properties in the area:*

- 219           i.       *No fair and substantial relationship exists between the general public purposes of*  
220                     *the ordinance provision and the specific application of that provision to the*  
221                     *property;*
- 222           ii.       *The proposed use is a reasonable one.*

223 Mr. Rich stated the applicant found out that his septic system is located on another property, it is  
224 a hardship that needs to be corrected and to deny this variance would impose a hardship; the use  
225 is reasonable. Mr. Monziona stated the special conditions of the property is that the leach field is  
226 on another property. The Board agreed.

227  
228 **MOTION: To approve the application for a variance for Case #Z24-35, Map 12 Lot 70**  
229 **Bear Pond Road. Motion by Mr. Rich. Second by Mr. LaRochelle. Motion passed**  
230 **unanimously.**

<b>Case #Z24-36</b> <b>Daniel Lang, Owner</b>	<b>Map 14 Lot 1-2</b> <b>232 Jesus Valley Road</b>	<b>Variance</b> <b>Rural Zone (RU)</b>
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232 **A Variance** is requested from **Article 400 Section 452.B** to permit the subdivision of a new lot  
233 with 200' of road frontage on a class 6 road and a shared driveway.

234  
235 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
236 completeness.

237  
238 **MOTION: To accept the application as complete. Motion by Mr. LaRochelle. Second by**  
239 **Mr. Rich. Motion passed unanimously.**

240  
241 Daniel Lang, owner, explained his mother built an accessory dwelling unit on the property many  
242 years ago; the main house and ADU have a shared driveway, and he now owns both residences.  
243 Mr. Lang stated he wants to separate the homes so they can enlarge their home; his sister lives in  
244 the ADU. Mr. Lang stated each lot will meet requirements except for the frontage; about 800 feet  
245 of frontage for the ten acre lot will be on a Class VI road but the shared driveway would remain  
246 on the Class V road.

247  
248 Vice Chair Lee noted the Highway Department request a driveway permit be filed.

249  
250 Mr. Monziona noted the applicant will also need to go to the Planning Board for the subdivision  
251 approval and a building permit from the Board of Selectmen. Mr. Lang confirmed the size and  
252 footprints of the structures aren't changing.

253  
254 Vice Chair Lee closed the hearing to input from the public. None was indicated.

255 Vice Chair Lee closed the public hearing.

256 **Discussion Case #24-36**

257 *The Board must find that all the following conditions are met in order to grant the Variance:*

258 Mr. Monziona stated granting the variance **would not** be contrary to the public interest given the  
259 location of the lot and the fact there is an existing ADU. The Board agreed.

260 Mr. Mankus stated the request is in harmony with the spirit of the ordinance and the intent of the  
261 Master Plan to maintain the health, safety and character of the direct district within which it is  
262 proposed. The Board agreed.

263 Mr. LaRoche stated that by granting the variance, substantial justice will be done. He stated  
264 this is a dead end road with no neighbors nearby; the subdividing is to expand the applicants  
265 living space for his family. The Board agreed.

266 Mr. Rich stated the values of surrounding properties will not be diminished. He stated the land  
267 surrounding the lot is in conservation, owned by the same family. The Board agreed.

268 Vice Chair Lee stated that for the purposes of this subparagraph, *“unnecessary hardship” means*  
269 *that, owing to special conditions of the property that distinguish it from other properties in the*  
270 *area:*

271           iii.     *No fair and substantial relationship exists between the general public purposes of*  
272                     *the ordinance provision and the specific application of that provision to the*  
273                     *property;*

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

275 Vice Chair Lee stated to deny this variance would impose a hardship; the use is reasonable. The  
276 Board agreed.

277  
278 **MOTION: To approve the application for a variance for Case #Z24-36, Map 14 Lot 1-2**  
279 **232 Jesus Valley Road. Motion by Mr. LaRoche. Second by Mr. Rich. Motion passed**  
280 **unanimously.**

281

<b>Case #Z24-37</b> <b>Mark &amp; Jana Mowers, Owners</b>	<b>Map 62 Lot 13</b> <b>6 Mill Cove Road</b>	<b>Special Exception</b> <b>Lake Shore Residential Zone</b> <b>(LR)</b>
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282 **A Special Exception** is requested from **Article 300 Section 320.D** to permit the tear down and  
283 rebuild of an existing single family residence on the same footprint with an increased structure  
284 height.

