



City of Laconia
Zoning Board of Adjustment
Monday, November 20th , 2023 - 6:30 PM
City Hall in the Armand A. Bolduc Council
Chamber

11/20/2023 - Minutes

1. CALL TO ORDER

Michael DellaVechia opened the meeting at 6:31 PM.

2. ROLL CALL

Scott Pelchat did the roll call at 6:33 pm in attendance were Roland Maheu, Richard Boddie, Jane Laroche, Michael Dellavechia and Marcia Hayward.

3. RECORDING SECRETARY

Recording secretary Scott Pelchat

4. STAFF IN ATTENDANCE

Planning Director Kathy Menici and Zoning technician Scott Pelchat

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

the Minutes from the October ZBA meeting were accepted as written and voted approved unanimously.

6. Zoning Board Of Adjustment

7. EXTENSIONS

8. ZO2019-0021SE Solar Gardens

Michael asked the solar gardens to come forward regarding the solar project extension Adam Sandahl spoke on behalf of the project requesting a six-month extension of the zoning approval mike asked if there was to be worked performed over the winter Adam said it would be the spring for a true start of work. Michael sought a motion and Jane LaRoche motioned to allow for the extension this was seconded by Roland Maheu, and it was unanimous.

9. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

10. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

11. ZO2023-103SE 604 Endicott Tiki Hut

Mike called 604 Endicott ST the Tiki Hut. Keith spoke representing the tiki plaza looking to install an electronic messaging center. Details submitted to planning by Donald Gagnon. Mike asked if a special exception was needed for this, and Marcia and Kathy concurred. Roland asked which sign was to be replaced and Keith advised it would fit inside the main sign itself. Mike opened questions from the board to the applicant. Marcia looked for clarification on the sign itself. Keith explained it would be 4 feet by 6 feet and would replace the existing sign within the frame. Kathy sought clarification regarding what will be displayed within the EMC sign message board. Jane displayed the sample sign for the board. Roland inquired what the change rate is for the sign and that it will have to meet the ordinance. Roland asked if this was the only sign on the premises and Keith said that each business had a smaller sign identifying their store. Marcia asked if the sign would have two faces and it would. The board discussed amongst themselves, and Mike opened to the public at 6:40PM and it was closed to the public at 6:41 Pm. Marcia and Richard discussed the ordinance and the factors and criteria that would apply to the emc sign. Richard Stated that the application was incomplete and that the asked was not clearly defined other than the sign itself. Kathy shared her concerns about the submitted application being incomplete. Michael sought a motion and Marcia Hayward made a motion to allow for a special exception to allow for the messaging sign. **A.** The use is authorized in this chapter. and it is. **B.** The request will not create undue traffic congestion or unduly impair pedestrian safety It will not as the adjacent business has a similar sign on the property. **C.** The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets. It will not as it will replace an existing sign. **D.** The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services: It will not and will have no impact. **E.** Any special provisions for the use as set forth in this chapter are fulfilled: The provisions in this chapter will be met. **F.** The requested use will not create hazards to health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood: It will not create any hazards. **G.** The proposed location is appropriate for the requested use: Yes, as it will replace a portion of an existing sign. **H.** The requested use is consistent with the spirit and intent of this chapter and the master plan. Yes, as it allows for the board to review the proposal prior to construction. This was seconded by Jane LaRoche and was granted unanimously.

12. ZO2023-0105SE 73Paugus St. ADU

Michael asked if the applicant from 73 Paugus Ave would approach the podium. Kimberlee Rizzuto and her aunt Patty Bartlett approached the board Kimberlee stated she was looking to construct an ADU above a garage to allow for her mother who currently resides in Massachusetts will live on the property in either the main domicile and or the ADU. Marcia Hayward inquired about the property with some concerns she had about the current setbacks. Patty spoke regarding the true location of where the construction would be on the property as well as the current setbacks and how in proximity, they would be to it. Michael asked about the greenspace calculation Scott stated at this time we had no calculation but from the initial submittal no concerns were raised. Kimberlee and Patty explained the construction ideas to the board stating that the garage would be a two-car garage with the attached ADU above it and would be 720 SF in size. Michael opened to the public at 6:53Pm and closed at 6:53pm. Richard asked Scott if the calculations would be done, and Scott replied during the building permit process all factors will be looked at prior to issuance. Richard Boddi motioned to grant the special exception with the finding of fact. **A.** The use requested is specifically authorized in this chapter: And it is. **B.** The requested use will not create undue traffic congestion or unduly impair pedestrian safety: It will not.

C. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets: It will not. **D.** The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services: It will not. **E.** Any special provisions for the use as set forth in this chapter are fulfilled: None were proposed other than those defined by the ordinance. **F.** The requested use will not create hazards to health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood: It will not **G.** The proposed location is appropriate for the requested use: it is **H.** The requested use is consistent with the spirit and intent of this chapter and the

master plan: it is. This was seconded by Roland Maheu and was passed unanimously.

13. ZO2023-0106VAR 144 Lake St

Michael Dellavechia asked the applicant from 144 Lake St unit 5 to approach the board Katherine Sheehan spoke regarding her application also presented handouts to the board. Katherine described her domicile as the smaller of the units on the lot currently which is Eastern shore condominiums the current square footage for their unit is 468. And they are looking to increase the structure to a two story.

Katherine further described the lot owned by the association as well as her association neighbors who have already increased the size of their units. Katherine stated this has transpired in the last 15 years.

Katherine asked for the board's permission to increase her condominium to a two story, also stating she had a letter of consent from the association as well as a letter from the department of environmental services. Katherine stated that the total height of the structure will be 29' 6". Marcia asked about one of the other structures on the lot and how it made it to the current height. She then asked Katherine if she would stay in the same footprint, and it was found to be yes and that the expansions upward shall remain less than 35 feet in height Roland asked and this was confirmed. Michael Dellavechia opened to the public at 7:02PM and there were none and closed to the public at 7:03PM Katherine asked about her planning board hearing, and it was decided that it was a separate board. Michael DellaVechia inquired on the elevation of the structure as the plans reflect Katherine explained to the board again the 29' 6' and showed the board that the portion will be below ground and not exceed the 35 Feet height limit.

Roland Advised 35 feet is a very tall structure even for a two story. Michael inquired about some of the other structure heights on the property Katherine did not have the height measurements for those units.

Michael and the board settled on the height of the proposed application and then opened the board for discussion amongst the members. Richard advised that a copy of the DES letter be attached to the file. Richard then motioned to Approve variance ZO2023-0106VAR finding of fact.

1.Granted the variance would not be contrary to the public interest because: It will not be contrary to the public interest.2.If the variance were granted, the spirit of the ordinance would be observed because: The spirit would be observed as it would allow a nonconforming structure to expand in height while staying within its current setbacks.3.Granted the variance would do substantial justice because: It would allow the owner additional living space while staying within the setbacks and expanding upward as have some of the other association members. 4.If the variance were granted, the values of the surrounding properties would not be diminished because: There were no studies submitted to confirm or deny the diminishment of property values in the area.5. Unnecessary Hardship:

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because: Before the condo association gave us a letter of permission, all our condo neighbor were notified. And no one complained.

ii. The proposed use is a reasonable one because: There are Twenty-three condos at Eastern Shores twelve of the condos are waterfront. Three of those Twelve are Two stories. Two of the Twelve are Three stories. I.E., we would be the sixth multi story cottage on the waterfront at this association.

OR

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

This motion was seconded by Jane Laroche and was unanimously approved. Richard asked if Scott could make sure the DES permit made it the File Scott agreed and said he would do so.

14. ZO2023-0107SE 34Pine St.

The board then proceeded to the special exception application Marcia then spoke regarding the allowance of this special exception. This was opened to the public for discussion no one commented. Richard asked Kathy if it was the boards per view if cleaning the yard up was something they could ask for Kathy stated no. Marcia Made a motion to grant the special exception using these criteria. A. The use requested is specifically authorized in this chapter: It is. B. The requested use will not create undue traffic congestion or unduly impair pedestrian safety: The area is already being used as multifamily. C. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets: No as only one unit will be added. D. The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services: No as only one unit will be added. E. Any special provisions for the use as set forth in this chapter are fulfilled: The removal of the tool shed to create an additional parking space. F. The requested use will not create hazards to health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood: It will not. G. The proposed location is appropriate for the requested use: It is as it currently exists as a multifamily. H. The requested use is consistent with the spirit and intent of this chapter and the master plan: It is.

