

Town of Seabrook
Board of Adjustment
September 28, 2022

Members Present: Jeff Brown Chair, Robert Lebold, Dave Davidson, Teresa Rowe Thurlow, Phil Howshan, Lacey Fowler and Secretary Judie Walker

Roll Call

Jeff Brown opens the meeting at 7:00 pm and explains the procedures and where the notices of the meeting have been posted. We have a full board tonight. When speaking please say your name and address for the record.

Old Business

August Minutes

Motion: Dr. Lebold

Second: Dave Davidson

Unanimous

New Business

CASE# 2022-019 Stard Road Realty Trust, 32 Stard Road, Map 4-19-22 the undersigned hereby requests a variance to the terms of Section 6 and asks that said terms be waived to permit: Travel Trailers in Zone 3 Industrial.

Henry Boyd and Attorney Shadallah are representing Stard Road Realty Trust E.J. Dean. This is a unique business this is fiesta shows and they set up fairs. The equipment used for the fairs are stored on site and at their Deerfield, NH land. This property is in the Industrial zone, they are not asking for a campground this is for travel trailers for seasonal labors. They provided a map showing where the 10 trailers will be parked. These will be provided with water and sewer hook-ups. They will work with the sewer and water department for dumping and hook ups. They will not need to add any utilities to the site. Henry explains what is the difference between a mobile home and a seasonal trailers the trailers will only be there from April through October just through the season. They are travel trailers they are not permanent housing. These trailers will be leaving the property when they are going to the fairs where they are working. Jeff Brown the Chair asked why do you need a variance, Lacey CEO informs because the travel trailer parks are only allowed in commercial, if it is approved it will go to planning board and TRC. You can house them as long as no one is living in them. They are not being charged to live there so its not a business to generate money. It is not in the view or abutters or any industrial area

Christine Gaudreault of 64 Borderwinds Avenue how many people will be there at one time? Maybe 7 people in a camper 30 people at the most. Dave Dumphy of Chase Park Road, Map 4-22 and 5-17 he wants to make sure the applicant has established the five criteria. Strongly consider certain limits. Does the town incur any liability to allow many people and does the town have to provide services. The applicant needs to tell us how they meet the criteria. Every person has the potential to be a demand for town services.

Anyone here to speak in favor the application? Anyone here to speak against the application? Hearing none seeing none. After reviewing the petition and hearing the evidence they determine the following:

	J. Brown	Dr. Lebold	D. Davidson	P. Howshan	T. Thurlow
1.	YES	NO	YES	YES	YES
2.	YES	NO	YES	YES	YES
3.	YES	NO	YES	YES	YES
4.	YES	NO	YES	YES	NO
5.	YES	NO	YES	YES	YES

Move to grant variance from April 1 to October 30.

Motion: Phil Howshan

Second: Dave Davidson

Opposed: Dr. Lebold not to appropriate use in the industrial zone, only permitted in Zone 2 Commercial even on limited usage.

Rehearing:

CASE 2022-016 RMH NH, LLC 319 Route 107 Map 2 Lot 41, the undersigned hereby requests a rehearing for a variance to the terms of Section 7 and asks that said terms be waived to permit: 3 buildings with a total of 304 traditional apartment units and 28 town houses with appropriate amenities in Zone 1 Rural and Zone 3 Industrial

John Cronin Attorney from Cronin, Bisson & Zalinsky, also here is Mr. Greg Mikolaities, P.E. Attorney Cronin reviewed the draft minutes from August online and there was no explanation for the basis of granting the rehearing. He thinks that it's important to know and he will have a basis of how this goes this evening whether we need to do a subsequent rehearing which no one wants. If the board would shed some light on that. Jeff Brown Chair explains why he granted the rehearing. Jeff informs from his perspective he voted to grant the rehearing because he wanted to address your petition for a rehearing some of the items need to be clarified from yourself and the board. The reason he wanted to have a discussion with you on how the meeting went, Attorney Cronin welcomes that and recognizes that's the Chair prerogative, every town is different.

The board doesn't think it's necessary to recreate and redo the whole petition from scratch. The board will address the items that were listed as a concern and the board will better explain their reason for the decision.

Attorney Cronin will address his concerns. He didn't ask at the prior hearing and he tries to avoid it and the thing he likes to do the least in these hearing and relates to bias and recusal, if you have issues, the question was raised that town the other standard is the juror standard which is very board

There were concerns that the town had too many multifamily type units or mobile homes parks. Attorney Cronin asks the Chair or members of the board if they do have feelings related to this that we state them on the record and so he can make recommendations to his client. If there is anyone on the board that doesn't think they want apartments in this town Attorney Cronin thinks we ought to address before we go too deep in to this.

