

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
November 23, 2020**

Approved January 25, 2021

MEMBERS PRESENT: Bruce Kudrick, Chair; Tom Hebert, Vice Chair; Dana Carlucci, Natalie Glisson, Paul Paradis

ALTERNATES PRESENT: Robert Bourque, Blakely Miner III

EXCUSED: Wendy Chase

STAFF EXCUSED: Dana Pendergast, Code Enforcement Officer

STAFF PRESENT: Susan Gifford, Recording Secretary

The clerk took the roll call and 7 members were present.

Chairman Kudrick called the meeting to order at 7:00 p.m. Chairman Kudrick stated that the meeting is being held in person at Pembroke Academy auditorium with social distancing. The reason this venue is being used is to allow room for the many abutters to the Village Street School renovation proposal to have an opportunity to provide input.

Natalie Glisson recused herself from the ZBA for Case #20-15-Z. Bob Bourque was designated to vote for Natalie Glisson on this case.

Case #20-15-Z

Applicant:	Ayn Whytemare-Donovan 439 Pembroke Street Pembroke, NH 03275
Property Owner(s):	Ayn Whytemare-Donovan 439 Pembroke Street Pembroke, NH 03275
Property Address:	439 Pembroke Street Pembroke, NH 03275 Tax Map 566 Lot 100 in the R-1 Medium Density-Residential Zoning District.

Present: Natalie Glisson, 205 Center Road, Pembroke NH for Ayn Whytemare-Donovan

Case 20-15-Z A request has been made for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-H Minimum Yard Depth Rear**. The applicant, Ayn Whytemare-Donovan of 439 Pembroke St Pembroke NH 03275 is requesting a **Variance** to construct a 20' X 27' (540 sq. ft.) greenhouse on lot 565-100 in the rear setback where 15' is required in the R-1 Zoning District. The property is located at 439 Pembroke St Pembroke NH 03275, Map 565 lot 100 in the R-1 Medium Density-Residential, zoning District.

The clerk read the case description and the list of abutters.

Property Tax bills for 730 Borough Road, aerial photographs of 439 Pembroke Street, and list of abutters were included in the agenda packet. Previous Special Exception for ADU granted 2018 and Special Exception for business sign granted June of 2020. An authorization dated November 20, 2020 was signed by Ayn Whytemare-Donovan allowing Natalie Glisson to present on her behalf. An aerial map of the lot was also provided for the file.

Chairman Kudrick opened the public hearing at 7:02 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Natalie Glisson explained that Ayn Whytemare-Donovan is applying for a variance because the only suitable site for her greenhouse lies within the setbacks of her property line. She was under the mistaken belief that because she owns the abutting property such an application was not necessary. The greenhouse location must be close enough to run water and electric. Concrete blocks have been set by the barn as a place to stack wood. The greenhouse is custom designed by Claude Gentlehome. Ayn Whytemare-Donovan owns the unbuildable back lot where the greenhouse encroaches. She may pursue a building permit for the lot in the future.

Natalie Glisson called Ayn on the phone to clarify how far into the setback the greenhouse will be. Ayn Whytemare stated the greenhouse will be 5-7 feet from the stone wall. The stone wall is the property line. Natalie Glisson, 205 Center Road, stated the location near the barn is a great place for the greenhouse. It makes sense for the business. The greenhouse will be made of polycarbonate material, a very sturdy material. No one will be offended by the greenhouse location in the future unbuildable lot.

Natalie Glisson addressed the Variance criteria:

Please give a detailed description of your proposal below:

I wish to locate a 20' x 27' (540 square feet) permanent greenhouse within the 15 foot setback at the property line. I own the abutting property that the setback lies on.

1. **The variance will not be contrary to the public interest.** It will not interfere with anyone else's property. I own the abutting (non-buildable) lot that it is next to.
2. **The spirit of the ordinance is observed.** I own the abutting lot and am well within the setbacks of that lot. I am observing the spirit of the ordinance.
3. **Substantial justice is done.** By allowing me to use the only appropriate place on my farm for a greenhouse, justice is done.
4. **The values of surrounding properties are not diminished.** The greenhouse will add to the rural character our town is known for. Furthermore, the greenhouse is not visible from any other property than my own.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
 1. **For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**
No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and:
 - ii. **The proposed uses is a reasonable one.**

As this lot is sloped and has a significant number of trees, it is a hardship to put this greenhouse anywhere on the property. An unshaded spot close to water and electricity is crucial.