15. ZO2023-0108VAR 34 Pine St

Michael DellaVechia asked the Applicants from 34 Pine St to approach the podium. Thomas R Selling and Mr. Selian Haik spoke on behalf of the property. Thomas stated they have applied for a Special Exception for multifamily use as well as a variance for density. As they are looking to convert a Garage out building into a single-family residence the property is in the RG zone and is served by City water and sewer. Thomas went on to further describe the current usage as well as the proposed usage of this property. Thomas defined the current district as the housing redevelopment overlay district which would allow for this use to happen. Thomas also shared with the board by graphical representation the current usage by other properties within this neighborhood that are multifamily. Michael DellaVechia stated that he did a drive-by of the property and he felt that parking looks problematic. Marcia advised Michael the process of order for the applications.

Thomas pointed out that there is an existing structure to be removed to create mor parking at the location. Jane Laroche asked about the cars parked along the side of the house and Thomas described that it is in the shape of an L that wraps around the backside of the house. Marcia stated that 5 spots will be needed. Thomas stated that he felt the applications will need to be done separately and that conversations should stay related to the application and Kathy spelled out the correct method of approach for this. Thomas asked the board to stop the special exception and proceed to the variance. The board then motioned to close the special exception and it was unanimous and the board proceeded to the variance application. Thomas spelled out the Variance criteria for density Thomas sought a modest change from two units to three units on this property.

Thomas believed the spirit of the ordinance would be observed stating again from the housing redevelopment criteria. Improvements proposed to this structure will have no new impact on municipalities and provide housing within this zone. Michael DellaVechia asked if the garage was a live able space right now and the applicants concurred it was and it was asked if it is rented and it was. Michael asked about the greenspace and Thomas advised that the greenspace was identified on the stamped plan. Roland asked what the calculation would be for parking, and it would be five spaces total. Roland also inquired regarding snow storage. Marcia inquired about the driveway size and Thomas advised there is an additional apron that allows more space on the driveway. Thomas further explained the special access for the driveway and the driveline access. Marcia was referring to the chart as it refers to side by side parking where Thomas is

describing stacked parking which Kathy then spoke regarding the layout for parking as described in the ordinance. Tom also stated that 64.7 is the calculated greenspace currently Marcia and Tom discussed the driveway and driveline to the fence in the driveway. Marcia, Michael and Thomas agreed that the parking would be tight at this location. Thomas spoke of the tandem parking at the end of Gale St. Kathy defined the ordinance regarding parking for the current layout except where spaces are parallel than the length shall be 22 feet. Marcia spoke of spots 4 and 5 and that the current state of them is gravel and asked if they would stay this way. Roland asked if the current use is accommodating the current layout and Selian Haik stated it is functional in the status. Michael DellaVechia stated that there were several items on the property that could be removed to allow for more usable space. Selian Haik expressed that as the owner he has emphasized to the tenants that they will need to remediate the items that could be removed. Thomas asked how the overall look is Germain to the application at hand, Thomas than advised that a condition be presented that cleanup is contingent on this happening. Michael DellaVechia opened to the public at 7:46PM and was closed to the public at 7:46PM. Richard asked the board if it is the board's duty to determine parking measurements Kathy expressed that it could be picked up at the planning board level. Kathy again advised the board that this property falls within the housing overlay district which has a different density calculation than non-overlay districts Kathy advised the density allowance at this property is 2.4 dwelling units. Marcia asked again regarding stacked parking per the ordinance. Richard and Michael spoke regarding the housing redevelopment overlay requirements and concluded that within these requirements Richard felt inclined to grant these applications. Richard made a motion to approve variance for 34 Pine St.

1. Granting the variance would not be contrary to the public interest because: The community needs housing.
2. If the variance were granted, the spirit of the ordinance would be observed because: Creation of housing space.
3. Granting the variance would do substantial justice because: Granting the variance would help the current owner as well as the current occupant of the unit.
4. If the variance were granted, the values of the surrounding properties would not be diminished because: There was no evidence presented to confirm and or deny the diminishment of property values.
5. Unnecessary Hardship: The property currently has three units as rentals.

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because:

ii. The proposed use is a reasonable one because:

OR b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

This was seconded by Jane LaRoche and was passed 4 votes to 1.

16. ZO2023-0109 VAR 80 Paugus Park

Dave Wright and his agent Eric Buck from terrain planning and design Eric spoke regarding the project and Property as well as the two applications for variances they have before the board representing David and Cheryl Wright to allow for the demolition of the existing structure to allow for the new deck to be further from the shoreline than currently exists as well as a variance to allow for diminished greenspace. Eric spoke about the remaining setbacks on the property and how they would remain unaffected, and that the property would become less nonconforming than as it exists currently. The board looked at the shoreline setback variance first Michael stated the plan set was nice and that the property looked to be better served by this plan. Michael opened to the public at 8:09PM William J Masco Jr spoke regarding his support for the project and how well the property owners did inform him of plans going forward. Eric Simmers spoke in favor of the project. Closed public comment. Marcia motioned to grant the variance for the shoreline set back with the finding of fact.