Jeff says he asked the question to help the applicants better present their case. When we received application the intent I am assuming is so the board members can read the application ahead of

time so we are prepared for the meeting. Reading the petition ahead of time and reading the justifications ahead of time there are questions in the Chair mind as a board member that he wants to ask during the meeting. That is not prejudging the case that is preparing for the meeting, because before the meeting was over he didn't know how he was going to vote, you would be shocked how he votes. Jeff asked the question specifically about work force housing and why Seabrook needs to be the brunt of work force housing after we spent years creating them. In the town has we have apartments here we have mobile home parks. We allow them in certain zoning. The reason for that question Jeff says he is no again apartments buildings, mobile home parks or work force housing, the response that I got back was that we are not asking for we are asking for high end condos. Attorney Cronin thinks that the board feels that Seabrook has enough housing, Teresa Thurlow, a board members says she 199% agree that Seabrook has enough housing and our fire and police can't keep up we are always on water shortages every summer. This town is overloaded, she explains we don't need 304 apartments and 28 town houses. You can't drive down the road as it is now because of the traffic, Teresa goes to work to work at 5 a.m. and the roads a loaded, there is too much traffic as it is. The business's in down are closing. This town is overwhelmed she states. Attorney Cronin thanks her for her honesty and asks her based on her opinion too considered recusing herself, Teresa says she will not she sat on this board for almost 20 years. Attorney Cronin states that's her prerogative. Jeff wants to answer to his question about workforce housing. Attorney Cronin says if you read the application and we submitted 15 different exhibits and we submitted a power point he talks specifically about work force housing in the presentation and says that they are flexible and consider doing work force housing if that what the community wants otherwise we could do a market rate. There is a need for housing there is land there to be utilized for housing. The duplex's are allowed and the thought was to put the duplex around the perimeter to have a buffer for the residents rather than have industrial.

Jeff Brown the Chair explains again no one prejudices the cases, they may have questions and concerns ahead of the meeting and that is to be expected since we get the application ahead of time and we are encouraged to visit the site. Dave Davidson, a board member says you were very flexible, you're asking for a variance but you're not telling us what the variance is at one point your package talked about workforce housing and here you talked about luxury apartments high end, the Chair asked about workforce housing and you actually said no, Dave thought that was contradicting and didn't know what he was voting on for a variance. Because it didn't match the package you changed throughout the presentation back force. Attorney Cronin relocation says they talked about the Planning Board making that decision. Attorney Cronin is still unclear if the board wants work force housing or not.

Mr. Andre Carrier, Principal of RMH 319 Rte 107. Andre explains how the last meeting he sat and listened to abutters and neighboring residents as they describe what they did not want developed on 319 Rte 107. Some described how they liked to land empty not being used. Each abutter was a property owner they are sending an overriding message to the Zoning Board of Seabrook we are property owners in Seabrook and we have rights. I could not agree more property owners have rights. Andre is here again representing the owners of more than 75 acres that compromises 319 Route 107, as owners of that land that we too have rights. The rights to pursue the use of the land for additional development. In the first meeting our rights seemed to be given little consideration in comparison to some loud and often agitated voices of neighboring property owners. The presentation worked to address some of those concerns brought forward by abutters the mood was as such that is seemed few people were listening. Employees at the last meeting spoke in favor of the brook, employees are also owners of the brook in there are

more than 600 employee owners that have a stake in further developing this 75 acres. There are owners in this company that have the right to advocate for themselves as the neighbors do. He hopes that any fair minded person would agree on this. Andre thought he was helping by putting a residential buffer in an area that is zoned entertainment and that existing to a long standing neighborhood even more specifically as to pertains Maple Ridge Road offering the ZBA the opportunity to abut duplex town homes with duplex town homes. Maple Ridge is comprised predominantly with duplex town homes, we put forward a plan to make the new adjacent development new duplex town homes. Then use the multi family to buffer the entertainment. The plans have set backs to the neighboring family 2 to 3 times more than required the town setbacks.

Abutters at the last meeting said they were too many units and they didn't want the multi-family housing that high. They thought some of the units will be for work force housing, Andre agreed maybe there should be. These issues will be taken up for the Planning Board process. Andre is asking that the zoning be amended and asks that the previous presentation provided them with making the decision. The report of experts should matter the last meeting they were not given consideration. Lastly Andre hopes that we can genuinely bring our mines together and find a way moving forward for those searching for homes will find one at 319 Route 107 all because of the good work we do together.