285  
286 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
287 completeness.

288  
289 **MOTION: To accept the application as complete. Motion by Mr. Monziona. Second by Mr.**  
290 **Rich. Motion passed unanimously.**

291  
292 Mark Mowers, owner, stated they want to demolish and rebuild their home; there are rotted  
293 support beams; the septic system is failing. The footprint will not change; there will be limited  
294 tree removal and the added space will go up to make it suitable for year-round use. The existing  
295 structure is 31.3'; the new structure would be 39.6'. Mr. Mowers stated they will be starting  
296 lower, 4' below grade, so the height isn't going to be that much higher than the existing. Mr.  
297 Rich noted that per the plans the median height is 33.6'. It was confirmed the structure would not  
298 exceed the 35' height restriction. Mr. Mowers presented photos showing that no abutters views

299 would be impacted; he stated he is reducing the size of the decks to meet the requirements.

300

301 Mr. Monziona noted the structure will be within the shoreline setback but its is grandfathered; he  
302 asked if there is any other nonconforming points of this building. It was confirmed that the only  
303 nonconforming aspect is the distance to the shoreline. Per the plans, the deck will be moved back  
304 as far from the shoreline as possible, but the structure cannot be moved back due to the location  
305 of the leach field. Mr. Mowers confirmed this has been reviewed by NH DES.

306

307 Vice Chair Lee opened the hearing to input from the public.

308

309 Jay Jermell, abutter, stated after reviewing the plans, he doesn't believe it adds up or that the  
310 structure will be below 35' height. He questioned the grade calculations and wants to be sure the  
311 height doesn't impact his view. Vice Chair Lee explained the grade is being lowered.

312

313 Mr. Mowers confirmed the grade is going to change with sloping and backfilling; the total height  
314 of the building will be 39' but they are going down further with the foundation by 5.10'.

315

316 Vice Chair Lee closed the public hearing.

317

318 ***Special Exception Discussion – Case #Z24-37***

319

320 *The Board must find that all the following conditions are met in order to grant the Special*  
321 *Exception:*

322 Vice Chair Lee stated that a plat/plan **has** been submitted in accordance with the appropriate  
323 criteria in the Zoning Ordinance, Article 520.B. The Board agreed.

324 Mr. Monziona stated the specific site **is** an appropriate location for the use; the use is not  
325 changing. The Board agreed.

326 Mr. Mankus stated that actual evidence **is not** found that the property values in the district will  
327 be reduced due to incompatible land uses. No demonstrable facts have been brought forward by  
328 abutters or anyone else other than an appraisal from the applicant. The new house will be in the  
329 same place as the existing house. The Board agreed.

330 Mr. LaRochelle stated there were concerns by abutters regarding the height and view; after  
331 review and discussion of the plans, there will be a condition that the new structure won't be  
332 higher than four to five feet than the current ridgeline. The Board agreed.

333 Mr. Rich stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic,  
334 including the location and design of access ways and off-street parking. The Board agreed.

335 Vice Chair Lee stated adequate and appropriate facilities and utilities **will** be provided to ensure  
336 the proper operation of the proposed use or structure. The Board agreed.

337 Mr. Monziona stated there **is** an adequate area for safe and sanitary sewage disposal and water  
338 supply. The Board agreed.

339 Mr. Mankus stated the proposed use or structure **is** consistent with the spirit of this ordinance and  
340 the intent of the Master Plan. The Board agreed.



