

**UNAPPROVED MINUTES  
Town of Auburn  
Zoning Board of Adjustment  
November 17, 2020**

**Present:** Mark Wright, Chairman. Mike DiPietro, Vice-Chairman, Kevin Stuart & Dennis Vieira, Members of the Board. Shawn Matte, Alternate. Minutes recorded and prepared by Denise Royce.

**Also, Present:** Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer. Attorney Patricia Panciocco, Counsel to HQ Properties. Eric Mitchell, Engineer for HQ Properties. Matthew Scott of HQ Properties. Michael Rolfe, Board of Selectmen. Eric Horner, Lorna Aouad, Steve & Michelle Hinchee, Paul Michali.

**Absent:** Stephen Carroll, Member. Dale Phillips, Alternate.

Mr. Wright called the meeting to order at 7:04 p.m.

Mr. Wright began by reading the Meeting Preamble During COVID-19 Emergency which is as follows:

**MEETING PREAMBLE DURING COVID-19 EMERGENCY**

Good Evening, as Chairman of the Zoning Board of Adjustment, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that any public gathering of people may pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19 and is reinforced by Emergency Order #16 issued by the Governor on March 23<sup>rd</sup>. In concurring with their determination, I also find that this meeting is imperative to the continued operation of Town government and services.

Governor Sununu issued Emergency Order #12 on March 23<sup>rd</sup> which provides local government boards the ability to conduct business using technology to hold remote meetings and not provide a public place of meeting, but provide for the public's ability to listen to the meeting. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote as required by RSA 91-A:2, III (e).

At this time, I welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply.

Let us start the meeting by taking a Roll Call attendance. When each member is called please state your name, and also please state if there is anyone in the room with you during this meeting, which is required under the Right-to-Know law (RSA 91-A:2, III (c) and whether you agree to your voice being recorded.

Mr. Wright moved on to the roll call of attendees and began with the Board members as follows:

Mr. Wright moved on to call on Mr. Michael DiPietro. Mr. DiPietro indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Kevin Stuart. Mr. Stuart indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Stephen Carroll. Mr. Carroll was not present for tonight's meeting.

Mr. Wright called on Mr. Dennis Vieira. Mr. Vieira indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Shawn Matte. Mr. Matte indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Ms. Denise Royce. Ms. Royce indicated that she was at home in a room alone and consented to this meeting being recorded.

Mr. Wright called on Mrs. Carrie Rouleau-Cote. Mrs. Rouleau-Cote stated that she was at home in a room alone and consented to this meeting being recorded.

Mr. Wright asked Ms. Royce if Mr. Carroll was signed in. Ms. Royce stated that, Mr. Carroll was not logged into the meeting at this time. Mr. Wright indicated that they did have a quorum and would elevate Mr. Shawn Matte to vote on the cases if Mr. Carroll did not call in.

Mr. Wright moved on to any other members or representatives of the town that were present this evening. Mr. Michael Rolfe stated that he was the Selectmen's Representative to the Planning Board and that he was home alone and consented to his voice being recorded.

Mr. Wright asked if Mr. Bill Herman, Town Administrator for the Town of Auburn was on the line. Mr. Herman was not logged in. Mr. Rolfe informed the Chairman that Mr. Herman has been out sick.

Mr. Wright moved on to go through the applicants for this evenings meeting and then he would go through any abutters that were present. With that said, Mr. Wright asked about the first case which was Case #20-14 for Eric and Michelle Horner. Mr. Eric Horner stated that he was present and that he was alone and consented to being recorded.

Mr. Wright moved on to the applicant for Case #20-15 for Rami Kattar and Lorna Aouad. Mrs. Lorna Aouad stated that she was present and was alone in a room and consented to being recorded.

Mr. Wright moved on to the next case which was Case #20-16 Eric Mitchell for Matthew Scott, HQ Properties Realty Trust. Mr. Eric Mitchell stated that he was with Matthew Scott and Attorney Patricia Panciocco and he consented to being recorded. Mr. Wright asked Attorney Panciocco. Attorney Panciocco stated that, she was present with Eric Mitchell and Matthew Scott and consented to being recorded. Mr. Wright asked Mr. Matthew Scott. Mr. Matthew Scott indicated that he was in a room with Attorney Panciocco and Mr. Eric Mitchell and consented to being recorded.

Mr. Wright asked if there were any abutters present or anyone else that have not yet been announced or consented to being recorded. Mr. Nicholas Cristofori who is a direct abutter to Mr. Eric Horner's property who is the first case on the agenda and that he was in a room by himself and that he consented to being recorded.

Mr. Wright asked if there was anyone else. Mr. Paul Michali stated that he was not a direct abutter but lived a few houses down and that he was in a room by himself and consented to being recorded.

Mr. Patrick Wright who was an abutter to Mr. Eric Horner was in a room by himself and consented to being recorded.

Mr. Anthony and Kristen Piascik who are direct abutters to Lorna Aouad of 40 Mountain Road and consented to being recorded.

Mr. Steve Hinchee stated that he was present and that he is an abutter to Lorna Aouad and that he was with his wife Michelle Hinchee and that he consented to being recorded.