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 make a reasonable use of it.

Blakely Miner summarized the case. This is **Case 20-15-Z**, a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-H Minimum Yard Depth Rear**. The applicant, Ayn Whytemare-Donovan of 439 Pembroke St Pembroke NH 03275 is requesting a **Variance** to construct a 20' X 27' (540 sq. ft.) greenhouse on lot 565-100 in the rear setback where 15' is required in the R-1 Zoning District. Natalie Glisson is acting on behalf of Ayn Whytemare-Donovan. Authorization letter was read into the record. Aerial maps were provided tonight. Ayn owns the property that abuts this property line. Bruce Kudrick asked how far the greenhouse would go into the setback. Approximately five feet from the property line was the answer. Natalie Glisson spoke in favor. No one spoke opposed.

There being no further comment, Chairman Kudrick closed the public hearing at 7 p.m.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 7:14p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Chairman Kudrick noted that the applicant owns the property behind the proposed greenhouse. The greenhouse is hidden from view from the front.
2. The spirit of the ordinance is observed. The whole site is on a hill. Ayn had considered locating the greenhouse in the front. The property behind will likely not be built upon due to slope. However Dana Carlucci has concerns that a future abutter will be unable to speak to lighting or noise concerns. Whoever purchases the property will know the greenhouse is there.
3. Substantial justice is done. The proposed location is one of the few flat areas on the property.
4. Property values are not diminished. No evidence received.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Steep slope limits the location of the greenhouse.

MOTION: Tom Hebert moved to approve is **Case 20-15-Z**, a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-H Minimum Yard Depth Rear** having been presented to the board. The applicant, Ayn Whytemare-Donovan of 439 Pembroke St Pembroke NH 03275 is requesting a **Variance** to construct a 20' X 27' (540 sq. ft.) greenhouse on lot 565-100 in the rear setback where 15' is required in the R-1 Zoning District with the following conditions:

1. Applicant will follow all state and local regulations.
2. Construction will adhere to site plan as submitted and attached garage will be 3 feet from rear lot line.
3. Maximum encroachment will be 10 feet into the setback.

Bob Bourque seconded.

VOTE: PAUL - YES TOM - YES BRUCE - YES
 DANA- NO BOB - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 4-1 VOTE

Natalie Glisson returned to the ZBA.

Case #20-16-Z

Applicant: Cornerstone Realty Holdings, Inc.
72 Manchester Street
Concord, NH 03301

Property Owner(s): Cornerstone Realty Holdings, Inc.
72 Manchester Street
Concord, NH 03301

Property Address: 30 High Street
Pembroke, NH 03275
Tax Map VE Lot 187 in the R-1 Medium Density-Residential Zoning District.

Present: Sarandis Karathanasis, President, Cornerstone Realty Holdings, Inc.
Cindy Lewis, Architectural Link, 40 Sheep Davis Road

Case 20-16-Z A request has been made for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-D Minimum Lot Frontage Multi Family Note 6**. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units with 428' of lot frontage where 450' is needed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301.

The clerk read the case description and the list of abutters.

Assessing cards, plans by Richard D. Bartlett & Associates, LLC and list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 7:20 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Cindy Lewis described the location of the units, which are using the existing school buildings. There will be 32 one bedroom units, not deemed for just elderly. There will be 48 covered parking spaces. Simpson Avenue has a right of way over the property. This does not change anything about the property. Chairman Kudrick clarified that Simpson Avenue, a town road, is technically on the property.

Cindy Lewis addressed the Variance criteria:

Please give a detailed description of your proposal below:

Note 6 requires frontage for 32 units to be 450 feet. Property has 428 feet frontage on High Street. Simpson Avenue is on this property's land with an addition 61 feet frontage. We are requesting variance for 22 feet of frontage.