Attorney Cronin wanted to make sure the binders he handed out in the July Meeting and the power point presentation were in the record. The binder showed information regarding the variance application, the plan, unit breakdown, Andrew Cline Report, New Articles, Traffic Report, Tax Summary, Fougere School Report, McKeon Report – Value, Zoning Map, Zoning Ordinance Excerpts, Statues, Community Resources for Justice, Inc v City of Manchester and Wayne Britton et al. Town of Chester.

Attorney is speaking about the Bartlett Analysis in your zoning Multi Family houses are not allowed in any zone, so he is asking you to find a finding specifically to that, and in the case in Bartlett whether we even need a variance. In the case before this one the chair raise the question whether they even needed a variance and the Code Enforcer chime in and told them why they needed to come for a variance. The question about the inconsistency is very concerning to Attorney Cronin and the board was confused about what we are asking for as you all well know you come to the Zoning Board first then you go in front of the Planning Board. In the Town of Seabrook where you don't have multifamily housing units there is no direction for density, if it's a question about 305 units being to many is there is a number the is more acceptable. Maybe they should go in front of the Planning Board first they are the ones that test density ask them what their preference is for workforce housing or not. We are willing to go to the Planning Board first instead of coming before the ZBA that you are currently uncomfortable with.

First it's not the planning board criteria to discuss the reason why, the criteria, the benefit. That is not the planning boards role. Jeff Brown the Chario explains the planning boards role is to create and set the zoning ordinance and determine what the zones are and why. Jeff can't foresee going to the planning board and saying we have 304 multifamily homes that look like this. Millionaires are going to be living there or poppers are going to live there it's the same building. What does that solve, the reason why we (as a Zoning Board) are asking is that we have to elevate this criteria. Jeff looks for a public benefit with every application. The strict enforcement of this ordinance out ways the public benefit that what the zoning board looks for. The Planning Board does not. The Planning Board looks at can you do this in that zone, then you need to get a variance from the ZBA. The planning board will be more concerned about

drainage, traffic how are you going to create a road, are they going to make you get a subdivision things like that, separate roads and fences. The ZBA has to see if its in the public interest or the applicants interest. On the Bartlett analysis the court said if the zoning analysis says if it isn't allowed anywhere than its allowed everywhere. If nothing allowed anywhere it is allowed everywhere. Attorney Cronin said that was the wrong case the case Jeff was talking about the community justice. Bartlett is similar to it. Because of the zoning board can step out of their role and say no variance is needed we say so. We can waive jurisdiction.

Attorney Cronin explains The Bartlett Case said you don't need a variance you can go to the zoning board because its not allowed in any zone. The community for justice said if you don't provide a zone then it's allowed in every zone. You can take a look at the findings look at the ordinance Seabrook doesn't allow multifamily housing and any zone and they don't have a work force housing unit. The intent of that case the state and/or courts recognize there was issue workforce housing state wide. Certain towns and ordinances kept out any workforce housing applications. You shall not have restricted zoning for work force housing that is the Britton vs Chester case. Jeff asks the question did we forbid it in our zoning ordinance but we allowed it and it already exists do they get credit for that? Attorney Cronin says no because Brittan says vs Chester you can't have exclusionary zoning, if you had permissive zoning which you don't, your ordinance is exclusionary you can't do anything in this zone, but we have on the table of uses. The town of Seabrook has exclusionary zoning which means you have to provide an area in your community for every type of use. Attorney Cronin says the Town of Seabrook didn't adopt a workforce housing ordinance. Theresa believes that the town did, we have 4 apartment buildings numerous mobile home parks and we have low income apartment buildings. Andre Carrier explains work force housing as a category it's a discount to market rate it can be confused with affordable or low income, but it is an entirely different category. We also found out that Seabrook is in the same contiguous workforce housing pricing market as Boston.

Jeff Brown we already know that the good that the brook does. We are not here to talk about the brook, the brook is already allowed. We are talking about this proposal multifamily housing. Andre explains the reason is because in the public interest. If you had to put multifamily somewhere putting it adjacent to the brook already a large employer with people that need to live closer to work, it would fulfill the public good. 2ndly maybe putting it next to a commercial facility like the brook maybe they will spend money and 35% goes to charity, if might do some public good. That is why he included in his presentation.