341 **MOTION: To approve the application for Case#Z24-37 for a Special Exception with the**  
342 **condition that the finished height of the proposed structure be in accordance with the plans**  
343 **presented and will not be higher than depicted; all NH DES permits must be obtained.**  
344 **Motion by Mr. Monziona. Second by Mr. Rich. Motion passed unanimously.**

345  
346 Mr. LaRochelle recused himself from the Board for Cases Z24-38, 39 and 40.  
347

<b>Case #Z24-38</b> <b>Paul LaRochelle, Agent for Timothy</b> <b>Barchard, Owner</b>	<b>Map 33 Lot 36</b> <b>13 Mariette Drive</b>	<b>Variance</b> <b>Lake Shore Residential Zone</b> <b>(LR)</b>
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348 **A Variance** is requested from **Article 300 Section 320 J.3, 4, 5, and 6** to permit the expansion  
349 of a nonconforming structure.

350  
351 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
352 completeness.

353  
354 **MOTION: To accept the application as complete. Motion by Mr. Rich. Second by Mr.**  
355 **Mankus. Motion passed unanimously.**

356  
357 Paul LaRochelle, representative for the applicant, stated this a unique lake front property on  
358 Alton Bay; there is an existing 8' by 13' shed and is in disrepair nor is it adequate for proper  
359 storage. Mr. LaRochelle stated the lot is very small and the proposal is to remove the existing  
360 shed and rebuild a 16' by 20' single car garage/shed so Mr. Barchard can store his motorcycle,  
361 equipment, etc. without having to rent storage space elsewhere. Mr. LaRochelle stated the  
362 existing shed is on a retaining wall and on the property line adjacent to Mariette Drive; a recent  
363 survey shows that the shed is only half on his property currently. A lot line adjustment will be  
364 needed to add to the concrete wall that is existing. Mr. LaRochelle stated the owners of the  
365 easement area across the street, and who own the road, have agreed to a lot line adjustment to  
366 sell a pie shaped piece of property so Mr. Barchard's shed will be fully on his property. Mr.  
367 Barchard previously believed the shed to be entirely on his property. Mr. LaRochelle confirmed  
368 the lot line adjustment would not create a non-conforming aspect of either property. The existing  
369 shed is 10.4' high; the new structure would be 13'. The height of the home is 15'; it was  
370 confirmed this won't affect the Shubert Family Trust property or any property across the drive.

371  
372 Vice Chair Lee opened the hearing to input from the public. None was indicated.

373  
374 Vice Chair Lee closed the hearing to input from the public.

375 **Discussion Case #24-38**

376 *The Board must find that all the following conditions are met in order to grant the Variance:*

377 Vice Chair Lee stated granting the variance **would not** be contrary to the public interest. He  
378 stated with the lot line adjustment, the property will be less nonconforming. Mr. Monziona stated  
379 it is not contrary when considering the location and layout of this site. The Board agreed.

380 Mr. Monziona stated the request **is** in harmony with the spirit of the ordinance and the intent of  
381 the Master Plan to maintain the health, safety and character of the direct district within which it

382 is proposed. He stated the zoning ordinance is to maintain setbacks but the purpose isn't an issue  
383 here because it is against a private drive and will be an overall improvement to the property. Mr.  
384 Rich stated the applicant and agent are trying to make a nonconforming lot, less nonconforming  
385 by making sure the shed that is not currently on the applicant's property, is going to be fully on  
386 the applicant's property. The Board agreed.

387 Mr. Mankus stated that by granting the variance, substantial justice will be done. He stated it will  
388 provide an area for the applicant to store his personal belongings. The Board agreed.

389 Mr. Rich stated the values of surrounding properties will not be diminished. He stated it will  
390 enhance the values with the old shed being demolished and the new shed being more  
391 conforming. The Board agreed.