Mr. Derek Cook stated that he was with his wife Christine Cook and that they were abutters to Lorna Aouad and consented to being recorded. Mr. Wright asked Christine if

she consented to being recorded. Mrs. Christine Cook said yes. Mr. Wright asked to hear from the other spouses and if they consented to being recorded. Kristen Piascik consented to being recorded. Michelle Hinchee consented to her voice being recorded.

Mr. Wright asked if there was anyone else out there that has not been notified. None were noted.

Mr. Wright explained that Steve Carroll who is a full voting member was not present tonight and therefore would be elevating Shawm Matte to a full voting member for all three (3) cases. Mr. Wright further explained the procedure for tonight's meeting to everyone present. With that said, Mr. Wright asked Ms. Royce to read the first case into the minutes. Ms. Royce read the case into the minutes for the record.

**Case #20-14**  
**Eric & Michelle Horner**  
**34 Cambridge Drive, Tax Map 11, Lot 30-2-8**  
**Zoned Rural**

*Applicant is requesting a Variance to allow the construction of a new 30ft by 24ft detached carriage house to be less than 60ft from structure on abutting lot in a cluster subdivision in a Rural zone. (Article 4, Section 4.04(4))*

Mr. Wright turned the meeting over to Mr. Horner. Mr. Horner began by saying that, he has been a resident of this town for 19 years and that he was seeking a Variance to build a 30 foot long by 24 foot deep approximately 720 square foot detached carriage house with two (2) bays. This project will require a small 14-foot driveway to allow vehicles with adequate turning radius into the garage bays. Due to the immediate abutters existing 10 foot by 14 foot shed, he no longer meets the 60-foot setback requirement. The immediate abutters house will be 70 feet from his proposed carriage house and the carriage house will be 25 feet from the property line. Mr. Horner indicated that, he would be seeking a 17-foot Variance on his property and a 3-foot Variance for his neighbor, Nick Cristofori for a total of 20 feet. This will allow his neighbor, Nick Cristofori to build any future projects on his property while at the same time, permit him to build his carriage house. Mr. Horner now read his application into the minutes for the record. A copy of which can be found in the file. Mr. Horner also mentioned that, he had sent pictures of the property to be included in the package for the Board to review. Mr. Horner asked the Board to see the letter from his direct abutter, Nick Cristofori, who was very kind to write a detailed letter. The direct abutter has agreed to said carriage house at 34 Cambridge Drive provided that the condition set forth in the letter.

Mr. Wright thanked Mr. Horner and moved on to ask Mrs. Rouleau-Cote if she had any input on this case. Mrs. Rouleau-Cote stated that, she has been working with the homeowner and pointed out that, from the aerial view that there have been a lot of improvements done out there. Mrs. Rouleau-Cote added that, the only comment that she would have is that, the direct abutter will obviously need to seek future relief on his own

merits should he decide to add any additional structures and not meet the 60 foot separation between structures in a cluster subdivision. Mrs. Rouleau-Cote commented on the abutters letter that, in the future Mr. Horner will show him the same consideration and not oppose a future Variance requests if he comes forward with it. Mrs. Rouleau-Cote stated that, the structure does not infringe on the septic and did not have any other concerns at this time. Mr. Wright thanked Mrs. Rouleau-Cote for her comments.

Mr. Wright asked if there were any abutters present who would like to ask any questions. Mr. Nick Cristofori stated that, in general he agreed with everything that Mr. Horner has said about the project. Essentially, the shed has been there for over 12 years and if the shed were not there then Mr. Horner would be able to build his carriage house without any input from him. Mr. Cristofori commented that, his only concern was that at some point in the relatively near future to say in the next 5 to 10 years that he would like to expand that structure into a similar structure as Mr. Horner is proposing. Mr. Cristofori talked about the structure and location and the possibility of having two (2) carriage houses within 40 feet of each other rather than 60 feet. Mr. Wright wanted to speak to that point and stated that, Variances run with the land and that property owners today may not be property owners tomorrow. Their ability to grant relief based on facts and circumstances as they exist today and hypothetically, Mr. Horner may not be there and someone else may be there and may not be as agreeable as you both are. Mr. Wright commended the two abutters but informed them that the Zoning Board of Adjustment would have to take it up at the time when it is presented and would be taken up with the future Zoning Board. They really cannot make that decision until Mr. Cristofori comes before the Board with a concrete plan and a dimensional requirement. They are basically unable to vote on that now but whenever Mr. Cristofori would propose to do would come before the Zoning Board of Adjustment like Mr. Horner has done. Mr. Cristofori understood but only wanted the minutes to reflect his comments on this. Mr. Wright added that, this hearing is being recorded and transcribed and believed that they would be good on that point.

Mr. Horner wanted to add that, the structure, if this gets approved that, the rear of the carriage house facing Mr. Cristofori's house are 20 foot tall pine trees that contains a whole row of them and that you can't see Mr. Cristofori's house. Mr. Wright noted that there was extensive landscaping and thought that they were all good comments. Mr. Horner thanked Mr. Wright.