Attorney Cronin read what was in the packet: variance application, the plan, unit breakdown, Andrew Cline Report, New Articles, Traffic Report, Tax Summary, Fougere School Report, McKeon Report – Value, Zoning Map, Zoning Ordinance Excerpts, Statues, Community Resources for Justice, Inc v City of Manchester and Wayne Britton et al. Town of Chester. He read the variance attachments.

VARIANCE ATTACHMENT

ATTACHMENT TO VARIANCE APPLICATION

APPLICANT: RMH NH LLC

ADDRESS: 319 ROUTE 107, SEABROOK, NH

ACERAGE: 75.608

BACKGROUND FACTS

RMH NH LLC. ("Applicant") requests variances to develop 304 multi-family residences and 28 townhouse properties on a 75.608-acre parcel of land referred to on the Seabrook tax records as 319 Route 107 ("Property"). The Property is sometimes referred to as 319 New Zealand Road. The Property is best known by its former use as a greyhound racing park. The Property is partially improved and the Applicant is in the process of converting the former racing center into an entertainment and gaming venue. The undeveloped portion of the Property includes abandoned kennels and other dated improvements accessory to the greyhound racing use. The Property was formerly two separate tax parcels but is now one parcel being consolidated in or near 2015.

The Property is situated in a split zone with the area proximate to Route 107 being in the "Rural" zone, referenced as Zone 1. The balance of the land is located in the Industrial Zone, referenced as Zone 3. Due to the size of the parcel, the existing and proposed improvements are well buffered from surrounding uses. The Applicant considered the lack of housing throughout New Hampshire, the challenges in recruiting and staffing talent for the entertainment and gaming venue and the benefits to the community and surrounding properties in the highest and best use analysis. After consideration of industrial uses which generally lack the curb appeal and come with other consequences such as peak hour traffic burdens, trucking, machinery and noise, it was determined that a tasteful residential development would be the highest and best use and provide a proper transitional use and buffer from existing single-family development to commercial uses.

The Applicant proposes to develop the Property in an environmentally sensitive manner and construct three buildings with a total of three hundred and four (304) traditional apartment units and (28) townhouses with appropriate amenities. See plan attached hereto and incorporated herein by reference. The development will be a significant distance from neighboring properties. The unit mix will have a higher number of one-bedroom units than most projects with: (144) one-bedroom flats; (160) two-bedroom flats; and (28) two-bedroom townhouses. The project is designed in response to the need for more housing in New Hampshire and is consistent with the live, work and play goals of urban centers. The location is ideal for multi-families due to its proximity to the lakes, ocean, mountains and the City of Boston. Area businesses continue to struggle to fill positions, in large part, due to housing shortages.

The project is being evaluated as a workforce housing project, and that determination will be made prior or during the planning board process. In advance of filing this Application, the Applicant conducted a neighborhood meeting to introduce the plan and solicit constructive feedback. The proposed use was well received by the existing neighbors and constructive comments focused on the existing entertainment venue. Concerns were raised about outdoor

speakers and noise. The outdoor speaker issue is in the process of resolution. The proposed use will serve as a light and noise barrier for the homeowners in the area of the proposed development. The development will look and feel like an independent community with townhouses constructed around the perimeter and the multi-family buildings being located in the central core. The Property benefits from public sewer and water and has access to all necessary utilities. The existing tax assessment is \$8,612,700.00. The annual tax revenue generated is approximately \$118,242.76. The proposed development, if approved and constructed, projects an assessment of \$67,300,000.00 and a dramatic increase in annual ad valorem tax revenue to over \$800,000 per year. Vehicle registration fees are projected to be \$128,500.00 per year. Traffic generation for multi-family use is considered to be more favorable as traffic is disbursed over the course of the day rather than at peak-hours which is the case for industrial and commercial development. The preliminary traffic analysis indicates there will be no change in existing levels of service. It is well established that New Hampshire is aging and school enrollments are in a rapid state of decline. Recent multi-family projects establish that multi-family projects do not have school impacts as they did decades ago. The general ratio is .14 children per unit which indicates 43 children for the multi-family units. Even at 1 child per townhouse, which is unlikely, 71 school children (6 per grade over 12 grades) can be absorbed by the School District without adding teachers or facilities. Seabrook reportedly has a current student to teacher ratio in the range of 9:1 compared with a national average of 17:1.

The completed project will function as a mixed-use project which is generally a benefit to the health safety and welfare of community.