1. Granting the variance would not be contrary to the public interest because: The applicant respectfully submits that granting the requested variance will not change the essential character of the area and will not be contrary to the public interest. The lot was created in the 1930s and the house was constructed in the 1960s well prior to current city regulations. The overall improvements to the site will make the structure more nearly conforming. The public interest is to prevent the crowding of abutting properties and to preserve the quality of the lake. The proposed house will be constructed further from the northern property line and from Paugus bay on Lake Winnepesaukee than the existing structure currently is, thus increasing open space to the abutter and lake. Given the small, nonconforming size of lots along Paugus Park Road, many of the neighboring properties have structures that are located within the building setbacks, therefore the proposed encroachment would be consistent with the character of the surrounding area. The construction and the proposed site improvements have been carefully planned in such a way as to minimize any impacts on the environment that would adversely affect the public interest. There is no reason to expect that locating the house as shown on the enclosed plans would negatively impact the public or alter the character of the neighborhood. Instead, the proposed project will support the public interest by replacing and removing a non-conforming structure to be replaced with a more conforming structure.

2. If the variance were granted, the spirit of the ordinance would be observed because: The Applicant respectfully submits that if the variance is granted, the spirit of the ordinance would be observed. Ordinance article IV states that the purpose of the shoreland protection district is to minimize the degradation of shorelands, protect water quality, and assure the retention of benefits provided by such shorelands. These objectives will be maintained and supported by the granting of the requested variance. The proposed house and deck will be located over 6' further landward from the reference line of Lake Winnepesaukee. The existing distance from the Lake is 14'3" to the deck steps and the distance of the proposed deck from the Lake is 20'3". the proposed building side setbacks and thus more conforming. The construction process will follow appropriate guidelines and best practices and there is no reason to believe that the proposed house will negatively impact the quality of the lake, nor do we believe that it will result in any changes to the property that will impact the water quality, wildlife, water flow, or the existing natural beauty. Article X non-conforming lots, uses and structures states that nonconforming structures may be partially replaced or replaced with a new structure which reduces the nonconformity of any dimensional requirements. Moving the house to create more conformity will be keeping with the spirit of the ordinance.

3. Granting the variance would do substantial justice because: Injustice occurs when any loss to the individual is not outweighed by a gain to the public. The public has little to no gain by a denial of this request, whereas the loss to the applicant would be great. The proposed project will improve, instead of harming the property. The applicant proposes to move the proposed house further from the lake and building setbacks than the current structure is, making it more nearly conforming. The variance would allow the applicant to obtain reasonable use of the lot that is substantially smaller than currently allowed in a manner that recognizes the need to reduce the impact on the lake by moving the structure further from the reference line. Denial of the requested variance will prevent the applicant from making the most effective use of the property. Constructing a new, more efficient and comfortable single-family house along with an attached garage and stormwater measures will allow the applicant to get the most use and enjoyment out of their property while benefitting the surrounding character of the neighborhood and quality of the lake. This is the primary and only residence of the applicant, and they should be allowed the same benefit of a more efficient and modern home with year-round protection for their vehicles that many of their neighbors enjoy. Further the small non-conforming lot limits the property such that encroachment into the building setbacks cannot be avoided. Once the required setbacks under the residential single family and the shoreland protection overlay districts are applied to the existing small lot, it prevents any reasonable building improvements on the property within the confines of the ordinance. By granting the variance, substantial justice will be done, and the applicant will be able to improve the function of the property in a manner that inconsistent with the ordinance and that minimizes impact to the shorefront buffer, while ensuring that the new home will be more nearly conforming than the existing structure. It would allow the owners reasonable use of their property while protecting the abutting property owners by maintaining the required side setbacks and moving the house further from the lake which will promote public health safety and welfare and protect the essential character.