Mr. Wright asked if there were any other questions or comments. None were noted. Mr. Wright opened it up to Zoning Board Members. None were noted. Mr. Wright stated that, given the silence from Board Members and the comments from Mrs. Rouleau-Cote land the thorough application and comments from the abutter, he did not see a reason to enter into deliberation and therefore would entertain a motion to vote on the application as presented.

***Mr. DiPietro made a motion to vote on the application as presented tonight for 34 Cambridge Drive, Tax Map 11, Lot 30-2-8, seconded by Mr. Matte.***

Mr. Wright asked if there was any further discussion. None were noted. Mr. Wright moved on to do a roll call vote.

***Mr. Matte voted to Grant, Mr. Vieira voted to Deny as he believed it would cause a domino effect and did not believe it met the spirit of the ordinance, Mr. Stuart voted to Grant as he found all five factors have been met, Mr. DiPietro voted to Grant as he found all five factors have been met, and Mr. Wright also voted to Grant as all five factors have been met. A vote was taken and, the application for a Variance was approved by a vote of 4 to Grant and one to Deny.***

Mr. Wright informed Mr. Horner that his application for a Variance was approved. Mr. Horner thanked the Board members for their time. Mr. Wright stated that, there was a 30-day appeal period where abutters or interested parties could appeal the Board's decision. Mr. Wright explained that, the Variance runs with the land and that if he does not complete construction within two (2) years then he would have to come back before the Zoning Board and request the same Variance again. Mr. Horner stated that, he understood, and the discussion ended.

At this time, Mr. Wright moved on to the next case and asked Ms. Royce to read the case into the minutes for the record.

#### **Case #20-15**

**Rami Kattar & Lorna Aouad**

**40 Mountain Road – Tax Map 9, Lot 4-1**

**Zoned Residential One**

*Applicant is requesting a Special Exception to allow the creation of a home business with a commercial kitchen for food prep for remote sales in a Residential One zone. (Article 4, Section 4.06(3)(c))*

Ms. Aouad began by explaining that she currently has a homestead license basically baking cookies and delivering them to stores. Ms. Aouad stated that, she would like to get into more stores, however, a lot of the stores will not accept homestead licensing but require commercial licensing and due to the Pandemic she decided to start her commercial business from her basement. Ms. Aouad read her application into the minutes for the record. Ms. Aouad stated that she would be buying her own inventory and picking them up from like BJ's and Costco.

Mr. Wright thanked Ms. Aouad for her presentation and asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote stated that, the property owner has provided her with a layout of how she wants to set up the kitchen in the basement. Her next step with her if the Special Exception is Granted would be to secure the necessary permits for the commercial kitchen which would include three bay sinks and the commercial cooking equipment of which the fire department will have jurisdiction over and then obviously she will be doing her food licensing process with the state department of Health and Human Services. Mrs. Rouleau-Cote added that, Ms. Aouad is very familiar with the DHHS



regulations because she has obtained a homestead license. Those would be her next steps if the approvals are granted tonight and she would be more than happy to weigh in if anyone has any questions or concerns. Mr. Wright asked Mrs. Rouleau-Cote about fire safety and the like and asked if she would like to see these things reviewed. Mrs. Rouleau-Cote did not believe it would need to be part of a condition with the ZBA this evening because in securing the permits with her that there will be certain plumbing codes that she will need to follow and fire codes relative to the type of commercial equipment that she will be bringing in. A brief discussion ensued between Mrs. Rouleau-Cote and Mr. Wright with regard to what Mrs. Rouleau-Cote as Building Inspector would be dealing with.

Mr. Wright asked if there were any abutters present that had any questions or comments. Mr. Derek Cook of 30 Mountain Road asked if it would be changing the zone of the neighborhood. Mr. Wright explained that, by obtaining a Special Exception of which is a permitted use by Special Exception through this Board and that is why she is before the Board tonight. Mr. Wright informed Mr. Cook that it would still be a Residential One zone. With that said, Mr. Cook informed the Board members that he was in support of what she is proposing and thanked Mr. Wright for the clarification.

Mr. Steve Hinchee of Mountain Road had a few concerns with the expansion of the kitchen and one being additional traffic as the business grows as we already see Fedex trucks and UPS trucks and Amazon trucks that go past my house and people picking up. The second being how does this affect future approvals for expansion. Mr. Wright believed those were good questions and good comments and asked the applicant if she wanted to respond. Ms. Aouad began by saying that, she is trying to do this to get into more stores and that one or two percent of her business would be picked up. Ms. Aouad added that, she does not even have a credit card machine and was not looking for people to pick up from her house. Ms. Aouad pointed out the comment about the truck traffic with deliveries and stated that, this could happen in any neighborhood due to the Pandemic with more people ordering online and having it delivered to their homes.

Mr. Wright asked if there were any other abutters who had questions or comments. None were noted. Mr. Wright opened it up to the Board members. Mr. Stuart wanted to understand if customers would be coming to pick up products from the home. Ms. Aouad again stated that, she mostly deals with stores, so she really does not have a lot of people come to the house to pick up goods unless they have a special order. Most of her business is delivering to stores. Mr. Stuart asked if she was running the business currently. Ms. Aouad said yes, under the homestead license. A brief discussion ensued with regard to obtaining a commercial license and delivering to more stores.