392 Vice Chair Lee stated that for the purposes of this subparagraph, "*unnecessary hardship*" means  
393 that, owing to special conditions of the property that distinguish it from other properties in the  
394 area:

395 v. *No fair and substantial relationship exists between the general public purposes of*  
396 *the ordinance provision and the specific application of that provision to the*  
397 *property;*

398 vi. *The proposed use is a reasonable one.*

399 Vice Chair Lee stated to deny this variance would impose a hardship; the use is reasonable. The  
400 Board agreed.

401

402 **MOTION: To approve the application for a variance for Case #Z24-38, Map 33 Lot 36**  
403 **13 Mariette Drive. Motion by Mr. Rich. Second by Mr. Mankus. Motion passed**  
404 **unanimously.**

405

<b>Case #Z24-39</b> <b>Paul LaRochelle, Agent for Timothy</b> <b>Barchard, Owner</b>	<b>Map 33 Lot 36</b> <b>13 Mariette Drive</b>	<b>Special Exception</b> <b>Lake Shore Residential Zone</b> <b>(LR)</b>
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406 **A Special Exception** is requested from **Article 300 Section 320.J** to permit the expansion of a  
407 nonconforming structure.

408

409 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
410 completeness.

411

412 **MOTION: To accept the application as complete. Motion by Mr. Monziona. Second by Mr.**  
413 **Rich. Motion passed unanimously.**

414

415 Mr. LaRochelle stated the proposed size will not exceed the existing structure; it will be in the  
416 same location.

417

418 Vice Chair Lee opened the hearing to input from the public. None was indicated.

419

420 Vice Chair Lee closed the public hearing.

421  
422 **Special Exception Discussion – Case #Z24-39**

423  
424 *The Board must find that all the following conditions are met in order to grant the Special*  
425 *Exception:*

426 Vice Chair Lee stated that a plat/plan **has** been submitted in accordance with the appropriate  
427 criteria in the Zoning Ordinance, Article 520.B. The Board agreed.

428 Mr. Monzione stated the specific site **is** an appropriate location for the use. He stated the use is a  
429 garage and there is nothing inappropriate about the location and use. The Board agreed.

430 Mr. Mankus stated that actual evidence **is not** found that the property values in the district will  
431 be reduced due to incompatible land uses. No demonstrable facts have been brought forward by  
432 abutters. The Board agreed.

433 Mr. Rich stated there **is no** valid objection from abutters. The Board agreed.

434 Vice Chair Lee stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular  
435 traffic, including the location and design of access ways and off-street parking. The Board  
436 agreed.

437 Mr. Monzione stated adequate and appropriate facilities and utilities **will** be provided to ensure  
438 the proper operation of the proposed use or structure. He stated there are no changes to these  
439 systems. The Board agreed.

440 Mr. Mankus stated there **is** adequate area for safe and sanitary sewage disposal and water supply.  
441 The Board agreed.

442 Mr. Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and  
443 the intent of the Master Plan. Mr. Rich stated the area is consistent with having difficulties due to  
444 lot sizes and the configurations of the lots but the plans have done well to mitigate any potential  
445 problems. The Board agreed.

446 **MOTION: To approve application Case#Z24-39 for a Special Exception for Map 33 Lot 36**  
447 **13 Mariette Drive. Motion by Mr. Mankus. Second by Vice Chair Lee. Motion passed**  
448 **unanimously.**

449

<b>Case #Z24-40</b> <b>Paul LaRochelle, Agent for Timothy</b> <b>Barchard, Owner</b>	<b>Map 33 Lot 36</b> <b>13 Mariette Drive</b>	<b>Variance</b> <b>Lake Shore Residential Zone</b> <b>(LR)</b>
--	--	--

450 **A Variance** is requested from **Article 400 Section 412 A & B.2** to permit a lot line adjustment  
451 to remain non-conforming.

452  
453 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
454 completeness.

455  
456 **MOTION: To accept the application as complete. Motion by Mr. Rich. Second by Mr.**  
457 **Monzione. Motion passed unanimously.**

458

459 Mr. LaRoche explained this variance will allow the lot line adjustment to remain non-  
460 conforming. Mr. Monziona confirmed two new lots are being created; one will be non-  
461 conforming.