1. **The variance will not be contrary to the public interest.** Variance does not change the appearance of the property.
2. **The spirit of the ordinance is observed.** The variance would allow existing buildings to have 32 units instead of 29 units. Units would have to be larger if frontage requirement was enforced.
3. **Substantial justice is done.** A variance allows good reuse of school buildings.
4. **The values of surrounding properties are not diminished.** The units should increase value and property taxes.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

2. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and: ii. The proposed uses is a reasonable one.

Hardship is that frontage requirement is 450 feet where 428 feet is available. Simpson Avenue, on the school property, adds 60 feet of frontage which is over the requirement.

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 make a reasonable use of it.

Cindy Lewis explained that they will be removing some pavement in front of the school. It is now paved up to the building. Pavers will be put in to create a spot to drop off groceries or move items. Some paving will be removed in the back of the building. Simpson Avenue will stay as it was recently renovated. Tom Hebert noted that corner lots have two frontages. No one spoke in opposition.

Natalie Glisson summarized the case. This is **Case 20-16-Z**, a request for a Variance under Article V Dimensional and Density Regulations, Section § 143-21-D Minimum Lot Frontage Multi Family Note **6**. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units with 428’ of lot frontage where 450’ is needed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301. Applicant explained the proposal and showed a map of where the frontage is located. Applicant went through the criteria. Bruce asked questions about frontage. No one spoke for or against. Bruce asked about existing paving.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 7:35 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Chairman Kudrick noted that a town road goes across the property.
2. The spirit of the ordinance is observed. A committee charged with recommending what to do with the closed school wanted to preserve the buildings and this project does so.
3. Substantial justice is done. This is a good application for the site. It is in a residential district and maintains the culture and the historic buildings.
4. Property values are not diminished. No evidence was provided. The project should increase property values over having a vacant school

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Site improvements and landscaping are planned for the property. A town road crosses the property.

MOTION: Tom Hebert moved to approve **Case 20-16-Z** a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-D Minimum Lot Frontage Multi Family Note 6**, having been presented to the board. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units with 428' of lot frontage where 450' is needed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 with the following conditions:

1. Applicant will follow all state and local regulations.

Dana Carlucci seconded.

Discussion: This motion assumes frontage on High Street to the end at the Simpson Avenue/High Street corner. There is additional 61 feet frontage on Simpson Avenue. The actual corner of the applicant's property is beyond Simpson Avenue. The existing right of way on Simpson Avenue will likely continue forever. This takes away land owner rights. The matter is in the purview of the Planning Board to work out with the applicant.

VOTE: PAUL - YES TOM - YES BRUCE - YES
DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

Case #20-17-Z

Applicant: Cornerstone Realty Holdings, Inc.
72 Manchester Street
Concord, NH 03301

Property Owner(s): Cornerstone Realty Holdings, Inc.
72 Manchester Street
Concord, NH 03301

Property Address: 30 High Street
Pembroke, NH 03275
Tax Map VE Lot 187 in the R-1 Medium Density-Residential Zoning District.

Present: Sarandis Karathanasis, President, Cornerstone Realty Holdings, Inc.
Cindy Lewis, Architectural Link, 40 Sheep Davis Road

Case 20-17-Z A request has been made for a **Variance under Article IV Table of Use Regulations, Section § 143-19 Residential #3 Multi Family Dwelling not to exceed six dwelling units**. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units where a maximum of 6 is allowed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301.

The clerk read the case description. The list of abutters is the same as the prior case.

Chairman Kudrick opened the public hearing at 7:45 p.m. Chairman Kudrick explained the rules of the hearing. Anyone who wishes to speak will give their name, address and interest in the case. All questions are directed to me, the Chair.

Assessing cards, plans by Richard D. Bartlett & Associates, LLC and list of abutters were included in the agenda packet.

Cindy Lewis addressed the Variance criteria:

Please give a detailed description of your proposal below:

Convert existing Village School into 32 one-bedroom apartments. 48 covered parking spaces will be provided on the south east corner. Six units will be in the front building, eight units will be in the old 2-story building, seven units in the west wing, one unit in the basement, eight units in the gym building, plus additional two units added to the east elevation to improve appearance.