Mr. Wright asked if there was anyone else that wished to speak. Mr. Anthony Piascik asked if the business grows would there be a limit to local traffic. Ms. Aouad wanted to answer that and stated that, if she does grow that she would not have everyone come at the same time and she does have the control over that. Ms. Aouad again pointed out that, 90% of her business is with stores.

Mr. Wright asked if there were any other questions or comments. None were noted. With that in mind, Mr. Wright asked Mrs. Rouleau-Cote if there would be any aspect of a Planning Board review because of the commercial nature of this business. Mrs. Rouleau-Cote commented that, everything was done inside which does not require Planning Board review because it's really not the public coming on the property for a service where we would have a parking issue, lighting and hours of operation. Historically, a home business of this nature does not require an overview by the Planning Board or a site plan. Mrs. Rouleau-Cote also stated that, she will still be bound by all the other requirements of home business which limits the number of employees. It is basically the owners of the property.

Mr. Vieira commented that, it was a limited menu being Lebanese food. Mr. Wright was not even aware of this until Mr. Vieira mentioned it. Mrs. Rouleau-Cote wanted to caution the Board that, she did not believe they could condition it to a type of food that they are going to be producing as that could change. Mr. Wright understood what Mrs. Rouleau-Cote was saying.

Mr. Wright asked if there was anyone else that wanted to speak. Mr. DiPietro wanted to make a motion on the application.

***Mr. DiPietro made a motion to vote on the application as presented tonight for 40 Mountain Road, Tax Map 9, Lot 4-1, seconded by Mr. Matte.***

Mr. Wright asked if there was any discussion. Mr. Matte just wanted to say that, he believes she is just trying to broaden her horizon on the commercial aspects of her business and did not believe it was going to affect the neighborhood too much. Mr. Wright stated that, that was a great point and with everyone working remotely that this was commendable and done within the spirit of the ordinance and done in a way with minimal impact of surrounding properties.

With that said, Mr. Wright started the roll call vote.

***Mr. Matte voted to Grant as he believed all factors have been met, Mr. Vieira voted to Grant as he believed all factors have been met, Mr. Stuart voted to Grant as he believed all factors have been met, Mr. DiPietro voted to Grant as he believed all factors have been met, and, Mr. Wright also voted to Grant as he believed all factors have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. Wright stated that, the Special Exception was Granted and informed Ms. Aouad that there was a 30-day Appeal period and that substantial competition needed to be done within two (2) years otherwise she would need to come back before the Board for renewal. Mr. Wright thanked Ms. Aouad for her presentation and wished her luck. Ms. Aouad also thanked the Board for their time and the discussion ended.



**Case #20-16**  
**Eric Mitchell**  
**HQ Properties Realty Trust/Matthew Scott**  
**29 King Street – Tax Map 25, Lot 47**  
**Zoned Industrial**

*Applicant is requesting a Variance to allow the expansion of an existing multi-unit commercial service establishment with a proposed phased development of 17 contractor units and 14 self-storage units with an impervious area over 40 percent in an Industrial zone. (Article 4, Section 4.09(1)&(2))*

Mr. Wright asked the applicant to proceed with this case. Mr. Mitchell began the presentation by giving a little bit of background on this proposed project. Mr. Mitchell pointed out that, there was a Variance granted back in 2012 for the multi-use which is the two (2) uses that are on there now. What they are proposing to do now is to have still a multi-use commercial establishment and the uses that are proposed is that, they would have 17 contractor units which would be roughly 20 by 60 in size with a tall garage door to get inside. The uses of those buildings would be primarily for contractors whether they are plumbers, builders, or electricians. People who have a needed place to operate their business but also a place to store their equipment and some of their inventory. This is not meant to be a retail facility and is not something that would be generally opened to the public. It does not mean that someone cannot stop by and go into the building, but these are primarily for the use of the owners to come and go out of the building throughout the course of the day. The project itself involves 6 units in one building and then an additional phase would be an additional 8 units plus an additional 3 units. They have phased the project primarily because they have sat down with the Planning Board and what they encouraged them to do was to show everything that was going to occur on the site so that everything could be evaluated at once instead of coming in with one thing at a time. Mr. Mitchell went on to explain that, what they are proposing to do is to take the dome building from the lower end of the parking lot and move it up behind the existing building and put an office attachment to that and put in the necessary parking in behind that. What will happen to the balance of the site would be that, the first 6 units would go up in the second phase and then the third phase, if and when the buses are no longer there onsite there would be 8 units in one building and then 3 units in another building. They had also proposed there to be 14 self-storage units but that will be modified to be 7 units instead of 14 units. Mr. Mitchell talked about parking and that the Planning Board had concerns with people parking on the street so they wanted to make sure that they had sufficient parking onsite and that is why the impervious is increased beyond the 40% that is allowed. With that said, Mr. Mitchell stated that Attorney Panciocco was present and that she would be going down through the Variance request application. Mr. Mitchell further added that, that they still need to go through the Planning Board as there were still a few things they needed to discuss relative to lighting, signage, hours of operation and the like. Mr. Mitchell also pointed out that, with the added impervious that, they understood that they will still need to mitigate any additional runoff and if the detention pond needs to be bigger that they would certainly do that. Mr. Mitchell thanked the Board and Mr. Wright also thanked Mr. Mitchell.