PRELIMINARY CONSIDERATIONS

In the likely event the project proceeds as a workforce housing project, relief may not be required. The enabling legislation that delegates the zoning power from the state to municipalities expressly states that no ordinance or regulation shall be interpreted or enforced to diminish or deny reasonable opportunities for workforce housing. NH RSA 672:1, (III-e). In 2008, the Workforce Housing Act was adopted to address the statewide need for workforce housing ("Act"). NH RSA 674:58-61. The Act provided municipalities with the ability to adopt a workforce housing ordinance that can provide guidance and direction for approval of workforce housing projects. Reportedly, Seabrook has not adopted a workforce housing ordinance, so workforce housing projects are allowed in every zone in the community.

If the project is developed as a market rate project with no workforce housing, it is uncertain whether relief is required as the allowed uses in the community do not include multifamily housing. According to the precedent established by the Supreme Court in *Community Resources for Justice*, zoning ordinances must provide zones of all use, including unpopular use such as an adult bookstore and a halfway house for prisoners working toward release. *Community Resources for Justice v. Manchester*, 154 N.H. 748 (2007). Multi-Family Housing was the subject of concern in the case of *Britton v. Chester*, 134 N.H. 434 (1991). In *Britton*, the Court concluded that every community must provide reasonable opportunities for housing and the zoning power cannot be used to build a moat around the community. *Id.*

The Applicant requests that the ZBA undertake a “Bartlett” analysis to determine whether any variance relief is required, and if so the basis for the requirements. Bartlett v. Brookside Church, 164 N.H. 634 (2013)

RELIEF REQUIRED

In order for the project to move forward, the following variances may be required:

1. Section 5 – Building Per Lot - allow multiple buildings on a lot;
2. Section 6 – Permitted Land Uses - allow multi-family/ townhouse development;
3. Section 7 – Dimensional Requirements – to allow additional primary structures; and, maximum height is excess of 30 feet (Zone 1) and 50 feet (Zone 3).

VARIANCE ELEMENTS

1. The variance is not contrary to the public interest.

Under the law as set forth in Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011), “[t]he requirement that the variance not be contrary to the public interest is related to the requirement that [it] be consistent with the spirit of the ordinance. [...] As the provisions of the ordinance represent a declaration of public interest *any* variance would in some measure be contrary thereto. Accordingly, to adjudge whether granting a variance is not contrary to the public interest and is consistent with the spirit of an ordinance, we must determine whether to grant the variance would “unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives. Thus, for a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance’s “basic zoning objectives” [and mere] conflict with the terms of the ordinance is insufficient.” *Id.* at 514. In order for a variance to unduly violate an ordinance’s “basic zoning objectives,” granting the variance must “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare.” *Id.*

Here, the grant of the requested variances will not be contrary to the public interest. More specifically, the grant of the variance will not unduly conflict with the basic objectives of the relevant zoning ordinance as it will not substantially alter the essential character of the neighborhood. The area is well developed with direct access to a state highway. The proposed density of the project is consistent with the density generally permitted for large parcels with public sewer and water capacity. While the buildings will have more stories and be of greater height than typically allowed, the development will be distant and buffered from surrounding properties and well-protected by landscape and such relief will allow for a first-rate development consistent with the look, feel and character of the area. The project provides much needed residential living opportunities.

The variance will not threaten the public health, safety and welfare, because much of the infrastructure is already in place to accommodate the proposed project. The project will provide

substantial tax benefits without burdens and create a mix-use environment that provides preferred traffic impacts when compared to industrial development. There is ample on-site parking and amenities to support a live, work and play lifestyle. In many ways the variance will act to bolster the public health, safety and welfare by providing housing in a period where New Hampshire needs more housing opportunities.

The structures will include all relevant life and safety requirements (*i.e., sprinklers, fire exits, etc.*) thereby promoting safety, prosperity, security and safety from fire.

2. The spirit of the ordinance is observed.

It is important to note that this test is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is *in* the public interest, but only to prove that it is *not contrary to* the public interest.

In keeping with the law as outlined above in *Harborside*, here, the spirit of the ordinance element is related to the public interest element and the factors are the same. As such, for the reasons set forth above, the grant of the variance will not be contrary to the spirit of the ordinance.

3. By granting this variance substantial justice is done.

The loss to the Applicant, in the event that a variance is denied, outweighs any gain to the general public. In fact, the public stands to gain nothing from a denial of the project. The Property will be developed at some point in time and the proposed project has many advantages over alternative industrial development. The project is isolated and camouflaged; it will add to the tax base and will provide much needed housing. Accordingly, substantial justice would be done by granting the requested variance. There will be no harm to the public if the variances are granted.