1. **The variance will not be contrary to the public interest.** The renovation will improve the overall buildings and site.
2. **The spirit of the ordinance is observed.** Thirty-two units in the existing building is a good use for the property.
3. **Substantial justice is done.** Justice will be done by allowing 32 units in the existing school buildings. The buildings will remain and needed rental housing will be provided.
4. **The values of surrounding properties are not diminished.** The building's exterior will be improved. Landscaping will be added to improve the visual impact from the street. The value of this property will increase and increase surrounding property values.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
 3. **For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**
No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and: ii. The proposed uses is a reasonable one.
Residential is a good use for the buildings. If a variance is not allowed, the buildings will probably be torn down. That would be a loss to the Town of Pembroke. Thirty-two units on 9.41 acres is a reasonable quantity.
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 make a reasonable use of it.

Cindy Lewis explained that the applicant is going to clean up the existing old buildings. Most units will be accessed directly from the outside. Several will be second floor access. Bob Bourque clarified that most of the apartments will be first floor accessible from the outside. Natalie Glisson asked if the applicant looked at other than one-bedroom units. Sarandis Karathanasis, President, Cornerstone Realty Holdings, Inc. stated that he has been in the rental business over 25 years. The size of the units will be from 700-900 square feet. This will appeal to singles, couples and elderly renters. There will likely be no children. Mr. Karathanasis believes one-bedroom units are more manageable.

Natalie Glisson summarized the case. This is **Case 20-17-Z** a request for a **Variance under Article IV Table of Use Regulations, Section § 143-19 Residential #3 Multi Family Dwelling not to exceed six dwelling units**. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units where a maximum of 6 is allowed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 77 Manchester St Concord NH 03301. Applicant reviewed criteria. Added that there would be

landscaping to make the property look nice. Explained the pieces they would be changing through pictures. Units will be accessed from outside. There are no common hallways. Bob Bourque asked if they would be rental or condominiums. They will be rentals. Applicant explained that they would be disconnecting the buildings. Natalie asked about if they would have bigger units. Bob asked about street level entry. Tom asked about front of gym being modified and structure. No one spoke in favor or against.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 7:57 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Dana Carlucci said I agree, as in Chapter 6 of the Master Plan there should be diversity of housing types.
2. The spirit of the ordinance is observed. Dana Carlucci stated that in the Master Plan 11-33 high density residential should be expanded in the R1 District.
3. Substantial justice is done. The historic school buildings will be renovated inside and keep the same appearance outside.
4. Property values are not diminished. No evidence provided, but should increase property values.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. If the proposal is not approved, the historic buildings will likely be torn down.

MOTION: Tom Hebert moved to approve **Case 20-17-Z** a request for a **Variance under Article IV Table of Use Regulations, Section § 143-19 Residential #3 Multi Family Dwelling not to exceed six dwelling units** having been presented to the board. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Variance** to have 32 residential units where a maximum of 6 is allowed. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 with the following conditions:

1. Applicant will follow all state and local regulations.

Paul Paradis seconded.

VOTE: PAUL - YES TOM – YES BRUCE – YES
DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

Case #20-18-Z

Applicant:	Cornerstone Realty Holdings, Inc. 72 Manchester Street Concord, NH 03301
Property Owner(s):	Cornerstone Realty Holdings, Inc. 72 Manchester Street Concord, NH 03301
Property Address:	30 High Street Pembroke, NH 03275 Tax Map VE Lot 187 in the R-1 Medium Density-Residential Zoning District.

Present: Sarandis Karathanasis, President, Cornerstone Realty Holdings, Inc.
Cindy Lewis, Architectural Link, 40 Sheep Davis Road

Case 20-18-Z A request has been made for a **Special Exception under Article IX Overlay District, § 143-68 F Aquifer Overlay District** The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Special Exception** to construct a Multi-family building. A **Special Exception** is required under **§ 143-68 F of the Aquifer Overlay District**. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301.