Attorney Panciocco began by saying that, she would start with the first Variance because there are two (2) Variances being requested in this application. The first one would be from the 40% limitation on the impervious coverage requirement and the second Variance is requesting an expansion of what the ZBA granted in 2012 when the property was characterized as a multi-unit commercial service establishment in the industrial zone and imposed a condition that there be no more than two (2) buildings. Obviously, the plan submitted shows two (2) extra buildings with the contractor bays at the southerly end of the property. So now there would be four (4) buildings as opposed to the two (2) buildings that were permitted in 2012. Attorney Panciocco commented that, under your ordinance, a multi-unit commercial service establishment, the definition in Section 2.02(58) describes the particular term as "building or buildings on one parcel that are non-residential units providing commercial services, sales, service and warehousing. In the definition of commercial services includes beauty shop, shoe repair and dry cleaner, laundry, electrician, plumber, repair services, installation services, general contractor and rental shop. Attorney Panciocco commented that, to be clear, they have no concern at all with a condition that limits the uses that will be permitted here with uses that do not invite retail and consumer traffic such as a beauty shop or shoe repair or a dry cleaner. Attorney Panciocco added that, it would strictly be contractor bays for storage or people who just need a space to have a little office and to put their stuff. It is not the intent of her client to invite any kind of retail traffic coming into the site and not even a sales establishment for that matter. Attorney Panciocco stated that, they were fine with limiting that if the Board wished to do so formally but within the commercial services, they are not looking to incorporate all those uses. Attorney Panciocco went on to say, as Mr. Mitchell had stated, they plan to do this in phases. Attorney Panciocco explained that, she went out to the site over the weekend and quite honestly, I think one of the biggest benefits here is when you approach the property and you're at the toe of King Street where it intersects with Rockingham Road, she looked up at the big white building and thinks that it is a great benefit to the area to have that tucked up behind the other building and have two (2) rows of contractor bays that are not so tall. She believed aesthetically that it would be a big plus for the area.

At this time, Attorney Panciocco went through the first Variance request to exceed the 40% lot coverage and began by reading the application into the minutes for the record. Attorney Panciocco added that she had sent photos of the property and the surrounding properties for the Board to review. Ms. Royce indicated that, she had forwarded the e-mail to each of the Board members as requested. Attorney Panciocco stated that, the applicant is requesting an increase in the impervious coverage because this site as it has been planned and with its improvements can indeed handle the additional runoff and insure it is returned to the ground water.

Attorney Panciocco moved on to the second Variance which is requesting an expansion from two (2) buildings to four (4) buildings. Attorney Panciocco pointed out Section 4.09(2) of the Town of Auburn Zoning Ordinance. At this time, Attorney Panciocco read the application into the minutes for the record. Attorney Panciocco commented that, her client is fine with a restriction if the Board would like to limit the use of the contractor bays to non-consumer, non-retail occupants and he will not be looking to encourage that type

of traffic coming up King Street. Attorney Panciocco stated that, going from two (2) buildings to four (4) buildings, the same hardship exists in this particular case as it did with the impervious coverage because the property is very limited, it does not accommodate a large building due to its size, shape, long frontage and shallow depth. The taller building would be better suited at the top of the hill and they can more than handle two (2) rows of contractor bays being added and then the additional three (3) bays located to the west of the existing building. Attorney Panciocco explained that, the occupants of those buildings will be limited as described previously to contractor bays. The use focuses on storage and people who do work singularly without retail traffic and most of them store their belongings and go to work in other locations. Attorney Panciocco stated that, it would be very limited traffic. One other point that, Attorney Panciocco wanted to bring to the Board members attention that, in anticipation to the meeting this evening and because they are under some real burdensome restrictions right now in trying to go through this type of permitting process, her client has met face to face, with masks on with some of the abutters and introduced the plans to show them what he is proposing. Attorney Panciocco believed that, a few of the abutters have indicated their support to the Board and a few have verbally stated that they liked the plan and had no objections. Attorney Panciocco wanted to inform the Board that, the plan has been very well received by abutters and believed that was all she had to say tonight.

Mr. Mitchell wanted to add one thing which was, when the plans were last granted in 2012 the stipulation was that there are two (2) buildings. The plan that they have submitted tonight show a total of four (4) buildings and as Attorney Panciocco has stated that is what is on our proposal. However, since their submission and in talking with the building contractor who manufactures the building, they would prefer to not have their building attached to the existing building that is there with the offices for the school bus terminal. So, they may have to put a space between Unit #11 and the existing building and the purpose of this space it would have a walkway from the back to the front. Mr. Mitchell went on to talk about the walkway in more detail. Mr. Mitchell reiterated what was said earlier by saying that, in 2012 it was restricted to two (2) buildings because they did not want to give a cart blanche of what was going to happen but because the Planning Board has encouraged the applicant to come through and show the full design and layout of the site they would like to not be limited to the number of buildings for issues just like this that they may have to separate two (2) of the buildings by feet but to have it conditioned on the Planning Board giving site plan approval for the final site design and layout. Mr. Mitchell thanked the Board members. Mr. Wright thanked Mr. Mitchell for his very thorough and complete explanation and description of the case.

