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 Zoning Board of Adjustment

August 14, 2023 at 7:00 PM  
 Town Council Chambers  
 **APPROVED MEETING MINUTES**  
**Present:** Bob Daigle (Chair), Wayne Rosa (Vice-Chair), David Evans (Zoning Administrator), James Drago, and Al Zink   
**Absent:** Henry Smith (Alternate) and Steven Minutelli  
   
The Chair called the meeting to order at 7:03 PM. [time on DCAT 6:25]  
  
The four voting members will be: **Bob Daigle, Wayne** **Rosa**, **James Drago,**and **Al Zink  
  
1. Pledge of Allegiance  
  
2.**  **Acceptance of Minutes** a. July 10, 2023  
b. August 7, 2023  
Approval of the minutes for July 10 and August 7, 2023 were postponed until the next meeting.  
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The Chair explained that this meeting is a continuation of the hearing on August 7. He began by reading the notice with the understanding that Variance #1 and #3 were granted on August 7. **Tonight the ZBA will consider Variances #2 and #4.**   
  
**3. Regular Business**  [time on DCAT 15:03]Read by the Chair:  
**a.** There will a continued public hearing on an application for a **Variance (#2)** request 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 R1 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 and a **Variance (#4)** request from CC Railroad Street Newma*rket LLC, petitioning the Zoning Board of Adjustment for relief from Section 32-46A(b)(2)c M2A 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 Map U3, Lot 138A, and Tax Map U4, Lot 15) within the M2A and R2 Zoning Districts, as the petition satisfies the 5 part test for the variance statute, pursuant to RSA 674:33.  
The application is available to view in the Zoning Office at the Newmarket Town Hall during normal business hours.  
Attorney Stebbins addressed the Board and mentioned that there was a good discussion at the last meeting about this proposal. This project will provide badly needed housing and will meet many of the goals of the Master Plan and will not add to the tax burden on Newmarket Schools given the size of these apartments. They have distributed financial information to the Chair regarding the chief objection from the ZBA about the size of the project. When they came before the ZBA previously with a smaller project for this site, Invest NH funding would have been required, but they did not receive that funding ($450,000). So in order to the make a project feasible, a new design was necessary. Ben Stebbins, the applicant, explained that there are certain fixed costs: the land, the sight work, the construction costs, and the soft costs per unit (architectural and interior design). He was asked about tax credits by **Al.** There are no tax credits for this development of 41 units as they will be rented at market rates. They have done cost comparisons with apartments in area towns. He anticipates that rents will be approximately $1,600 for 1-bedrooms (under 600 sq.ft.) and $1,350 for studios including utilities.   
  
The Chair opened the meeting to public comment at 7:21 PM. [time on DCAT 24:10]  
 **#1 Jon Kiper**, 170 Main Street. Jon owns Johnny Boston’s and explained the difficulties he has in hiring workers because of the challenges workers have of finding apartments in Town or nearby and parking. His labor is traveling from farther and farther away which adds costs to his payroll and that cost has to be passed on to the customers. It is a vicious cycle. He commented on the ‘help wanted’ signs in restaurants throughout the Town. He feels that this is an important project and would be a great addition to have in the downtown area.  
  
**#2 Sherry Nelson**, 10A Railroad Street. She is renting across the street from the proposed parking lot driveway for this project and is very concerned about the head lights, the considerable number of cars and traffic noise, and the children playing in the area. She also asked, if this be completed, would the rents just rocket up to something like $2,500. The Chair said that the market will determine what the market can bear. He expects that rents will be around what has been discussed. The Chair mentioned that he did some comparison about other units available around Town. Mr. Cheney, for instance, has a 2-bedroom apartment, 825 sq.ft. with rent at $1,700.  
   
The Chair closed public comment at 7:29 PM. [time on DCAT 31:29]  
   
**Variance Request #2:** [time on DCAT 31:46]The ZBA began a deliberation amongst themselves on the request for Variance #2.

There was a lengthy conversation as the members reviewed the 5 criteria required for approval and each member disclosed their thoughts and informally voted on the five criteria for a variance: #1 Public Interest, #2 Observance of the Spirit of the Ordinance,   
#3 Substantial Justice, #4 Diminishment of Property Values, and #5 Unnecessary Hardship.

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| Member | **Criteria #1** | **Criteria #2** | **Criteria #3** | **Criteria #4** | **Criteria #5** |
| **Al Zink** | Aye | Aye | Aye | Aye | **Nay** |
| **Wayne Rosa** | Aye | Aye | Aye | Aye | Aye |
| **Bob Daigle** | Aye | Aye | Aye | Aye | Aye |
| **James Drago** | Aye | Aye | Aye | Aye | Aye |

The Finding of Facts: includes all discussions by the Board members and difficulties with the zoning district effecting this project  
 **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 32-89 *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 R1 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: Bob Daigle  
Discussion:** none  
**Vote: Unanimously Approved 4-0-0 by roll call vote**

The Chair wanted to mention something to those who might be watching on DCAT. If you are having difficulties agreeing with decisions made here tonight, please join the ZBA as there is one alternate position open!  
 **Variance Request #4:** [time on DCAT 1:14:12]  
The ZBA began a deliberation amongst themselves on the request for Variance #4.   
There was a lengthy conversation as the members reviewed the 5 criteria required for approval and each member disclosed their thoughts and informally voted on the five criteria for a variance: #1 Public Interest, #2 Observance of the Spirit of the Ordinance, #3 Substantial Justice, #4 Diminishment of Property Values, and #5 Unnecessary Hardship.

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| Member | **Criteria #1** | **Criteria #2** | **Criteria #3** | **Criteria #4** | **Criteria #5** |
| **Al Zink** | Aye | Aye | Aye | Aye | **Nay** |
| **Wayne Rosa** | Aye | Aye | Aye | Aye | Aye |
| **Bob Daigle** | Aye | Aye | Aye | Aye | Aye |
| **James Drago** | Aye | Aye | Aye | Aye | Aye |

**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)c *M2A 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 Map U3, Lot 138A, and Tax Map U4, Lot 15) within the M2A and R2 Zoning Districts, as the petition satisfies the 5 part test for the variance statute, pursuant to RSA 674:33. **Second: Bob Daigle  
Friendly Amendment to the Motion: Wayne Rosa** would like **Dave Evans** to express the ZBA member concerns to the Planning Board about the traffic impact of this many cars turning onto South Main Street from Railroad Street.  
**Second: Bob Daigle**  **Discussion:** none  
**Vote: Unanimously Approved 4-0-0  
Further Discussion:** none  
**Vote on the Motion as Amended:** **Approved 3-1-0** (**Al** **Zink** voted nay)  
  
Both Attorney Stebbins and Ben Stebbins thanked the ZBA for their time and consideration. The Chair stated that, if anyone listening to the meeting has any issues with granting of these variances, they would have 30 days to appeal to the ZBA for a rehearing. If that fails, they may then appeal to the Superior Court.  
<https://www.newmarketnh.gov/zoning-board-of-adjustment> **\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*  
6. Adjournment** [time on DCAT 1:27:46]  
 **Action**  
**Motion: Al Zink** moved to adjourn the meeting at 8:25 PM. **Second: James DragoenryH  
Discussion:** none  
**Vote: Unanimously Approved 4-0-0**  
Respectfully submitted,  
   
Sue Frick  
Recording Secretary

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