4. If the variance were granted, the value of the surrounding properties would not be diminished because. The applicant respectfully submits that the value of surrounding properties will not be negatively impacted by the proposed improvements to the property. Granting this variance will allow the property to be utilized in a

manner supported by the residential single-family district without disturbing the neighborhood. Given the small, non-conforming size of the lots along Paugus Park Road, many of the neighboring properties have structures that are located within the building setbacks therefore the proposed encroachment would be consistent with the character of the surrounding area. The proposed house being set even further back from the shoreline than the existing house increases the green space between the structure and shorefront and improves the aesthetic of the property for abutting lots. Replacing an existing nonconforming house with a new house that is more nearly conforming could potentially be a benefit to surrounding property values. The new proposed residential structure will meet all building and life safety codes. The new structure will be more nearly conforming, and the current side setback violation will be eliminated. The new structure will be in keeping with other new residential structures along Paugus Park Road. There is no reason to believe that permitting the applicant to build the house as proposed will have any negative impact upon surrounding property values. The proposal is a natural progression to conversion of the area to modern residences and is not out of the ordinary, thus in keeping with changes already made in the neighborhood and enhancing the surroundings.

5. Unnecessary Hardship:

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because: The general purpose of the ordinance is to protect the public health, safety, and general welfare of the residents of the City of Laconia. No fair and substantial relationship exists between the general purpose of the proposed project and denial of the applicant's plan. Denial of the requested variance will do nothing to contribute to the public's health or safety. The lot was created in the 1930s and the current house was constructed in the 1960s well prior to current city regulations. The proposed project would remove an existing non-conforming structure and improve the property with a new, more nearly conforming structure that is consistent with the general character and aesthetic of the surrounding area. The plan was designed in such a way as to make the most efficient use of the property while protecting the environment abiding by the ordinance and minimizing impact to Lake Winnepesaukee. The proposed house has been located within all side and front setbacks and moved further from the reference line of the lake than what currently exists. The Applicants plan will remove two impervious driveways and construct one new, permeable driveway to access the garage. By taking these steps, the Applicant will be able to use the lot efficiently and economically while minimizing negative impacts to the surrounding area and making the structures more nearly conforming and improving the permeability of the land. Applying the rigid interpretation of the requirements of the zoning ordinance would make it impossible for the owners to have reasonable use of their property as has been allowed to other properties along paugus park rd.

ii. The proposed use is a reasonable one because. The General purpose of the ordinance is to protect the proposed use is a reasonable one. The lot is Zoned Residential Single-Family, as are the surrounding lots. The use will remain single family residential. The overall improvements to the site will make the structure more nearly conforming. The town and public interests are to prevent the crowding of abutting properties and to preserve the quality of the lake. The proposed structure will be within all of the side and front setbacks from the property lines and further from Lake Winnepesaukee than the existing structure. The proposed design and location of the house is the best possible option to abide by the ordinance and ensure maximum setback from the reference line while eliminating encroachments into the property line setbacks. The proposed plan will allow for an appropriate use of the property without significant adverse impact upon the environment, and in some areas, improvements to the environment by the improved stormwater management resulting in an efficient use of the property consistent with the surrounding area. The Zoning ordinance was adopted, in part, to promote good civic design and the appropriate use of land and buildings. The ordinance recognizes the need – even in the Shoreland protection overlay district – to treat non-conforming lots in a manner different from conforming lots. The Applicants proposal is designed to do the exact what the Zoning Ordinance promotes – good design to use the Applicants property in a safe and appropriate manner and to do so in a way that improves overall safety and does not disturb the neighborhood or the neighbors. Failure to recognize the relationship between the portions of the ordinance

that deal with non-conforming lots and the goals of protecting the shorefront to prohibit the construction of this replacement residence does not serve the goals and general purposes of the Zoning Ordinance.

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. This was seconded by Jane Laroche and was unanimous.

17. ZO2023-0110 VAR 80 Paugus Park

The Board then moved onto the Green Space variance for 80 Paugus Park Rd. Marcia motioned to approve the variance for greenspace using these finding of fact.