At this time, Mr. Wright asked Mrs. Rouleau-Cote if she had any questions or input before he has the ZBA asks questions. Mrs. Rouleau-Cote commented that, she believed the applicant has given some good insight as to possibly having some conditions of the approval or some protective covenants and was unsure if it was going to be under a single ownership or condo. Mrs. Rouleau-Cote went on to say that, obviously from a Code Enforcement standpoint, the more documentation you have with the no retail or no consumer type activities where you are drawing more people in and obviously the more language we can have with conditions of approval makes her job easier as occupancies

change within the units would definitely be very helpful from ZBA standpoint as well as the Planning Board standpoint. We will be looking at that on future site plans and looking at the septic system and sizing it appropriately for all of the intended uses here but this will be something that they will work out with the design engineer and what the limitations of the lot are moving forward. Attorney Panciocco wanted to comment on one of Mrs. Rouleau-Cote's concerns and that, her client is telling her that it will be owner occupied and managed.

Mr. Wright asked if there were any abutters present. Anthony Piascik of 29 Mountain Road had a couple of concerns. Mr. Piascik talked about the 40% limitations due to water and mentioned the increase number of employees at the site and that he does see a lot of traffic heading to Route 101 especially Rockingham Road at the intersection of King Street which is already a tough intersection and the increased noise. Mr. Piascik understood they were looking to go over the 40% but believed there should be some additional thought and consideration done. Mr. Wright thought that was a good point and thanked Mr. Piascik for his comments.

Mr. Wright opened it up to the ZBA Board members. Mr. DiPietro believed it was a good idea to put some responsibility on the Planning Board to make sure that everything that is on the lot and believed it should be a condition that he would make. Mr. Wright asked if there was anyone else that would like to comment. Mr. Vieira wanted to add that, it was a narrow piece of property for all these buildings and was worried about all the extra traffic whether it was retail or not. Lastly, Mr. Vieira could not imagine plowing this site and where the snow storage would go and that basically was having a hard time believing that the drainage could be managed. Mr. Vieira stated that, basically these were his concerns with this piece of property and what they were proposing. Mr. Mitchell wanted to comment by saying that, with regard to the snow and snow storage is that, basically a note gets put on the plan that any snow that cannot be placed onsite will have to be trucked offsite to a regulated facility and in this particular case, they do have sufficient area where at the southerly end of the property at the end of the existing parking lot where the detention pond is, is where the snow storage could be placed. Mr. Mitchell indicated that, it's usually a condition that is placed on the plan.

Mr. Wright asked if there was anyone else from the Zoning Board. Mr. Scott wanted to comment and began by saying that he has owned the property for almost 9 years and that he has done the snow removal personally for those 9 years. There has never been a problem and they have never had to remove the snow offsite and stated that there was a loader onsite as well and they have never had to truck snow offsite as there is plenty of space there to push the snow. Mr. Wright thanked Mr. Scott for his comment. Mr. Matte commented that, he was very familiar with the site and agreed with Mr. Scott that there was plenty of room to push the snow on the south end of the property.

Mr. DiPietro had a question and asked, for purposes of a number and asked what the proposed impervious amount percentage wise. Mr. Mitchell stated that it would be 56% and the plans still must be finalized but believed it was close to 56%.

Mr. Matte wanted to add that, the proposed new location of the dome building and the parking and the positioning of the new buildings and right now with the buses and everything it's kind of a cluster when everything is going on during a snow storm. Mr. Matte believed that the proposed new location of the new building would make it a lot easier and a lot less congestion during those times.

Mr. Wright asked if there were any other questions or comments from the ZBA. None were noted. Attorney Panciocco wanted to mention on what Mr. Matte had mentioned about the dome being moved and pointed out that, moving that building and tucking it up to the north was phase #1 and phase #2 would be the six (6) contractor bays and phase #3 would be the eight contractor bays with #9, #10 and #11. Phase #3 would be located where the buses are located now and wanted to make it clear to the Board that phase #3 and the buses would not coexist at the same time. Basically, phase #3 would not occur if the buses remain and just wanted to make that clear because it shows three (3) years of work shown on one plan. Mr. Wright understood. Mr. Scott commented that, they have 34 buses on the location and that they provide parking for everyone of those bus drivers and occasionally they will park out on the street but they have parking for them and they just don't want to use those spots. Mr. Scott stated that, if the bus company were to ever leave and then they build phase #3, there will be more than 34 parking spaces. Also, the 6,000-gallon diesel fuel tank that is onsite that will be gone as well, if and when the buses were to leave. Mr. Scott informed the Board that he is on the property every day and in his opinion, they will have less people onsite when phase #3 is implemented. Mr. Scott reiterated that, phase #3 will not happen unless the bus people were to vacate the premises.