4. By granting this variance the value of surrounding properties are not diminished.

The proposed use will provide far less impact than a fully developed industrial park. The use will provide a buffer to the surrounding residences and shield neighboring homes from the light, noise and sight of the entertainment venue. The impacts will also be negligible due to the distances between the proposed development and existing homes. The buffering is also enhanced by the perimeter townhouses that create a transition of housing types consistent with contemporary planning principals.

The proposed project, built out as proposed, will not have a negative impact on surrounding property values. In fact, it is anticipated the proposed development will have a positive impact on surrounding property values due to the buffer the housing provides to the gaming and entertainment venue and the substantial tax positive revenue generated by the project. The additional ad valorem tax funding should reduce the already low ad valorem rate which translates to more value for all properties in the community.

5. Literal enforcement of the ordinance would result in unnecessary hardship.

- (A) No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application to the Property.

The segregation of uses by zoning district is a fundamental purpose of zoning. The size, location and natural features of the Property make it unique in its environment. The zoning ordinance is dated and does not provide any regulation for market rate, workforce or multi-family housing. None of the provisions of the ordinance, whether in Zone 1 or Zone 3 have a meaningful relationship to this property. The ordinance does acknowledge that more than one principal building is proper for large lots. This subject lot qualifies as a large lot.

Currently, there are insufficient housing opportunities to maintain and support the workforce. Recent articles underscore the brain drain of our best and brightest leaving New Hampshire due to the lack of housing opportunities. The grant of the variances would further the public interest by providing housing opportunities more consistent with the features of the Property itself than the industrial development permitted by the Zoning Ordinance. In short, there is no fair and substantial relationship between the general purposes of the relevant zoning provisions and their application to the Property where the Applicant proposes much needed housing in a form much more attuned to the actual and distinct characteristics of the Property.

The proposed development will advance public health, safety and welfare compared to industrial uses. The ordinance, as written, has no relationship to multi-family and/or workforce housing development.

- (B) The proposed use is reasonable.

The proposed use is reasonable. Generally, there is a greater need than ever for residential dwellings in this current real-estate market. Further, as set forth above, the proposed use is reasonable as the Property, as it is perfectly situated for development of apartment and townhouse housing given its location, size, and natural features.

Lacey the building inspector asks if the apartments and duplex will be rental units. Andre says yes.

Anyone here to speak in favor of the application? Anyone here to speak against the application?

Jeff explains everyone in the room has a chance to speak for or against the project.

Abutters speaking about the project:

- Charlie Getchell 95 True Road presented a picture for traffic pattern he apologize for that he didn't realize that would go to the Planning Board. Main concern is infrastructure is water and sewer.
- Peter Talas 48 Weare Road the area is under Aqua protection area, also he is concerned about the impact of water, fire, police and our schools. He believes Townhouses are not a buffer for 5 story apartments.
- Sam Rodriguez 15 Randall Drive this will be a burden because of the services provided. What percent of owners are residents of Seabrook. He is upset about wildlife.
- Debbie Van Dyke 19 Mapleridge Road she was wondering what is allowed in Zone 1. Lacey read what was permitted. Also concern with Water and Sewer.
- Philip Walsh 31 Irenes Way The veteran speaking infrastructure.
- Michele Smith 14 Dixon Way – the project is too big
- Ted Panopoulos 21 Irene's Way not in favor.
- Tim Moore 10 Frances Drive not listening to the neighbors, and he thinks they are pulling a fast one.
- John Hird 16 Irenes way was there a new traffic study no it was the same traffic study. Looking for a more relevant than the planning board.
- Stephanie Moore 10 Frances Drive – she had questions about mixed use commercial land and residential. She also asked if multifamily houses could be rented as short-term rentals. Lacey explained that they are not allowed per zoning.
- Christine Gaudreault 64 Borderwinds Avenue she has concerns for the future of the planet and town.
- Bill Smith 14 Dixon finances alone 1st responders big hit on the town.
- Scott Moulton 10 Irenes Way wrote them a letter he would rather have housing than factory. He suggested 55 and up housing.

Abutters were upset that the applicant had a lawyer present. Jeff Brown, The Chair explains the applicant can bring someone to represent them, it happens all the time.

Attorney Cronin infrastructure and numbers this project is a revenue positive impact. What is not being concerned is impact fees that will also be address, Jeff explains the town of Seabrook doesn't have residential impact fees. There is a rational nexus fees and you can make contributions to the planning process to elevate new fire trucks, etc. Attorney Cronin doesn't believe the town will need 5 additional police and firemen. Water is a concern there a priority right to water, in New Hampshire there is not everyone has a right to their water on their land.