1. Granting the variance would not be contrary to the public interest because: A variance request is contrary to the public interest when it violates the ordinance's basic objectives. To determine whether a variance would violate the basic zoning objectives, it's beneficial to examine whether granting the variance would alter the essential character of the area and or threaten the general public's health, safety and or welfare. The Applicant respectfully submits that granting the requested variance will not be contrary to the public interest. The lot was created in the 1930s and the house was constructed in the 1960s well prior to current city regulations. Given the small non-conforming size of lots along Paugus Park Road, many of the neighboring properties have less green space than what is required by current regulations. Therefore, the proposed request to have 56.6% green space where 70% is required would be consistent with the character of the surrounding area. The proposed reduction in green space is necessary for the addition of an attached garage to the proposed house. Currently the lot has two asphalt parking areas that access Paugus Park Road. The proposed site plan will decrease that to one driveway to access the proposed garage this will be a benefit to the public interest because there will be only one point of access to the road from the property, thus increasing the safety of vehicle travelling along Paugus Park Road. Many of the abutting properties have the benefit of a garage so approving the proposed variance would be consistent with the character of the surrounding area the construction of the proposed site improvements has been carefully planned in such a way as to minimize any impacts to the environment that would adversely affect the public interest. There is no reason to expect that the proposed site improvements, as shown on enclosed plans, will negatively impact the public and / or adversely alter the character of the neighborhood. Instead, the proposed project will support the public interest by replacing an existing non-conforming structure with a new house and garage that is more nearly conforming and could potentially be a benefit to the essential character and aesthetic of the area.

2. If the variance were granted, the spirit of the ordinance would be observed because: the Applicant respectfully submits that if the variance is granted, the spirit of the ordinance would be observed. Ordinance Article IV states that that the purpose of the shoreland protection overlay district is to minimize the degradation of shorelands, protect water quality, and assure the retention of benefits provided by such shorelands. These objectives will be maintained and supported by the granting of the requested variance. The existing site has 61.1 % green space where 70% is required, so it currently doesn't meet the City's regulations. The proposed project will decrease the amount of greenspace but will decrease the amount of impervious area on the site. Currently the lot has two impervious asphalt parking areas that access Paugus Park Road. The proposed site plan will decrease that to one permeable driveway. With these proposed improvements, the impervious area will decrease from 2,681 SF (38.9%) to 2,430 SF (35.3%). These improvements will increase stormwater infiltration and reduce runoff directly into the lake. The construction process will follow appropriate guidelines and best practices and there is no reason to believe that the proposed house will negatively impact the quality of the lake, nor do we believe that it will result in any changes to the property that will impact the water quality wildlife, water flow, or existing natural beauty.

3. Granting the variance would do substantial justice because: Injustice occurs when any loss to the individual is not outweighed by a gain to the public. The public has little, if anything, to gain by a denial of this request, whereas the loss to the Applicant would be great. The proposed project will improve, instead of harming the property. The Applicant would gain the benefit of a garage that will keep their vehicles and tools

secure and out of weather and view of passersby. The proposed improvements will include permeable material to construct the driveway and patio that will result in the removal of 251 SF of impervious area that currently exists on site. The Variance would allow the Applicant to obtain reasonable use of the lot that is substantially smaller than currently allowed in a manner that recognizes the need to reduce the impact on the lake by reducing the amount of impervious surface. Denying the variance for the new house and garage structure considering the small size of this non-conforming lot would not be a reasonable trade off for the substantial benefit the property owner and the neighborhood will receive by the presence of a new residential structure. Constructing a new, more efficient and comfortable single-family house and garage along with the improved stormwater measures will allow the Applicant to get the most use and enjoyment out of their property while benefiting the surrounding character of the neighborhood and quality of the lake. This is the primary and only residence of the applicant, and they should be allowed the same benefit of year-round protection for their vehicles that many other neighbors enjoy. By granting the variance substantial justice will be done and the applicant will be able to improve the function of the property in a manner that is consistent with the ordinance and that minimizes impact to the shoreline buffer, while ensuring that the new home will be more nearly conforming than the existing structures. It would allow the owners reasonable use of their property while protecting the integrity of the lake by decreasing impervious areas onsite which will promote public health, safety, and welfare and protect the essential character of the neighborhood.

4. If the variance were granted, the value of the surrounding properties would not be diminished because. The Applicant respectfully submits that the value of surrounding properties will not be negatively impacted by the proposed improvements to the property, granting this variance will allow the property to be utilized in a manner supported by the Residential Single-Family District without disturbing the neighborhood. Given the small, non-conforming size of the lots along Paugus Park Road, many of the neighboring properties have less green space than what is required by current regulations. Therefore, the proposed reduction in green space would be consistent with the character of the surrounding area. Replacing the existing non-conforming house with a new house and garage that is more nearly conforming could potentially be a benefit to surrounding property values.