Mr. Wright asked if ZBA members had anything to add. Mr. Piascik wanted to comment again and stated that, his concern was whether or not they will need a light at the intersection and if the bus company leaves then there may be less employees but if they decide not to go, it's already a very busy intersection and he drives by there everyday and his concern was basically the traffic and not the parking. Mr. Wright commented that there are a number of phases that are going to occur and that the ZBA is the one being asked for relief from and then there would be another review by the Planning Board in terms of a lot of those details such as health, safety and traffic so there will be another opportunity for input. Mr. Wright asked Mrs. Rouleau-Cote for clarification. Mrs. Rouleau-Cote said yes, most of those items would be under the Planning Board's purview for site plan with regard to if there is a need for a traffic study or anything like that or intersection reconfiguration. Mr. Wright informed everyone present that, there would be another review by the Planning Board for site plan review whereby further input from abutters or interested parties will be taken into account and heard so this isn't the only form.

Mr. Wright wanted to make sure that there were no further questions or comments from anyone else. Attorney Panciocco believed they were all set. Mr. Rolfe wanted to comment as the Selectmen's Representative to the Planning Board and began by asking if the Board took into consideration the minutes of their 2012 ZBA Public Hearing determination. Also, Mr. Rolfe wanted to mention the Planning Board minutes when Mr. Scott came before the Board for an informal meeting where one of the Planning Board



members was not particularly comfortable of giving an open ended approval for three (3) phases with no end in sight. Another one was and Mr. Rolfe read a section of the minutes aloud to everyone present which was stated by Mr. Poltak which "he had gone there last Thursday and stated that, he was overwhelmed by the activity in the area. Mr. Poltak mentioned the huge issue was parking in the area." Mr. Rolfe commented that, that place is loaded with cars parking up and down the road on King Street so there are a few issues that need to be considered and understood that they would be coming before the Planning Board. Mr. Wright pointed out that, those were excellent and pertinent comments and believes that anyone who lives or drives around that area would be interested in all of that. In terms of what the ZBA can do is focus on the relief they are requesting and if they have satisfied the criteria and mentioned the 2012 minutes that Ms. Royce had provided the Board members with earlier. Mr. Wright believed that there was a lot of things that the Planning Board can dictate on what occurs on that property well beyond the ZBA's jurisdiction. I would anticipate and expect that the Planning Board, regardless of their decision either way would act in a way that is representative of all those things that Mr. Rolfe just described. With that said, Mr. Wright wanted to open it up to the Zoning Board members that have not spoken.

Mr. Wright asked for Mr. Stuart, Mr. Matte, Mr. DiPietro and Mr. Vieira. Mr. Vieira commented that, this proposal with this many buildings with this many units in consideration of the bus company that is already there and all the employees, plus the standard traffic of all these units could attract believes that they should stick to the two (2) buildings that are already there. Mr. Vieira believes it's basically too much.

Mr. Wright called on Mr. Stuart. Mr. Stuart was not available currently. Mr. Wright called on Mr. DiPietro. Mr. DiPietro recalled back in 2012 when the Board limited it to two (2) buildings was because the applicant asked to do two (2) separate buildings, so they limited to two (2) buildings. Mr. DiPietro commented that, it would be nice if it could be one building but as the applicant and his representatives mentioned, it's just a tough lot. Mr. Wright believed that, Mr. DiPietro made a great point and Mr. Wright gave a brief overview of what the ZBA has an opportunity to ask questions and weigh in and make the appropriate decisions and then the Planning Board, in his mind, is sort of the check and balance that overlays the ZBA that really can hon in on the particulars to make sure what is approved is of minimal impact and reasonable for where it is located.

Mr. Wright asked the Board if they wanted to go into deliberation and, if not, we have two (2) Variance request and asked Attorney Panciocco to comment. Attorney Panciocco stated, yes that was correct, there is two (2) Variances in one application. Mr. Wright stated that, he would like to take each Variance up independently with their review and vote. Attorney Panciocco asked if there was a full Board to vote. Mr. Wright stated that, a quorum is four (4) members and if Mr. Stuart does not get back on line, they can proceed or the applicant can either can request to Table this case and wait until next month when they have five (5) voting members and there would not be a risk of a deadlock or they could proceed with four (4) members with the risk of a tie vote and they would have to go to the next month anyway. Assuming Mr. Stuart does not come back into the picture, they do have a quorum and have a binding decision if they so choose. Attorney



Panciocco asked if anyone had tried to reach Mr. Stuart. Mrs. Rouleau-Cote stated that, they are assuming that he is calling in on the phone. At this time, Ms. Royce and Mrs. Rouleau-Cote tried to get a hold of Mr. Stuart. A brief discussion ensued with regard to the property located on King Street. Attorney Panciocco informed the Board that her client understands that this will be specifically vetted by the Planning Board and there will be discussions about employee limitation, traffic and there will be a drainage study done and her client is willing to do that. Attorney Panciocco added that, her client is trying to reorganize the site to make it more efficient. Mr. Piascik wanted to confirm if phase #3 meant that there would be no buses. Attorney Panciocco said yes. Mr. Stuart resumed the meeting and Mr. Wright indicated that there were some good comments from everyone and wanted to see if he had anything else to add before the Board goes forward. Mr. Stuart indicated that he did not have anything else to add.

