 **NEWMARKET Zoning BOARD OF ADJUSTMENT**Monday, JUNE 27, 2022
TOWN COUNCIL CHAMBERS
7:00 PM

**Present:** Bob Daigle (Chair), Wayne Rosa (Vice Chair), Bart McDonough (Director of Planning & Community Development), James Drago, and Al Zink.
**Absent:** John Greene (Alternate), Steve Minutelli, and Henry Smith (Alternate)

The Chair called the meeting to order at 7:00 PM **[time on DCAT 2:44]**The voting members this evening include: **Bob** **Daigle**, **Wayne** **Rosa**, **James** **Drago**,
and **Al** **Zink**.

 **#1 Pledge of Allegiance

#2 Review and Approval of Minutes [time on DCAT 2:10]** a. June 6, 2022
**Motion #1:** **Al Zink** made a motion approve the draft minutes of June 6, 2022.
**Second: Wayne Rosa
Discussion:** **Bob Daigle** had one addition to the minutes in the motion to reconsider.
**Motion #2: Al Zink** made a motion to approve the draft minutes as amended.
**Second: Bob Daigle
Vote:** **Approved Unanimously 4-0-0

#3 Regular Business**
Read by the Chair: **[time on DCAT 5:00]
a. There will be a public hearing for a Special Exception and Variance Requests from the following sections of the Municipal Code of the Town of Newmarket, New Hampshire:

Special Exception:
#1 §32-46 M2 District to permit a total of eight dwelling units on a property of less than two acres.

Variance Requests:
#1 §32-46A(b)(2)(d) M-2A District: to allow eight dwelling units in one building; and

#2 §32-46A(2)(c) M-2A District: to permit twelve parking  spaces, where sixteen are required provided the applicant enters into a written agreement with the owner of the adjacent property for four additional parking spaces available for occupants of  the subject property.

The proposal is to remove the 500 sq. ft. building and rehabilitate the 5000 sq. ft. building into an eight unit apartment building, with a footprint of 4400 sq. ft. The petition for Variance and application for Special Exception is requested by CC Railroad Street Newmarket LLC located on real property with an address of 3 Railroad Street, Tax Map U3, Lot 138A, in the M-2A Zoning District.**Mr. Henry B. Stebbins Esq., from Stebbins, Lazos, and Van Der Beken P.A., Attorneys at Law in Manchester, was present this evening representing Mr. H. Benjamin Stebbins, the principal owner of the property located at 3 Railroad Street, Tax Map U3, Lot 138A, in the M-2A Zoning District.

The Chair announced that there were only four voting members present this evening and the applicant is allowed five. Attorney Stebbins was thankful for the four members present and asked the Board to proceed.Attorney Stebbins was pleased to speak about this exciting new project which would contribute in so many ways to the vibrancy of the Town. He wished to speak about three items this evening: 1) a Special Exception to permit a total of eight dwelling units on a property of less than two acres, 2) a Variance Request to allow eight dwelling units in one building, and 3) a Variance Request to permit twelve parking spaces, where sixteen are required, provided the applicant enters into a written agreement with the owner of the immediately adjacent property for four additional parking spaces available for occupants of the subject property.

The Chair wished to confirm that they are here this evening to ask for eight units in one building and that the proposed building will basically look similar in length to what is currently present. Attorney Stebbins explained that the building will be just a bit shorter in length.

The Chair opened the meeting to public comment at 7:04 PM. **[time on DCAT 9:55]**
The Chair asked for member comments. **Wayne Rosa** asked about the location of the other four parking spots. Attorney Stebbins indicated that the extra sparking spots are located in the adjacent property currently occupied by Horizons Engineering, Inc. at 5 Railroad Street. Mr. Stebbins also mentioned that they wish to share a trash dumpster between the two properties with the same written agreement. Members continued to discuss the written agreement.

The Chair closed the public comment at 7:10 PM. **[time on DCAT 12:33]

Bart McDonough** had a concern that the request for Special Exception is not applicable and belongs before the Planning Board for consideration. This property is in the M2A zoning district and not the M2 *(§32-46 M2 District to permit a total of eight dwelling units on a property of less than two acres*). The Planner apologized to the applicant for any confusion in this matter. Attorney Stebbins agreed to take this Special Exception to the Planning Board and the applicant withdrew his request from the ZBA.

**[time on DCAT 16:29]**
The members began the discussion of the two variance requests. Of greatest concern was the parking spaces issue. Attorney Stebbins stated that they could put all the parking on the lot. However, they have some water issues on the lot and reducing as much impervious surface to control the water run-off is there greatest priority.
**[time on DCAT 21:55]
Variance #1
Motion #1:** **Bob Daigle** moved to grant a variance request from CC 5 Railroad Street petitioning the Zoning Board of Adjustment for relief from §32-46A(b)(2)(d) of the Municipal Code of the Town of Newmarket to permit a single building to contain 8 dwelling units, as discussed at length, where 2 buildings are required on real property located at 3 Railroad Street (Tax Map U3 Lot 138A) within the M-2A zoning district, as the petition satisfies the 5 part test of the variance statute, pursuant to RSA 674:33.
**Second:** **Al Zink**
**Discussion:** None **Vote: Approved Unanimously by Roll Call 4-0-0

[time on DCAT 22:41]
Variance #2
Motion #2: Bob Daigle** moved to grant a variance request from CC 5 Railroad Street petitioning the Zoning Board of Adjustment for relief from §32-46A(2)(c) of the Municipal Code of the Town of Newmarket, New Hampshire to permit 12 parking spaces, where 16 are required, within the M2A zoning district as the petition satisfies the 5 part test of the variance statute, pursuant to RSA 674:33. In addition, the ZBA makes this approval conditional on reviewing the text of the letter of agreement between the two property owners with the Town Planning Staff.
**Second:** **James Drago**
**Discussion**: None
**Vote**: **Approved Unanimously by Roll Call** **4-0-0**

**#4 New/Old Business [time on DCAT 29:41]**There was no new or old business this evening.

 **#5 Adjourn [time on DCAT 29:49]

Motion: James Drago** made a motion to adjourn. **Second: Bob Daigle
Discussion:** None
**Vote: Approved Unanimously 4-0-0** The meeting was adjourned at 7:28 PM.

Respectfully submitted,

Sue Frick, Recording Secretary

 **DCAT:**[**https://videoplayer.telvue.com/player/XSekkdEeRsk0JHQVHAvKJVka7\_5VjxKP/media/729564?autostart=true&showtabssearch=true**](https://videoplayer.telvue.com/player/XSekkdEeRsk0JHQVHAvKJVka7_5VjxKP/media/729564?autostart=true&showtabssearch=true)