The new proposed residential structure will meet all Building and Life Safety Codes. The new structure will be in keeping with the other reconstructed residential structures along Paugus Park Road. There is no reason to believe that permitting the Applicant to build the house as proposed will have any negative impact upon surrounding property values. The proposal is a natural progression to conversion of the area to modern residences and is not out of the ordinary, thus in keeping with changes already made in the neighborhood and enhancing the surroundings.

5. Unnecessary Hardship:

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because: The general purpose of the Ordinance is to protect the public health, safety, and general welfare of the residents of the City of Laconia. No fair and substantial relationship exists between the general purpose of the proposed project and a denial of the Applicant's plan. Denial of the requested variance will do nothing to contribute to the public's health or safety. The proposed project would improve the property with a new, more nearly conforming structure that is consistent with the general character and aesthetic of the surrounding area. The plan was designed in such a way as to make the most efficient use of the property while protecting the environment, abiding by the Ordinance, and minimizing impact to Lake Winnepesaukee. Unnecessary hardship exists, given the size of the lot that was created in the 1930's, well prior to current City regulations. Given the small, non-conforming size of the lots along Paugus Park Road, many of the neighboring properties have less green space than what is required by current regulations. Construction of an attached garage to the new house would greatly

enhance the overall safety of the property owners and their vehicles, most especially during the winter season. The Applicant's plans will remove two impervious driveways and construct one new, permeable driveway to access the garage. By taking these steps, the Applicant respectfully submits that the general purposes of the Ordinance will be served by the granting of the variance. By granting the requested variance, the Applicant will be able to use the lot efficiently and economically, while minimizing negative impacts to the surrounding area and making the structures more nearly conforming and improving the permeability of the land. Applying a rigid interpretation of the requirements of the Zoning Ordinance would make it impossible for the owners to have reasonable use of their property as has been allowed to other properties along Paugus Park Road.ii. The proposed use is a reasonable one because: The proposed use is a reasonable one. The lot is zoned Residential Single-Family as are the surrounding lots. The use will remain single family residential. The existing lot is non-conforming and smaller than what is allowed under current regulations. The existing house doesn't meet the current green space regulations, as is the case for many houses in the neighborhood. The proposed new house and garage are not extreme and are in keeping with similar structures in the neighborhood. The overall improvements to the site will make the structures more nearly conforming.

It is reasonable for a homeowner to have a garage to keep vehicles and tools out of weather and secure. The proposed design and location of the house is the best possible option to abide by the Ordinance and ensure maximum setbacks from the reference line while minimizing encroachments into the property line building setbacks. The proposed plan will allow for an appropriate use of the property without significant adverse impact upon the environment, and, in some areas, improvements to the environment by the improved stormwater management resulting in an efficient use of the property consistent with the surrounding area. The Zoning Ordinance was adopted, in part, to promote good civic design and the appropriate use of land and buildings. The ordinance recognizes the need- even in the Shoreland Protection Overlay District -to treat non-conforming lots in a manner different from conforming lots. The Applicant's proposal is designed to do exactly what the Zoning Ordinance promotes- good design to use the Applicants' property in a safe and appropriate manner and to do so in a way that improves overall safety and does not disturb the neighborhood or the neighbors.

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. This was seconded Roland Maheu and was unanimous.

18. ZO2023-0115VAR 228 Leighton Ave.

Ryan Stewart and Phil Brouillard spoke regarding a variance for a side setback for the property at 228 Leighton Ave to allow for the removal and reconstruction of a structure on the property that after completion will be less nonconforming than as it currently exists. After completion the only setback encroachment will be on the southern side setback and will be more conforming than its current state. Phil then spoke regarding the variance criteria and how they pertain to this property. Phil continued and stated the setbacks would remain unaffected except the side setback which would be more conforming than as it exists now. At 8:25 PM it was opened to public discussion and was closed to the public at 8:26PM. Jane Laroche motioned to grant the variance for 228 Leighton Ave using these findings of facts.

1. Granting the variance would not be contrary to the public interest because: Upgrading substandard single-family housing in the RR1 zone and moving the structure further away from Lake Winnisquam satisfies the ordinance's basic zoning objectives. Demolishing and upgrading the home on the new lot would not alter the essential character of the neighborhood and in fact the new structure would be more in character of the existing homes abutting the lot. Granting the variance would not threaten the public health, safety or welfare of the city and its inhabitants or abutting property owners. In fact, an updated, more building code compliant new home would be better and safer housing stock for the city. 2. If the variance were granted, the spirit of