Mr. Wright asked if anyone thought they needed to enter into deliberation. Mr. DiPietro began by making a motion.

***Mr. DiPietro made a motion to vote on the Variance to grant the request for expansion of impervious area from 40% to 57% for 29 King Street, Tax Map 25, Lot 47, seconded by Mr. Matte. Mr. Matte voted to Grant as he believed all five factors have been met, Mr. Vieira voted to Deny, Mr. Stuart voted to Grant as he believed all five factors have been met, Mr. DiPietro voted to Grant as he believed all five factors have been met, and, Mr. Wright also voted to Grant as he believed all five factors have been met for this Variance. A vote was taken and, this Variance was approved by a vote of 4 to Grant and one to Deny.***

Mr. Wright moved on to the second Variance request.

***Mr. Matte made a motion to vote on the Variance to grant the request for expansion of an existing multi-unit commercial service establishment with a proposed phased development of 17 contractor units and 14 self-storage units for 29 King Street, Tax Map 25, Lot 47, seconded by Mr. DiPietro. Mr. Matte voted to Grant as he believed all five factors have been met, Mr. Vieira voted to Deny, Mr. Stuart voted to Grant as he believed all five factors have been met, Mr. DiPietro voted to Grant as he believed all five factors have been met, and, Mr. Wright also voted to Grant as he believed all five factors have been met for this Variance. A vote was taken and, this Variance was approved by a vote of 4 to Grant and one to Deny.***

Mrs. Rouleau-Cote wanted to point out to the ZBA Board that, in that motion there was nothing that said no retail or no consumer sales so we will probably rely on the minutes to go through the Planning Board review to make sure that some kind of notation will be placed on the site plan. Mr. Wright commented that, that was an excellent point and did not believe there would be any surprises or disagreement with the applicant or the Planning Board. Mr. Wright pointed out that, this was heavily weighted with the Planning Board to make whatever appropriate restrictions there are and should be relative to this site. The general feeling was that nothing was going to happen without Planning Board review and believed the Planning Board would go deeper into this. At this time, Mr. Wright

thanked Mrs. Rouleau-Cote and believed the ZBA has done their job and now it was up to the Planning Board.

Mr. Wright asked if there were any questions. Attorney Panciocco believed they were all set and thanked the Board for their time. Mr. Mitchell also thanked the Board and the discussion ended. Mr. Wright informed everyone that they were welcomed to stay on as the Board had a few things to discuss or they could sign off at this time.

## **Minutes**

Mr. Wright asked to take up the minutes of October 27, 2020 with the minor corrections made by Attorney Brenda Keith.

***Mr. DiPietro made a motion to accept the minutes of October 27, 2020 with the minor corrections made by Attorney Brenda Keith, seconded by Mr. Stuart.***

Mr. Wright conducted a roll call vote to approve the meeting minutes for October 27, 2020.

***Mr. Vieira voted to approve the minutes, Mr. Matte voted to approve the minutes, Mr. Stuart voted to approve the minutes, Mr. DiPietro voted to approve the minutes, and Mr. Wright also voted to approve the minutes. A vote was taken and, all were in favor and the motion passed.***

## **New Business/Other Business**

Mr. Wright wanted to follow-up with Ms. Royce as the Selectmen wanted the Board to sign something to be recorded with regard to last month's case and asked if it had been resolved. Ms. Royce stated that, it has not been completed yet but will be done soon as Attorney Keith was waiting for the 30-day appeal period and then Attorney Keith would review it for signature by the Chairman of the ZBA. Mr. Wright asked to be notified when it was completed.

Mr. Wright asked about pending cases. Ms. Royce indicated that there were none at the moment but believed there may be one in the works. Mr. Wright asked when the cut-off date was. Ms. Royce stated that, the cut-off date was Monday, November 23<sup>rd</sup>. Ms. Royce informed the Board that the next ZBA Hearing is scheduled for Tuesday, December 15<sup>th</sup>.

## **Adjourn**

***Mr. DiPietro made a motion to adjourn, seconded by Mr. Stuart.***

***Mr. Matte voted to adjourn, Mr. Stuart voted to adjourn, Mr. Vieira voted to adjourn, Mr. DiPietro voted to adjourn, and Mr. Wright also voted to adjourn. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 9.45 p.m.***

Mr. Wright again thanked Ms. Royce and Mrs. Rouleau-Cote for putting this all together and being there to support the Board in making this process smoother. At this time, the meeting ended.

**The Zoning Board of Adjustment will not be holding a meeting during the month of July and the next scheduled meeting would be for December 15, 2020 at 7:00 pm. Due to Governor Sununu's Emergency Order #12 on March 23<sup>rd</sup>, all meetings will be held via teleconference until further notice.**