462  
463 Vice Chair Lee opened the hearing to input from the public. None was indicated.

464  
465 Vice Chair Lee closed the hearing to input from the public.

466 **Discussion Case #24-40**

467 *The Board must find that all the following conditions are met in order to grant the Variance:*

468 Mr. Monziona stated granting the variance would not be contrary to the public interest. He stated  
469 the lot is currently non-conforming and this won't make it more non-conforming, but it will be  
470 larger so less non-conforming. The Board agreed.

471 Mr. Mankus stated the request is in harmony with the spirit of the ordinance and the intent of the  
472 Master Plan to maintain the health, safety and character of the direct district within which it is  
473 proposed. The Board agreed.

474 Mr. Rich stated that by granting the variance, substantial justice will be done. The Board agreed.

475 Mr. Rich stated the values of surrounding properties will not be diminished. He stated no  
476 information was submitted to indicate values would be diminished but a study was provided to  
477 indicate that values would not be diminished. The Board agreed.

478 Vice Chair Lee stated that for the purposes of this subparagraph, "*unnecessary hardship*" means  
479 that, owing to special conditions of the property that distinguish it from other properties in the  
480 area:

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

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

485 Vice Chair Lee stated the use is reasonable. The Board agreed.

486

487 **MOTION: To approve the application for Case #Z24-40 for a variance for Map 33 Lot 36**  
488 **13 Mariette Drive. Motion by Mr. Mankus. Second by Mr. Rich. Motion passed**  
489 **unanimously.**

490 Mr. LaRoche rejoined the Board.

491

Case #Z24-41 Ethan Wood, Esq. & Pat Heffernan, Agents for John Miles, Owner	Map 25 Lot 14 33 Baxter Place	Variance Rural Zone (RU)
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492 A Variance is requested from Article 300 Section 350 to permit a manufactured house under  
493 14'.

494

495 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
496 completeness.

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**MOTION: To accept the application as complete. Motion by Mr. LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

Ethan Wood, Esq., representative for the applicant, explained the manufactured homes that are currently marketed and sold, are different than what is required by the ordinance; he stated the marketed height of the manufactured home is 16’, but the actual size is 13.4’, which makes it non-conforming by 8”. Vice Chair Lee noted when this case was previously before the Board, it was assumed the roof line would be above 14’. Mr. Rich agreed. The Board reviewed photos of the current mobile home.

Vice Chair Lee opened the hearing to input from the public. None was indicated.

Vice Chair Lee closed the hearing to input from the public.

***Discussion Case #24-41***

*The Board must find that all the following conditions are met in order to grant the Variance:*

Vice Chair Lee stated granting the variance ***would not*** be contrary to the public interest. He stated this is a tear-down and rebuild that will benefit the applicant and the neighborhood. Mr. Monziona stated the difference is minor and is an improvement over the existing structure. The Board agreed.

Mr. Monziona stated the request ***is*** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. The Board agreed.

Mr. Mankus stated that by granting the variance, substantial justice ***will be*** done. The Board agreed.

Mr. LaRochelle stated the value of surrounding properties ***will not be*** diminished. He stated no information was submitted to indicate values would be diminished but a study was provided to indicate that values would not be diminished. The Board agreed.

Vice Chair Lee stated that for the purposes of this subparagraph, *“unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:*

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;*
- ii. The proposed use is a reasonable one.*

Vice Chair Lee stated the proposed use is reasonable. The Board agreed.

**MOTION: To approve the request for a variance for Map 25 Lot 14 33 Baxter Place, application for Case #Z24-41. Motion by Mr. LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

<b>Case #Z24-42</b> <b>Tom Varney &amp; Josh Thibeault, Agents for</b> <b>Caylene &amp; Anthony Coculo, Owners</b>	<b>Map 5 Lot 59</b> <b>400 Halls Hill</b> <b>Road</b>	<b>Equitable Waiver</b> <b>Rural Zone (RU)</b>
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538 **An Equitable Waiver** is requested from **Article 300 Section 327** to permit an existing building  
539 to be 12' within the front setback.