This site was once considered for a new well field. I think there is a way to see if auxiliary wells support the towns water supply. Traffic light, Route 107 is run by the State, and we will have to get a permit from them, and they have warrants for traffic for light. Attorney Cronin asked for 5-minute break to speak to his client.

Attorney Cronin came back after speaking with Andre and said if the variance is granted a condition be not more 275 units which would be the planning board discretion and limit the height to be not greater than 3 stories. Dr. Lebold and Teresa thinks they should put in a new application with what was proposed.

After reviewing the petition and hearing the evidence they determine the following:

	J. Brown	Dr. Lebold	D. Davidson	P. Howshan	T. Thurlow
1.	NO	NO	YES	NO	NO
2.	NO	NO	YES	NO	YES
3.	NO	NO	YES	NO	NO
4.	NO	NO	YES	NO	NO
5.	NO	NO	YES	NO	NO

Deny the application not permitted in industrial zone. Water concerns require an increase in school, police, fire and equipment. Seabrook has at least 6 multifamily apartment complexes. Along with several mobile home parks. This shows that Seabrook has tried to minimize the housing shortage in New Hampshire.

Motion: Dr. Lebold

Second: P. Howshan

Unanimous

Jeff explains how he voted.

1. The variance is contrary to the public interest: Because the zoning ordinance balances the need to manage properties that protect landowners' rights while also protecting the health safety and welfare of the citizens. Additional residential occupancies in excess of 200 units would result in a significant effect on the town's services which are already stretched thin. This is only 1 area in Seabrook that includes the industrial zone which is west of I 95. Industrial occupancies by their nature create jobs, substantial tax revenues with limited demand for services.
2. The spirit of the ordinance is not observed because the ordinance contemplated an industrial zone in the West end of town away from the majority of residential and commercial/retail on the East side of I 95.
3. Substantial justice is not done by granting the variance. The benefit would only be to the applicant to the detriment of the community. The proposal would more than triple any planned residential development that exists in the area.
4. By granting the variance the value of surrounding properties has the potential to be diminished because of the influx of traffic and demand on Town services which is likely to increase the tax rate.
5. Enforcement of the current ordinance and not granting the variance would not result in unnecessary hardship because there is a reasonable beneficial use that can be made of the property without a variance in the current zone.

Attorney Cronin asks if they should file a rehearing request, you made your position pretty clear.

Motion: Dave Davidson made a motion that there is no need to have a rehearing on this case

Second Phil Howshan

Unanimous

Also Attorney Cronin asked when Jeff wrote how he voted. Jeff says he wrote them while you were reading them variance.

Motion to adjourn

Motion: Phil Howshan

Second: Robert Lebold



Jeffery, Brown, Chair

NOTICE OF DECISION
BOARD OF ADJUSTMENT
TOWN OF SEABROOK, NEW HAMPSHIRE

You are hereby notified that the request of Stard Road Realty Trust, ³²33 Stard Road, Map 4 Lot 19-22 for VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS) OR EXPANSION OF THE NON-CONFORMING USE to: The Zoning Ordinance has been Approved for the reasons given in the following resolution passed by a majority of the BOARD OF ADJUSTMENTS:

ON CONDITION OF GRANTING ANY VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS OR NON-CONFORMING USE IS THAT IT EXPIRES AT THE END OF TWO YEARS IF NOT COMPLETED WITHIN THAT TIME. RESOLVED, THAT THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO SUCH USE:

Case # 2022-019 Stard Road Realty Trust, 32 Stard Road, Map 4 Lot 19-22, the undersigned hereby requests for a variance to the terms of Section 6 and asks that said terms be waived to permit: Travel Trailers in Zone 3 Industrial

Motion: Phil Howshan
Second: Dave Davidson
Opposed: Dr. Lebold

("Compliance with these conditions must be met before a building permit can be issued.")

(Signed) 
Jeffrey Brown
Chairman
Board of Adjustment

Date: 10 26 22

NOTE: Application for rehearing on any question of the above determination may be taken within thirty (30) days of said determination by any party to the action or person affected thereby according to the New Hampshire Revised Statutes Annotated, 1955, Chapter 31:74-76. Form Revised 2001

NOTICE OF DECISION
BOARD OF ADJUSTMENT
TOWN OF SEABROOK, NEW HAMPSHIRE

You are hereby notified that the request of RMH NH, LLC , 319 Route 107, Map 2 Lot 41 for VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS) OR EXPANSION OF THE NON-CONFORMING USE to: The Zoning Ordinance has been Denied for the reasons given in the following resolution passed by a majority of the BOARD OF ADJUSTMENTS:

ON CONDITION OF GRANTING ANY VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS OR NON-CONFORMING USE IS THAT IT EXPIRES AT THE END OF TWO YEARS IF NOT COMPLETED WITHIN THAT TIME. RESOLVED, THAT THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO SUCH USE:

Case # 2022-016 RMH NH, LLC 319 ROUTE 107, Map lot 41. The undersigned hereby request a variance to the terms of: Section 7 and asks that said terms be waived to permit: 3 buildings with a total of 304 traditional apartment unit and 28 town houses with appropriate amenities in Zone 1 and Zone 3 Industrial

Move to deny the application not permitted in industrial zone. Water concerns require an increase in school, police, fire and equipment. Seabrook has at least 6 multifamily apartment complexes. Along with several mobile home parks. This shows that Seabrook has tried to minimize the housing shortage in New Hampshire.

Motion: Dr. Lebold

Second: P. Howshan

Unanimous

Jeff Brown the Chair explained how he voted.

1. The variance is contrary to the public interest: Because the zoning ordinance balances the need to manage properties that protect landowners' rights while also protecting the health, safety, and welfare of the citizens. Additionally, residential occupancies in excess of 200 units would result in a significant effect on the town's services which are already stretched thin. This is 1 only area in Seabrook that includes the industrial zone which is West of I 95.

NOTE: Application for rehearing on any question of the above determination may be taken within thirty (30) days of said determination by any party to the action or person affected thereby according to the New Hampshire Revised Statutes Annotated, 1955, Chapter 31:74-76. Form Revised 2001

NOTICE OF DECISION
BOARD OF ADJUSTMENT
TOWN OF SEABROOK, NEW HAMPSHIRE

You are hereby notified that the request of RMH NH, LLC , 319 Route 107, Map 2 Lot 41 for **VARIANCE**, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS) OR EXPANSION OF THE NON-CONFORMING USE to: The Zoning Ordinance has been **Denied** for the reasons given in the following resolution passed by a majority of the BOARD OF ADJUSTMENTS on September 28, 2022.:

ON CONDITION OF GRANTING ANY VARIANCE, APPEAL, SPECIAL EXCEPTION, EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS OR NON-CONFORMING USE IS THAT IT EXPIRES AT THE END OF TWO YEARS IF NOT COMPLETED WITHIN THAT TIME. RESOLVED, THAT THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO SUCH USE:

Case # 2022-016 RMH NH, LLC 319 ROUTE 107, Map lot 41. The undersigned hereby request a variance to the terms of: Section 7 and asks that said terms be waived to permit: 3 buildings with a total of 304 traditional apartment unit and 28 town houses with appropriate amenities in Zone 1 and Zone 3 Industrial

Move to deny the application not permitted in industrial zone. Water concerns require an increase in school, police, fire and equipment. Seabrook has at least 6 multifamily apartment complexes. Along with several mobile home parks. This shows that Seabrook has tried to minimize the housing shortage in New Hampshire.

Motion: Dr. Lebold

Second: P. Howshan

Unanimous

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NOTE: Application for rehearing on any question of the above determination may be taken within thirty (30) days of said determination by any party to the action or person affected thereby according to the New Hampshire Revised Statutes Annotated, 1955, Chapter 31:74-76. Form Revised 2001

- Industrial occupancies by their nature create jobs, substantial tax revenues with limited demand for services.
2. The spirit of the ordinance is not observed because the ordinance contemplated an industrial zone in the West end of town away from the majority of residential and commercial/retail on the East side of I 95.
 3. Substantial justice is not done by granting the variance. The benefit would only be to the applicant to the detriment of the community. The proposal would more than triple any planned residential development that exists in the area.
 4. By granting the variance the value of surrounding properties has the potential to be diminished because of the influx of traffic and demand on Town services which is likely to increase the tax rate.
 5. Enforcement of the current ordinance and not granting the variance would not result in unnecessary hardship because there is a reasonable beneficial use that can be made of the property without a variance in the current zone.

("Compliance with these conditions must be met before a building permit can be issued.")

(Signed) Jeffrey Brown
Jeffrey Brown
Chairman
Board of Adjustment

Date: 10 27 2022