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 Zoning Board of Adjustment

 August 7, 2023 at 7:00 PM
 Town Council Chambers
 **APPROVED MEETING MINUTES**
**Present:** Bob Daigle (Chair), Wayne Rosa (Vice-Chair), David Evans (Zoning Administrator), and James Drago
**Absent:** Henry Smith (Alternate), Al Zink, and Steven Minutelli

The Chair called the meeting to order at 7:11PM. [time on DCAT 13:57]

The three voting members will be: **Bob Daigle, Wayne** **Rosa**, and **James Drago.**
 **1. Pledge of Allegiance

2.**  **Acceptance of Minutes** a. July 10, 2023

Approval of the minutes for July 10, 2023 was postponed until the next meeting.
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The Chair asked the applicant if he had any reservations about presenting to the ZBA this evening with only three voting members. Attorney Henry Stebbins, representing the applicant, had no objections.
**3. Regular Business**  [time on DCAT 15:03]Read by the Chair:
**a. There will be a public hearing on an application for a Variance (#1) from *Section 32-56 of the Newmarket Zoning Ordinance Permitted Uses Table R2 District* to allow mixed use development in the R2 District and a Variance (#2) from *Section 32-46A M2A District of the Newmarket Zoning Ordinance* regarding the project containing 62 parking spaces and a Variance (#3) reference *Section 32-89 Dimensional Table M2A & R2 Districts of the Newmarket Zoning Ordinance*  regarding allowing 41 residential units and a Variance (#4) reference *Section 32- 46A(b)(e) M2A District of Newmarket Zoning Ordinance* to allow residential units on the first floor due to frontage on South Main Street, requested by CC Railroad Street Newmarket LLC.
Properties involved:
1 Railroad Street, Tax Map U3, Lot 138, M2A District
3 Railroad Street, Tax Map U3, Lot 138A, M2A District
5 Railroad Street, Tax Map U3, Lot 26, M2A & R2 Districts
The application is available to view in the Zoning Office at the Newmarket Town Hall during business hours.**
Attorney Stebbins addressed the Board and described the proposed new use of a larger version of their 2022 proposal. This project will be a mixed use building containing 41 residential units (19 studios and 22 one-bedroom apartments) and 3 commercial units with a total footprint of approximately 10,200 sq. ft. This would result in 35 residential units in the M2A Zone, and 6 residential units in the R2 Zone. Attorney Stebbins read from the description of the M2A Zoning District: *“to protect, enhance, and expand the commercial, social, civic and residential functions of the downtown village area.”* He also read a portion of the Town’s Master Plan: *“ promote repurposing and/or redevelopment of vacant and deteriorating properties that would contribute to expanding the Town’s tax base”.* He specifically pointed out that the size of these residential units would likely not cause a bump in the school budget, but will broaden the Town’s tax base.

The Chair opened the meeting to public comment at 7:38 PM. [time on DCAT 40:47]

**Mr. Brett Nelson, 10 Railroad Street.** Mr. Nelson lives directly across from these properties and his home looks directly at the proposed parking lot entrance and exit. He described Railroad Street as a relatively quiet dead end street and feels that the proposed number of parked cars and the very large three story building will definitely not fit into the neighborhood. He encourages everyone to please take a stroll down Railroad Street,
**Dave Evans** reported that no letters or emails have been received from the public.

The Chair closed public comment at 7:40 PM. [time on DCAT 42:17]

The Board continued with more questions and discussion with the applicant. **Wayne** was concerned about the traffic at South Main Street and Railroad Street. Mr. Ben Stebbins, the applicant, was asked about the size of the units. He stated that the average studio would be approximately 500 sq. ft. The applicant also mentioned that they may change from 3 commercial spaces to 1 commercial space.