540

541 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
542 completeness.

543

544 **MOTION: To accept the application as complete. Motion by Mr. Rich. Second by Mr.**  
545 **LaRochelle. Motion passed unanimously.**

546

547 Tom Varney, Varney Engineering, LLC, representative for the applicants, stated the property is a  
548 schoolhouse that the owners want to convert to a residential home; the outside appearance of the  
549 structure will remain the same and the new construction is for the interior renovation. Mr.  
550 Varney stated the building was constructed in the 1850s and was located on the property before  
551 any building setback requirements were in place; a new septic system and well are proposed. Mr.  
552 Varney presented photos for review by the Board; he stated the school house has been here for  
553 many decades, as have surrounding abutters.

554

555 Mr. Monzione questioned why Mr. Varney is requesting an equitable waiver. Mr. Varney stated  
556 it is a school building within a residential zone and use. Mr. Monzione stated he doesn't see  
557 where there is any ordinance to prohibit the proposed uses. Mr. Varney stated this was requested  
558 at the advice of the Planning department. Ms. Ditri stated if a building has been discovered to be  
559 in violation of a physical land requirement, the equitable waiver is needed. It was noted this  
560 building has been on the site since before zoning ordinances were in place. Mr. Monzione stated  
561 if the footprint is not being changed, he doesn't see a need for any zoning relief. Mr. LaRochelle  
562 referred to the ordinance which requires an equitable waiver be granted to the property owner  
563 when a violation is found. Mr. Monzione suggested the purpose of that is when someone  
564 mistakenly does something in violation of the ordinance; however, that is not the case for this  
565 property as it was recently acquired property with pre-existing, non-conforming aspects. Mr.  
566 Rich agreed and stated if there was an expansion, a special exception would be needed but the  
567 renovation only pertains to the interior, so no relief is needed.

568

569 The Board discussed whether an equitable waiver is needed. Mr. Monzione argued that there is  
570 no violation so doesn't believe this is needed; he stated if they work through the criteria for the  
571 equitable waiver and answer no, they will be issuing a denial which could impact the property  
572 owner and property in the future.

573

574 Vice Chair Lee opened the hearing to input from the public. None was indicated.

575

576 Vice Chair Lee closed the hearing to input from the public.

577

578 **MOTION: That no Equitable Waiver of Dimensional Requirements is needed for Map 5**  
579 **Lot 59, 400 Halls Hill Road. Motion by Mr. Monzione. Second by Mr. Rich. Motion passed**  
**unanimously.**

580

Case #Z24-43 Ryan Heath, Owner	Map 8 Lot 25 182 Frank C. Gilman Hwy	Variance Rural Residential Zone (RR)
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581 A Variance is requested from Article 400 Section 463 A to permit a fully approved 45 unit  
582 senior housing development to be changed to multi-family, serviced by Town water.

583  
584 Vice Chair Lee read the public notice into the record. The Board reviewed the application for  
585 completeness.

586  
587 **MOTION: To accept the application as complete. Motion by Mr. LaRochelle. Second by**  
588 **Mr. Rich. Motion passed unanimously.**