The clerk read the case description. The list of abutters is the same as the prior two hearings. The secretary read the following letters into the record:

1. Letter dated 11/18/2020 from Town Planner.
2. Letter dated July 21, 2020 from Pembroke Sewer Commission
3. Letter dated 11/19/2020 from Town Health Officer
4. Letter dated 11/19/2020 from Conservation Commission

Dana Pendergast indicated to Bruce Kudrick that he had been in touch with Pembroke Water Works last Friday. A needed letter from Pembroke Water Works may be in Dana Pendergast's email or faxes.

Chairman Kudrick opened the public hearing at x. Chairman Kudrick explained the rules of the hearing. Anyone who wishes to speak will give their name, address and interest in the case. All questions are directed to me, the Chair.

Assessing cards, plans by Richard D. Bartlett & Associates, LLC and list of abutters were included in the agenda packet.

Chairman Kudrick opened the public hearing at 8:05 p.m.

Cindy Lewis reviewed the Special Exception criteria:

Please give a detailed description of your proposal below:

To convert existing village school into 32 one-bedroom apartments and provide 48 covered parking spaces.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The applicant believes that this request is a good reuse of existing school buildings.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** There will be no hazardous chemical storage on site. The wetlands will not be disturbed.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** It is a residential neighborhood and the increased landscaping will improve the area.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** Currently it is an abandoned school, and this will be a much better neighbor.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** Traffic is estimated between three and six trips per day per unit.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** This is a commercially owned residential project with building maintenance provided.

7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The applicant is not aware of any valid objections to this project at the current time
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Currently water is adequate. Sewer capacity is for 10 units, waiting on sewer for additional units.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** If the Zoning Board of Adjustment grants this special exception for 32 apartment units, the project will be serviced via Town Water and Sewer.

Chairman Kudrick summarized that the water is adequate but sewer capacity is not available yet for 22 of the units. Sarandis Karathanasis, President, Cornerstone Realty Holdings, Inc. stated that he met with the Sewer Commission and they did a calculation based on the usage at the school. There were 200 students plus teachers and staff when the school was last occupied. The Sewer Commission agreed to sewer connection for 10 units based on prior usage at the school.

Dana Carlucci asked if the applicant had looked into the cost of private septic system for the remaining units. Yes the applicant researched using a combination of sewer for 10 units and private septic. It only allowed 6-8 additional units and was very expensive. In addition, if sewer becomes available the applicant would be required to connect all units to town sewer.

Chairman Kudrick noted that the Pembroke Sewer Commission is looking at alternatives for capacity. They are working with engineers and the board is aware of this. Chairman Kudrick again mentioned the reason for holding tonight's meeting at Pembroke Academy was so that abutters to the proposed apartment project at Village School could come and hear the details.

Sarandis Karathanasis said that he talked to a number of neighbors and had correspondence with others about the proposal. Vice Chairman Bourque asked which building would be completed first. Mr. Karathanasis said the first eight units would be those in the main building. Another two units could be completed in another building. Paul Paradis asked whether the applicant would go forward with building all the units if they did not get approved for additional sewer. Mr. Karathanasis hopes there will be some capacity available before he gets to that point.

Natalie Glisson summarized the case. This is **Case 20-18-Z** a request for a **Special Exception under Article IX Overlay District, § 143-68 F Aquifer Overlay District** The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Special Exception** to construct a Multi-family building. A **Special Exception** is required under **§ 143-68 F of the Aquifer Overlay District**. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301. Applicant read the criteria. Applicant clarified that the Sewer Commission agreed to capacity for 10 units only at the present time. Applicant stated they are not aware of the gallonage figure used in the calculations. Paul asked whether the applicant would go forward with building all the units if they did not get approved for additional sewer. Applicant reported that it depended on insurances and explained process of building. Dana asked if whether applicant thought of private septic. Applicant explained those considerations. No one spoke in favor or against. Applicant stated that most abutters he spoke with were positive.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:19 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Chairman Kudrick noted that the applicant must meet all nine requirements for a Special Exception. He also noted that a letter from Pembroke Water Works is still needed.