The members and the applicant had a lengthy conversation regarding financial hardship.
 [time on DCAT 59:43] **Variance Request #1:**
There was a lengthy conversation and the members reviewed the 5 criteria for approval.
 **Action**
**Motion: James Drago** made a motion to grant a variance request from CC Railroad Street Newmarket LLC, petitioning the Zoning Board of Adjustment for relief from ***Section 32-56 Table of Permitted Uses*** of the Municipal Code of the Town of Newmarket to permit a mixed-use development in the R2 Zoning District on real property with an address of 1, 3, and 5 Railroad Street (Tax Map U3, Lot 138, Tax MapU3, Lot 138A, and Tax Map U4, Lot 15) within the M2A and R2 Zoning Districts, as the petition satisfies the 5 part test of the variance statute, pursuant to RSA 674:33. **Second: Wayne Rosa
Discussion:** none
**Vote: Unanimously Approved 3-0-0** [time on DCAT 1:00:58] **Variance Request #2:**The members had a lengthy conversation and they decided to continue the public hearing until they see further information on hardship. **Action**
**Motion: James Drago** made a motion to continue the public hearing to August 14, 2023 at 7:00 PM in the Town Council Chamber for a variance from CC Railroad Street Newmarket LLC, petitioning the Zoning Board of Adjustment for relief from Section 32-89 *Dimensions Table* of the Municipal Code of the Town of Newmarket to permit a total of 41 residential units with 35 residential units in the M2A Zoning District and 6 residential units in the R2 Zoning District on real property with an address of 1, 3, and 5 Railroad Street (Tax Map U3, Lot 138, Tax Map U3, Lot 138A, and Tax Map U4, Lot 15) within the M2A and R2 Zoning Districts.
**Second: Wayne Rosa
Discussion:** none
**Vote: Unanimously Approved 3-0-0** [time on DCAT 1:20:25] **Variance Request #3:**The members had a lengthy conversation about the viability of the frontage on South Main Street. The frontage is a steep slope topped with a metal road guardrail. The members agreed on the 5 criteria for approval of the variance. **Action**
**Motion: James Drago** made a motion to grant a variance request from CC Railroad Street Newmarket LLC, petitioning the Zoning Board of Adjustment for relief from Section 32-46A(b)(2)e *M2A Permitted Uses* of the Municipal Code of the Town of Newmarket to permit residential units on the first floor of a mixed-use building with frontage on South Main Street in the M2A Zoning District on real property with an address of 1, 3, and 5 Railroad Street (Tax Map U3, Lot 138, Tax May U3, Lot 138A, and Tax May U4, Lot 15) within the M2A and R2 Zoning Districts, as the petition satisfies the 5 part test of the variance statute, pursuant to RSA 674:33. **Second: Wayne Rosa
Discussion:** none
**Vote: Unanimously Approved 3-0-0** [time on DCAT 1:26:02] **Variance Request #4:**The members had a conversation and agreed to continue the public hearing.
 **Action**
**Motion: James Drago** made a motion to continue the public hearing to August 14, 2023, in the Town Council Chamber, for a variance request from CC Railroad Street Newmarket LLC, petitioning the Zoning Board of Adjustment for relief from Section 32-46A(b)(2)c *Permitted Uses* of the Municipal Code of the Town of Newmarket to permit 62 on-site parking spaces instead of the required 2 on-site parking spaces per residential unit on real property with an address of 1, 3, and 5 Railroad Street (Tax Map U3, Lot 138, Tax May U3, Lot 138A, and Tax May U4, Lot 15) within the M2A and R2 Zoning Districts. **Second: Bob Daigle
Discussion:** none
**Vote: Unanimously Approved 3-0-0**
The Chair asked **Dave** if absent Board members would be allowed to participate at the August 14th meeting. He answered yes as this is a continuation of the public hearing.
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4. New/Old Business** [time on DCAT1:28:12]There was no new/old business this evening.

**5. Zoning Administrator’s Report**
**Dave** had no report for this meeting. **6. Adjournment** [time on DCAT 1:28:32]

 **Action**
**Motion: James Drago** moved to adjourn the meeting at 8:26 PM. **Second: Wayne RosaenryH
Discussion:** none
**Vote: Unanimously Approved 3-0-0**Respectfully submitted,

Sue Frick
Recording Secretary

DCAT:
https://videoplayer.telvue.com/player/XSekkdEeRsk0JHQVHAvKJVka7\_5VjxKP/videos