589  
590 Ryan Heath, owner and applicant, stated this development was proposed and approved in 2009  
591 but by the time the permits were approved, he was not able to move forward for financial  
592 reasons. Mr. Heath stated substantial completion has been met with the Planning department, but  
593 a variance is needed for density to permit multi-family instead of senior housing. He explained  
594 his reasons for the proposed change; he stated one of the conditions of the prior approval  
595 involved bearing the cost of continuing municipal water supply along Route 140, which would  
596 be 1400' to get to the first house, which was at a cost in excess of \$175,000. He explained in the  
597 early 2000, Irving had an unknown oil tank leak and seven wells in the area were contaminated  
598 with the aquifer; as a result, the State of New Hampshire maintained and paid for a full water  
599 treatment system in the existing homes and wells are continued to be monitored. Unfortunately  
600 after two years, the cost versus benefit analysis did not make the project sustainable to the State.  
601 Mr. Heath stated multi-family use is allowed but at a density of one unit per acre but the reason  
602 for this is that a rural area doesn't have municipal water; however, his property is unique in that  
603 there is municipal water, and the one acre requirement was intended to protect wells and septic  
604 system, but he believes the density requirement can be reduced for his property. This property  
605 has 14.5 acres with 75% open/green space. The front units are almost 700 feet from the road;  
606 there is a mature tree buffer around the perimeter of the property with no additional impact. Mr.  
607 Heath stated the development is already approved so he is only looking to change from senior to  
608 multi-family units. He explained the current ordinance would not restrict ages, as long as there is  
609 one resident 62 or older so it wouldn't be a strictly 55+ community; it would create a hybrid  
610 environment; he explained it makes more sense to have multi-units instead. He stated the  
611 roadway has been cut in, the Alteration of Terrain permit approved, and the water system is  
612 installed; the only change is the age restriction; there would be 4 units in each building, roughly  
613 1200 square feet each unit with 11 buildings.

614  
615 Ms. Ditri noted that per the ordinance, one acre per dwelling unit is required. Mr. Heath  
616 confirmed that is the reason for his request for a waiver.

617  
618 Mr. Rich asked how the change helps Mr. Heath. Mr. Heath explained the age restriction is not  
619 55+ and would create an uncertain market; opening it to multi-family creates more opportunities  
620 for rentals for anyone, without age restriction. It will be strictly rentals; two bedroom, one  
621 bathroom. There are two parking spaces per unit. Mr. Heath stated it will also help with his  
622 banking and financing because there won't be the confusion of a hybrid use with the age

623 restriction.

624

625 Mr. Monziona stated the proposal has already been approved; as it stands now, any age can  
626 reside in the units as long as there is one senior, and it will be more feasible to market the rental  
627 units as a multi-family than senior housing. Granting the variance will allow Mr. Heath to keep  
628 the same project but rent without age restrictions.

629

630 Ms. Ditri noted the variance request is for Section 463. A in regard to the multi-family structures  
631 and acreage is required for the dwelling; her calculations indicate 44 acres would be needed.

632

633 Mr. Rich confirmed that if this is approved, Mr. Heath won't need to make any changes with the  
634 Planning Board or with State approvals.

635

636 Vice Chair Lee closed the hearing to input from the public.

637 Fred Rogers, abutter, stated he acknowledges that the previous proposal for senior housing was  
638 accepted, even though its considerably denser than what the ordinance allows, but his concern is  
639 that by moving to multi-family will impact the density even more with a greater volume of  
640 individuals in the area. He stated they already have neighbors who are loud because they are  
641 younger and they are concerned the noise level will go up. He stated there will also be more  
642 traffic and an impact on the schools. Mr. Rogers stated they are direct abutters on the 29 acre lot  
643 to the west. Ms. Rogers stated they will be able to see some of the units from their home. Mr.  
644 Monziona stated the visibility would be the same regardless of the residents occupying the units.

645

646 Ms. Rogers stated she is concerned that there are a lot of trails in an abutting property, and  
647 they've had problems with people trespassing their property to access the trails. She is also  
648 concerned whether this will be low-income housing which will bring police and drug situations.  
649 Ms. Rogers stated they moved to the property for peace and quiet and that won't continue with  
650 the construction and drilling that happens; they have lived here since 2012. Mr. Rich noted that  
651 the senior housing was approved in 2009, and children could still be allowed there.