Deliberations: The Zoning Board of Adjustment reviewed the Special Exception criteria:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The proposal meets the cultural and historic portion of the Master Plan.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** The proposal fits the residential character of the neighborhood.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** It is a residential neighborhood and the increased landscaping will improve the area.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** Currently it is an abandoned school, and this will be a much better neighbor.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** Traffic will be less than the school use.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** This is a commercially owned residential project with building maintenance provided.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The applicant is not aware of any valid objections to this project at the current time
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Currently water is adequate. Sewer capacity is for 10 units, waiting on sewer for additional units.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** If the Zoning Board of Adjustment grants this special exception for 32 apartment units, the project will be serviced via Town Water and Sewer.

Tom Hebert noted that the applicant has been in touch with the Pembroke Sewer Commission. Tom noted that potential outstanding issues were communication from Pembroke Water Works, and sewer capacity for the units over ten as this is not a phased project. Dana Carlucci stated the intent is for the project to be serviced by Town water system and Town sewer system as stated in criteria #9. Dana Carlucci would like to see the applicant only have to come before ZBA one time for the total project.

MOTION: Tom Hebert moved to approve is **Case 20-18-Z** a request for a **Special Exception under Article IX Overlay District, § 143-68 F Aquifer Overlay District** having been presented to the board. The applicant, Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 is requesting a **Special Exception** to construct a Multi-family building. A **Special Exception** is required under **§ 143-68 F of the Aquifer Overlay District**. The property is located at 30 High St Pembroke NH 03275, Map VE lot 187 in the R1 Zoning District and is owned by Cornerstone Realty Holdings Inc. of 72 Manchester St Concord NH 03301 with the following conditions:

1. Must follow all state and local regulations.
2. Approval is pending satisfactory response from Pembroke Water Works per 143-68-F Aquifer Overlay District.
3. At this time there is sewer capacity for 10 units to be occupied until further sewer capacity is available.

Paul Paradis seconded.

VOTE:	PAUL - YES	TOM - YES	BRUCE - YES
	DANA- YES	NATALIE - YES	

MOTION TO APPROVE SPECIAL EXCEPTION WITH CONDITIONS PASSED ON A 5-0 VOTE

Case #20-19-Z

Applicant: Kevin Smith
42 Bow Lane
Pembroke NH 03275

Property Owner(s): Kevin and Lisa Smith
42 Bow Lane
Pembroke NH 03275

Property Address: 42 Bow Lane
Pembroke, NH 03275
Tax Map 565 Lot 66 in the R-1 Medium Density-Residential Zoning District.

Case 20-19-Z A request has been made for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-G Minimum Yard Depth Side**. The applicant, Kevin Smith 42 Bow Lane Pembroke NH 03275 is requesting a **Variance** to construct a 10' X 12' (120 sq. ft.) Shed on lot 565-66 within 7' of the side setback where 15' is required in the R-1 Zoning District. The property is located at 42 Bow Lane Pembroke NH 03275, Map 565 lot 66 in the R-1 Medium Density-Residential, zoning District and is owned by Kevin & Lisa Smith 42 Bow Lane Pembroke NH 03275.

The clerk read the case description and the list of abutters.

Chairman Kudrick opened the public hearing at 8:26p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Kevin Smith noted that after further review, the shed will only be 4.5 feet into the setback, not 7 feet as stated the case description. Kevin Smith brought a hand drawing of the shed location and aerial view of the property to the meeting for the file. Dana Carlucci asked if the shed is on a foundation. The shed will be on a pad. Dana Carlucci thanked Dana Pendergast for asking the applicant to provide a map showing the shed location.

Kevin Smith addressed the Variance criteria:

Please give a detailed description of your proposal below:

I am requesting a variance to place a shed at the top of my driveway. The location I would like to place the shed is four and a half into the setback of property line. My neighbors (abutters), Norm and Nancy Devoe have no issues with this request. The size of the shed is 10' x 12'.

1. **The variance will not be contrary to the public interest.** The shed will be parallel to the end of the Devoe's backyard and sits behind a fence so it will not be distracting to the Devoes. The shed will house equipment which has been in the same area covered by a tarp. Therefore, the shed will be more aesthetically pleasing.