the ordinance would be observed because: The property is in the RR1 Zone which allows single family housing. The existing structure has been in place for over 60 years and has not caused any harm to the health and safety or general welfare of the community. Allowing this variance to replace the existing home with a new house will have no adverse impact to the health, safety or general welfare of the community. The Zoning ordinance specifies a minimum distance from the side boundary to prevent congestion and overcrowding of land and establish a consistent distance that houses are set back from the property line. In this case the variance does not violate the spirit and intent of the ordinance because granting the variance would not result in overcrowding. Further the direct abutter has no objection to the variance. The proposed structure will be more nearly conforming than existing, since it will be 3' feet 6" inches further from the lot boundary than existing and would allow a reasonable setback of over 18' feet.3.Granted the variance would do substantial justice because: Analysis by the ZBA should compare what applicant stands to lose or gain against what the community, taken as a whole, would lose or gain. If the loss to the individual is not outweighed by a gain to the public, then that constitutes an injustice that granting a variance would be able to remedy. This proposal is a win -win: A gain to the applicant and a gain to the public to improve the structure on the lot and move the structure further back from the lake and moving the structure further away from the side boundary. The proposed structure placement will allow for desired improvements while causing no harm to the public.4.If the variance were granted, the values of the surrounding properties would not be diminished because: The existing dated structure needs replacement. Surely no doubt exists that a new building code compliant structure would be an asset to the neighborhood and would be a positive influence on surrounding property values. The proposed structure will replace the existing structure, adding value to the existing lot and surrounding lots.5.Unnecessary Hardship: Unnecessary hardship only exists if it is derived from the special conditions of the property which distinguish it from other properties in the area. This property has several unique attributes that contribute to the need for variance. Those attributes are unique within the context of the neighborhood where the property is located due to the lot width of only 100' feet, the setbacks of 25' feet on both sides limit the use of the lot for its intended purpose. For example, use of the septic system as designed would be difficult to accomplish with limited space on the north side. It will allow reasonable placement of the structure to be fully functional and fully used as a permanent residence, allowing full use of the lot. The proposed structure will be more nearly conforming, with a smaller encroachment on the side and a full 50' from the shore.

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because:

ii. The proposed use is a reasonable one because:

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. This was seconded by Roland Maheu and was unanimously approved.

19. ZO2023-0116 Var 602 Endicott St

Allison Trepany and Don Allard spoke regarding the application for a variance to allow for the construction of a second floor on their existing structure within the current footprint. Allison spoke of the removal of a shed that was forced by an abutting property. Allison stated that they did have a letter from the association president as well as letter from DES to allow for this within the shoreline setback. Donald Allard stated that the structure will not exceed the 35 feet requirement. Allison and Don emphasized they were trying to remain respectful through this process with the abutting properties. Michael opened to the public for discussion at 8:33 PM Steve Haynes from sunrise shores spoke in support of this project and spoke of the other houses on this lot and what they are like in comparison. Ray Tatu 561 Endicott St. E in support of what they are doing and that he had a letter from another abutter to turn in for the board. Thomas McLellan spoke in opposition regarding the Lake itself as the factor as well as an adjacent property line to him. Alison answered a question from the board. David Jones from 614 Endicott St also the association president spoke opposing this project citing the proximity to the lot line itself as well as privacy to his beach and the

members use of the beach. Also spoke about water views and the loss of these views. Also spoke regarding not seeing these plans prior to the meeting. Wendy Haynes spoke in favor of the project as a member of the same association truly supportive of this expansion. Closed to the public at 8:50PM. Marcia made a motion to Approve variance.

1. Granting the variance would not be contrary to the public interest because: The variance is not unduly violating the zoning ordinance which has a height requirement to not exceed 35 feet and it does not exceed this measurement. 2. If the variance were granted, the spirit of the ordinance would be observed because: It is following the ordinance, so the spirit of the ordinance is being observed. 3. Granting the variance would do substantial justice because: there is no gain to the public and a denial would be imposing hardship on the owner. 4. If the variance were granted, the values of the surrounding properties would not be diminished because: No information was presented to confirm or deny the diminishment of property values.

5. Unnecessary Hardship: Literal enforcement would put a hardship on the owner due to the conditions of the property would make it more usable for the owner.

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the public purposes of the ordinance provision and the specific application of that provision to the property because:

ii. The proposed use is a reasonable one because:

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The Motion was seconded by Jane Laroche and was passed unanimously.

20. OTHER BUSINESS

21. ADJOURNMENT

The meeting was unanimously adjourned at 9:12PM