652

653 Mr. Heath stated he is familiar with the trail system Ms. Rogers is referred to; it is a State  
654 snowmobile corridor runs through many of the properties in the area but doesn't see where there  
655 would be access on to the Rogers property. He stated there won't be any further clearing of the  
656 lot so if the Rogers can't see the area now, that won't change. The outer building limits have  
657 been flagged and a buffer has been maintained. Mr. Heath stated this will not be low income  
658 housing as that wouldn't support the investment and infrastructure that will go into the project.  
659 He stated the plan is to have his son live in one of the units as an on-site manager; this would not  
660 change based on any age restriction of the units. He will be responsible for conditions within the  
661 development and any of the systems. Mr. Heath reiterated that regardless if the variance is  
662 granted, children will be permitted in the units as the ordinance restrictions currently stand.

663 Vice Chair Lee closed the hearing to input from the public.

664 ***Discussion Case #24-43***

665 *The Board must find that all the following conditions are met in order to grant the Variance:*



666 Mr. Monziona stated granting the variance would not be contrary to the public interest. He stated  
667 this is a project that has already been approved with extensive review and public input; the units  
668 will be there regardless if the variance is approved; and the ordinance would allow for children to  
669 be in the units and there isn't enough distinction to show this request is contrary to the public  
670 interest. The Board agreed.

671 Mr. Mankus stated the request is in harmony with the spirit of the ordinance and the intent of the  
672 Master Plan to maintain the health, safety and character of the direct district within which it is  
673 proposed. He stated this fits the Master Plan as it provides housing for people with two-bedroom  
674 units. Mr. Rich agreed that it fits the Master Plan to provide reasonable housing; there isn't  
675 enough distinction between the previously approved senior housing, which would still have  
676 allowed children, and this proposal. He stated the units will be rentals so can be controlled by the  
677 owner/manager. Mr. Monziona stated the Master Plan looks at promoting this type of  
678 development with cluster development and open-space. The Board agreed.

679 Mr. LaRoche stated that by granting the variance, substantial justice will be done. He stated  
680 justice will be done for the applicant after purchasing the property and then discovering the oil  
681 leak and not being able to put in adequate wells; water lines have been put in to serve the  
682 property from the municipal source. The Board agreed.

683 Mr. Rich stated the values of surrounding properties will not be diminished. He stated the  
684 surrounding properties were well aware this project would be going forward and doesn't believe  
685 the difference between senior and multi-family housing won't be distinguishable. Mr. Monziona  
686 stated no information was submitted to indicate values would be diminished. The Board agreed.

687 Vice Chair Lee stated that for the purposes of this subparagraph, "*unnecessary hardship*" means  
688 *that, owing to special conditions of the property that distinguish it from other properties in the*  
689 *area:*

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

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

694 Vice Chair Lee stated to deny this variance would impose a hardship; the use is reasonable. Mr.  
695 Monziona stated there is no fair and substantial relationship between the general purpose of the  
696 ordinance and the specific application of that provision to this project because the ordinance  
697 currently allows children. The Board agreed.

698  
699 **MOTION: To approve the variance application for Case #Z24-43, Map 8 Lot 25**  
700 **182 Frank C. Gilman Hwy. Motion by Mr. LaRoche. Second by Mr. Rich. Motion passed**  
701 **unanimously.**

702  
703 **OTHER BUSINESS**

704 **1. Previous Business:** None.

705 **2. New Business:** Ms. Ditri asked the Board to consider the possibility of doing live  
706 streaming audio and video for this meeting; all other boards in Town have video and  
707 audio recording. The Board agreed it is a reasonable request.

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**3. Approval of Minutes:**

Meeting of August 1, 2024- Edits were made. **MOTION: To approve the minutes as amended. Motion by Mr. LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

**4. Correspondence: None.**

**MOTION: To adjourn the meeting. Motion by Mr. Monzione. Second by Mr. Mankus. Motion passed unanimously.**

The meeting was adjourned at 10:15 PM.

Respectfully Submitted,

*Jennifer Riel*

Jennifer Riel, Recording Secretary

APPROVED