2. **The spirit of the ordinance is observed.** The spirit of the ordinance is observed through housing equipment in an enclosed, aesthetically pleasing shed versus a tarp. This will also provide a more secure and safe shelter for the equipment.
3. **Substantial justice is done.** I feel substantial justice is done by allowing the non-contested variance as it is beneficial and safer for all concerned.
4. **The values of surrounding properties are not diminished.** The value will actually be enhanced by the high quality shed by Post Builders (cedar) versus housing equipment under a tarp.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and: ii. The proposed uses is a reasonable one.

This variance request has no effect on general public purposes. The shed will enhance the property.

(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 make a reasonable use of it.

The variance requested is due to the location of the shed. It requires direct access to the driveway due to the equipment housed, such as a snow blower. The location is level. If the variance is not approved, a hardship would exist by having to level another location, which is costly.

Natalie Glisson summarized the case. This is **Case 20-19-Z** a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-G Minimum Yard Depth Side**. The applicant, Kevin Smith 42 Bow Lane Pembroke NH 03275 is requesting a **Variance** to construct a 10’ X 12’ (120 sq. ft.) Shed on lot 565-66 with in 7’ of the side setback where 15’ is required in the R-1 Zoning District. The property is located at 42 Bow Lane Pembroke NH 03275, Map 565 lot 66 in the R-1 Medium Density-Residential, zoning District and is owned by Kevin & Lisa Smith 42 Bow Lane Pembroke NH 03275. Kevin Smith read the criteria. Applicant clarified they are seeking a 4.5 foot variance. The shed will be 10.5 feet from the property line. Applicant stated the shed will be aesthetically pleasing. Dana Carlucci asked if the shed has a foundation. The shed will be on a pad. No one spoke in favor or against.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:39 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Chairman Kudrick noted the variance is for 4.5 feet. The shed will be 10.5 feet from the property line.
2. The spirit of the ordinance is observed. Dana Carlucci said it is a reasonable to locate a shed next to the driveway.
3. Substantial justice is done. It will keep equipment safely stored and make the yard look neater,
4. Property values are not diminished. A shed will increase property values.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The land is tight. Locating the shed near the house and next to the driveway is the best use.

MOTION: Tom Hebert moved to approve **Case 20-19-Z** a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-21-G Minimum Yard Depth Side** having been presented to the board. The applicant, Kevin Smith 42 Bow Lane Pembroke NH 03275 is requesting a **Variance** to construct a 10' X 12' (120 sq. ft.) Shed on lot 565-66 within 4.5' of the side setback where 15' is required in the R-1 Zoning District. The property is located at 42 Bow Lane Pembroke NH 03275, Map 565 lot 66 in the R-1 Medium Density-Residential, zoning District and is owned by Kevin & Lisa Smith 42 Bow Lane Pembroke NH 03275 with the following conditions:

1. Applicant must follow all state and local regulations.
2. Construction will adhere to site plan as submitted.
3. Prior to construction, applicant will coordinate a site visit with the Code Enforcement Officer. The purpose of the site visit is to determine the location of the shed and verify it is maximum 4.5 feet from the side property line.

Dana Carlucci seconded.

VOTE: PAUL - YES TOM - YES BRUCE - YES
DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

MINUTES OF PREVIOUS MEETINGS

MOTION: x moved to approve the minutes of October 26, 2020 and November 9, 2020 as amended. x seconded.

VOTE: PAUL - YES TOM - YES BRUCE - YES
DANA- YES NATALIE - YES

MINUTES OF OCTOBER 26, 2020 AND NOVEMBER 9, 2020 APPROVED AS AMENDED ON A 5-0 VOTE.

OTHER BUSINESS /CORRESPONDENCE -

Virtual ZBA meetings - Chairman Kudrick reported that with the rise in positive COVID cases nationwide, Town Hall staff is recommending the ZBA consider using virtual meeting platform again. The ZBA tried virtual meetings once and encountered technical difficulties. Recently Planner Cronin had audio issues on Go To Meeting and had to call in on the telephone for audio. She put her phone on speaker and had to lower the volume on her computer to eliminate the echo when speaking.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **Monday, January 25, 2021 at 7:00 p.m.**

ADJOURN **Motion:** Bob Bourque moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 8:50 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary