



**Meeting Minutes**  
**Zoning Board of Adjustment (ZBA)**  
**December 21, 2022, at 7:00 P.M.**

**1. CALL TO ORDER**

T. Hardekopf called the meeting to order at 7:05 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**Members Present:** Tracy Hardekopf, George Bailey, Cheryl Huckins, Andre Laprade

**Members Virtual:** Paul Thibodeau

**Staff Present:** Town Planner: Vanessa Price, Zoning Administrator: John Huckins

T. Hardekopf addressed the board to change the agenda to move up the review and approval of meeting minutes after the pledge of allegiance, and to move up a continuance request on a case file.

*A motion was made by G. Bailey and seconded by C. Huckins to approve the agenda change. The motion passed unanimously.*

Vote 5/0

Roll Call:

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

A. Laprade-Aye

P. Thibodeau-Aye

**4. REVIEW AND APPROVAL OF MINUTES**

*A motion was made by T. Hardekopf and seconded by C. Huckins to approve the minutes of November 30, 2022, as written. The motion passed unanimously.*

Vote 4/0

Roll Call:

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

P. Thibodeau-Aye

A. Laprade recused himself from the approval of meeting minutes

## 5. PUBLIC HEARINGS

- A. [240-8-GR-22-3Var/Spec Except \(Owner: Norma Bearden\)](#) Request by applicant for the following variances Article 6, Section 6.2.6 Perimeter Buffer to allow 14 proposed driveways to access through buffer along Young Road, Article 6, Section 6.2.6 Perimeter Buffer to allow proposed subdivision to reduce the front perimeter buffer, Article 6, Section 6.2.6 Perimeter Buffers to allow the front buffer to contain individual house lots and Special Exception to Article 4, Section 1.3 to allow shared access point and shared driveways on a 65.55 acre lot on Young Road in the General Residential Zoning District. BY: Christopher Berry, Berry Surveying & Engineering: 335 Second Crown Point Road; Barrington, NH 03825.

T. Hardekopf gave a brief description of the application.

P. Thibodeau recused himself from the case.

*A motion was made by C. Huckins and seconded by A. Laprade to continue the case until January 18, 2023. The motion passed unanimously.*

Vote 4/0

Roll Call:

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

A. Laprade-Aye

- B. [244-1-GR-22-Var \(Owners: Fixed Homes, LLC\)](#) Request by applicant for a Variance from Article 4, Section 4.1.1 Table 2 Dimensional Standards to allow frontage of 33.6' where 40' is required at 65 Corbett Road on a 2-acre lot in the General Residential Zoning District.

T. Hardekopf gave a brief description of the application.

P. Thibodeau recused himself from the case.

Before the board heard the case file, T. Hardekopf addressed the audience the function of the ZBA Board. She went on to explain that all members have taken training to sit on ZBA, and the land use board is a quasi-judicial board. The members are by appointment of the select board and their job is to listen to special exceptions to zoning ordinances and to listen to variances. A board member that sits on the ZBA does not mean they cannot apply for either special exception, variance, or administrative appeal. They have the right to do that as a resident of the Town of Barrington. Board members take an oath before becoming a ZBA member, and they hold that oath very tight in that the members will function ethically with every case that the ZBA hears before them. She addressed the audience asking that from a public perspective, our job is not to stop growth from the Town of Barrington nor is it to do a favor for a friend. That is not what we're here for. ZBA is here to still represent the best interest of all of the Town of Barrington, but as a quasi-judicial board to hear those special exceptions that are needed and any variances that need to be put forth or appeals for administrative decision that need to be overturned in order for someone to appropriately use a piece of

land. T. Hardekopf emphasized that she brought the comments forth brought that forward because she personally read online quite a few comments questioning how the board could function with ethics and still hear a case from someone that might sit on the board. She addressed the board and the audience that she personally feels very comfortable that we can do that. She then addressed the board members asking if the rest of board feel comfortable with that as well. The board unanimously agreed.

Before proceeding the case, T. Hardekopf addressed the applicant regarding the legal noticed advertised. She asked that the applicant that they are asking for a change to the front set-back.

J. Huckins answered the request in the notice that went out was for frontage, which is different than the front setback.

T. Hardekopf addressed the applicant if they want to move forward, and choose to have the board here, this just understand that the notice reads one thing, and should someone appeal our decision we will have to rehear your case. Or you can wait until January.

Brett Allard acknowledges and wants to move forward with the case and comfortable proceeding and is representing the owner. He gave a brief description of the site and the constraints. This site is serviced by a private well and septic. It does have some pretty steep slopes in the front as well as in the back of the lot. Photos were attached to the application showing the sort of steep slope in the front of the lot in that front yard setback in between the road right of way. The site does sit substantially above grade from the road. There's a narrow sort of wetland channel that bisects the property, therefore having a dry upland in the front by Corbett Road and dry upland in the back. The owner bought this property in January of this year. The property historically maintained a sort of dilapidated manufactured home, which is shown on the plan.

Brett Allard discussed that the client had a manufactured home removed. His client obtained a building permit to build a new single-family home in the location of the manufactured home footprint. As shown on the plan, the intended location of the home was entirely within a very small but still adequate for purposes of the size of the home building envelope. It was intended to go entirely within that building envelope. The setbacks were measured by surveyor that the owner retained back in the spring of this year and stakes were placed by the surveyor at that time on the corners of the proposed new home.

The survey was scheduled to return in June. There was a delay. The owner ended up engaging a different surveyor to come out and complete the Field Certified Foundation certificate was submitted, completed by Eric Selvish at Northam Survey. At that time, it was discovered that the certificate plan showed that the building wasn't placed in precisely the correct location. The intended foundation had shifted about 6 1/2 feet in between the time when the stakes were placed, marking the corners of the new home, and when the foundation footings were poured. nd essentially what we think happened is the stakes were removed by the original excavator when he was digging the hole to build the foundation, and then the whole got dug and there was a misfire by six months.

The issue was discovered in October of this year. It was an honest mistake, certainly nothing intentional or nefarious. The stakes are to mark the corners and then around 20 feet from each state, so that if the initial stakes have to be removed, you still have the tie lines. As soon as the owner received the foundation certificate, he immediately contacted the town about the error and wanted to resolve the mistake.

The owner is requesting a variance from Article 4.1.1 table two to allow the new dwelling to remain 33.6 feet from the front lot line where the ordinance does require a 40 foot front yard setback.

Brett Allard read the five criteria for the justification for a variance.

**PART IV – If this is a JUSTIFICATION FOR VARIANCE**

**The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.**

- 1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

\_\_\_\_\_  
Please see attachment \_\_\_\_\_

- 2. Granting the variance would be consistent with the spirit of the Ordinance.

\_\_\_\_\_  
Please see attachment \_\_\_\_\_

- 3. Granting the variance will not result in diminution of surrounding property values.

\_\_\_\_\_  
Please see attachment \_\_\_\_\_

- 4. Granting of the variance would do substantial justice.

\_\_\_\_\_  
Please see attachment \_\_\_\_\_

- 5. Granting of the variance would not be contrary to the public interest.

\_\_\_\_\_  
Please see attachment \_\_\_\_\_

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

65 Corbett Road is a two acre piece of land with three hundred feet of road frontage however it has characteristics that limit its use, result in unnecessary hardship and clearly distinguish it from surrounding properties. A majority of the land at 65 Corbett Road is not buildable due to steep slopes and a large wetland area in the middle of the lot. The only building site is located on the front left side of the property, this area is compressed further by the setback requirements since that buildable area is impacted by the front setback, left side setback as well as the 50 foot wetland setback.

Considering the unique features of the lot, the applicant's reasonable use of the property as well as the intention of the ordinance, no fair or substantial relationship exists between the regulation and the restriction on the property at 65 Corbett Road. Granting this Variance would not injure the public or private property rights of others since the use is common for the area and the space between properties is more than adequate.

2. Granting the variance would be consistent with the spirit of the Ordinance.

The variance would be consistent with the spirit of the ordinance because the main purpose of the setback restriction is to reduce overcrowding and negative impacts on buildings that would be close to that setback. This building site is roughly 100 feet away from the closest building and several hundred feet from the neighbor directly across the street from the front setback. Also there is 33.6 feet from the right corner of the home to the front line, but there is an additional 20 foot buffer between the road and the front lot line.

3 Granting the variance will not result in diminution of surrounding property values.

If the variance is granted it would not negatively impact surrounding property values. The lot would fall right in line with the character of the neighborhood and the project overall has replaced a run down rental property with a modest, energy efficient home. If anything it has increased the value of surrounding properties and had a positive impact on the area.

4. Granting of the variance would do substantial justice.

Substantial justice balances public rights with private rights, any case where there is substantial loss to an individual with no loss or injury to the public is viewed as an injustice. In this situation there is not a substantial gain to the public if the variance is denied. There is some benefit to the public if the variance is granted in the form of increased tax revenue and improving local property. However there would be a far greater loss to the applicant if the variance isn't granted. Granting the variance would be appropriate and would do substantial justice in this situation.

5. Granting of the variance would not be contrary to the public interest:

Granting the variance would not be contrary to the public interest. There would be no impact or injury to public rights if the variance is approved. Abutting homes across the road from the front line are several hundred feet from the front setback encroachment. It is also important to note that the building site is elevated well above the road level so there is no impact to public safety especially in regards to traffic. The new building will also generate more tax revenue for the town of Barrington moving forward which is also positive for the local community .

T. Hardekopf opened public comment.

T. Hardekopf closed public comment.

*A motion was made by C. Huckins and seconded George Bailey by to grant the grant the variance. C. Huckins reason is I believe this was an honest mistake. I think we'd be unreasonable to expect him to rip up his house. The motion passed unanimously.*

Vote 4/0

Roll Call:

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

A. Laprade-Aye

**B. [251-9-GR-22-SpecExcept \(Owners: Tyler & Katie Rand\)](#)** Request by applicant for a Special Exception from Article 19, Table 1 Table of Uses to allow Mixed Use at 132 Ham Road where it is not permitted in the General Residential Zoning District.

P. Thibodeau returned to the board as an acting member.

T. Hardekopf addressed the applicant, Mr. Tyler Rand, that the Town Attorney advised the case should be a variance criterion not a special exception and advised the applicant should withdrawal this application and submit a new application for January 18, 2023. She stated that there would not be a charge to refile. It would be at no cost, but our legal department has recommended that course of action, so that will appropriately be addressing your case.

Tyler Rand addressed T. Hardekopf if he was hearing accurately the 100% that needs to be a variance? He want to do what the correct way to file.

T. Hardekopf acknowledged with a response of Yes, that is what our legal representative for the Town of Barrington has advised us.

V. Price addressed the board that the applicant was to apply for mixed-use and had advised that was a special exception being used on the property.

J. Huckins based on the definition of the Zoning Ordinance is why he applied for the Special Exception.

T. Hardekopf acknowledged and stated that the applicant will have to decide, but the Town Attorney advised that the application be filed as a variance, not a special exception, and it can be refiled in a more appropriate manner and all fees would be waived.

*A motion was made by C. Huckins and seconded by G. Bailey to waive fees and refile as a variance. The motion passed unanimously.*

Vote 5/0

Roll Call:

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

A. Laprade-Aye

P. Thibodeau-Aye

Tyler Rand confirmed that it would be no question if it is a variance.

T. Hardekopf acknowledged with a response of Yes, that is what our legal representative for the Town of Barrington has advised us.

V. Price addressed Mr. Rand that he could submit an application for a variance he could be heard on January 18, 2023.

- B. [239-7-TC-22-Var \(Owners: Town Center Properties, LLC\)](#) Request by applicant for a Variance from Article 19, Table 1: Table of Uses, footnote 15 to allow for a total for 62 bedrooms where 29 are permitted. Request for a Variance from Article 16, Section 16.3.2(2) and 16.3.2(3); and from Article 19, Table 1: Table of Uses, footnote 6 to allow for a total of 32 units where 7 units are permitted on Calef Highway/Mallego Road on 12.05 acres in the Town Center Zoning District. BY: Francis X. Bruton, III, Bruton & Berube, PLLC; 601 Central Avenue; Dover, NH 03820.

T. Hardekopf gave a brief description of the application.

T. Hardekopf addressed the applicant to verify they are asking for four variances and going one by one would be the most appropriate way to digest all of the information.

Dan Gabriel introduced himself and discussed the passion he has for this project because it is important to him to do something for the elderly for the Town of Barrington. He stated both his parents are deceased and when they needed assistance, there was no room at the end. Everywhere we are experiencing staffing issues or capacity issues. Many of the the nursing homes and the care for the elderly, is closed for anybody new and it's causing a lot of burdens on families.

Dan Gabriel further discussed the 2007 Town Vision Plan, and it shows a Town Center with a possibility of senior housing. It also included a town green or a common area and included in this case a ball field or recreation, for for the public. He met with Town staff, including the planning department, and discussed the options of what to do with the land. He stated he was directed to stick to the Town plan.

Mr. Gabriel discussed the history of the site. He discussed that around 2007, there was a company and went to the planning board with about six very large commercial retail buildings. Mr. Gabriel compared the sizing to six JC Penney's. In the middle was a large grocery store and parking was all along the the strip of where the knights are now and would have probably had 1000 cars a day. There's a very, very large project. Then the recession hit in 2008. The project never got built. The developer never purchased the land. Several years went by, and in 2015, he sat with Ms. Calef in her kitchen with other family members and asked her what are your thoughts about the property? Mr. Gabriel explained that she stated something be provided for the Barrington residents so that the elderly can stay here, that they can live here. They don't have to move and go to another community. Mr. Gabriel said to her, well, I'll make sure we'll incorporate that.

Mr. Gabriel further discussed that over the past seven years, he has been approached by developers for brewery and a large restaurant that had a nightclub attached to it. Mr. Gabriel explained that he said no because he really wanted to do this elderly project. Over the last 12 months, he met with the planning department and the town zoning administrator, and he came up with a plan that makes sense. He addressed the board and the audience that he wanted to clarify



from social media posts he has found it said there were major developers coming to Barrington. Mr. Gabriel stated I am not a major developer. He has been retired for a number of years. The only property that Mr. Meter and he owned together is this property and they don't have any projects going on. He hasn't had employees for 15 years, so he is not a major developer. He furthered stated that he is a person that's lived in Strafford County all his life and he believes that there is a real need and now is the time. He stated that if you're going to ever have anything for the elderly, this is the place for it.

Francis X Button, (but he goes by FX), is representing Mr. Gabriel. FX presented to the board additional information about the background. They did look at the schematic design that was developed in 2007 and when its compare that to what we're proposing, he explained there are a tremendous number of similarities. Mr. Gabriel mentioned the senior housing on the plan, seven buildings are depicted. A Ball Field or Town Green as part of this project being a PUD or planned unit development, FX explained they would be working with the Town to provide for a rather large area where the Town's might see fit. FX expressed there is a lot of interest, support and excitement by the Town with respect to that possibility. A plan that incorporated the senior housing concept vision, the first an assisted living facility which you see on the current plan, and then an independent living, that is is a 55 and older.

FX addressed the board discussing a professional in geriatric care, John Hopkins, will speak tonight. Mr. Hopkins is very well known for owning and running Bellamy Fields and Watson Fields. He'll be speaking briefly tonight just to give his perspective on how these operate. If there's opposition, which might be heard tonight, some of it might be related to traffic. Discussing that into a little bit of context in terms of what happens at a system living facility, and that is in sense with respect to parking virtually almost 10% of what is required is what is used. Mr. Hopkins will discuss in real terms and what really does happen. FX stated that he think that's helpful, as it will have a real account of how this facility would work and kind of, again, keep that in context.

FX discussed the 55 and older housing option and part of what to expect to happen. Mr. Hopkins will also confirm is that oftentimes couples', people in Barrington, who want to downsize, find that unfortunately, one spouse might require a higher level of care, that being the assisted living care where the other spouse wants to be next to that person. This is a great opportunity for someone who can be in the independent care next to their spouse, who is being treated in the assisted living care. Those kinds of things dovetail very well together and that's why these buildings are situated the way they are, and what we are looking to create. FX further explained that while that is a significant number of services, obviously, and the assistant care those services can be broadened so that those people who are in the 55 and older can take advantage of those, whether they're nutritional training, meals, other kinds of therapeutic care, these are things that will help them as well. FX stated again, this seems to be very integrated project on purpose. In addition, we propose a medical office as well as a daycare.

FX discussed the expectation of about ten employees to be rotating on a shift at the assistant living facility that are intended to serve the potential customers of the daycare. So that again diminishes the parking or the traffic that might be going in and out. FX explained that kind of

use of a medical office is to provide the services that certainly will be necessary for those in assisted living. It really creates quite a quite a great mix in terms of how this can operate and integrated way and how it fits right in with what the what the general intent was with respect to the Town Center concept in the beginning.

FX discussed the other properties that are in that area and zoned for other uses anticipated by the Town Center concept, and those businesses will support and be supported by this development. He stated what really was the intent and they are breathing life into it. He addressed the Board that they hoped they would agree that that's the case.

FX continued this is a unique parcel with roughly 13 acres. It's one of the largest parcels that's undeveloped in the Town Center and found in these regulations, which are difficult at best to say, is that we were limited with respect to the sizes. That is a critical element to the distinction between the two buildings, which are that the nursing facility and or the assisted living facility. FX then went to explain the first variance request about bedrooms not units. Intent is one person per bedroom. The applicant continued to discuss from his application the variance requests.

FX addressed the board he wanted to read through the criteria for the variance and then have Mr. Hopkins to come up and give you a little bit of sense of why this is seems appropriate to him and give him him the the chance to talk as a professional.

T. Hardekopf asked clarification from FX regarding the criteria for the variance, that he is proposing that all the criteria applies to all of the variance request.

FX acknowledged yes.

FX read the five criteria for the justification for the variances.

**PART IV – If this is a JUSTIFICATION FOR VARIANCE**

**The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.**

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

**See attached.**

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2. Granting the variance would be consistent with the spirit of the Ordinance.

**See attached.**

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3. Granting the variance will not result in diminution of surrounding property values.

**See attached.**

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4. Granting of the variance would do substantial justice.

**See attached.**

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5. Granting of the variance would not be contrary to the public interest.

**See attached.**

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## **VARIANCE CRITERIA**

New Hampshire RSA 674:33, I (a)(2) sets forth five criteria upon which variances may be granted. The application of these criteria to the Applicant's proposal is discussed hereafter.

- 1. Special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship to the applicant as defined under applicable law.**

An unnecessary hardship exists when, owing to special conditions of the property that distinguish it from other property, no fair and substantial relationship exists between the public purposes of the ordinance provisions and the specific application of those provisions to the property and the proposed use is a reasonable one. See NH RSA 674:33, I (a) & (b).

As depicted on the enclosed tax map, the Lot is distinguished from other properties in the area given the significant size of the Lot, which is comprised of 13.1 acres. The size of this lot dwarfs other surrounding lots within the Town Center District, affording this lot a significant area to safely accommodate the project as presented. Of particular note, the project will provide all necessary parking spaces required by the Barrington Zoning Ordinance. The ability to accommodate the required number of parking spaces demonstrates that the variances associated with the density requirements as particularly suited for this Lot. In addition, the Lot is buffered from NH Routes 125 & 9, making the proposed uses the most appropriate, with limited visibility to such busy roads, the elderly residential component makes the most sense on this lot as it is needed and is consistent with the original intent expressed when the Town Center District was contemplated.

The proposed structures will not pose a conflict with the public purpose of the ordinance, but rather will create a use that is consistent with and sensitive to the Town Center District regulations, as illustrated hereinabove, while providing much need elderly housing which will be a more affordable option for those that require moderate space, and want to live within the heart of the Town Center area, all the while maintaining commercial uses within the Lot resulting in a highly desirable mixed-use project. The designs reflect a reasonable and much needed use in a manner that respects the overall goals of the zoning ordinance. Limiting the density for this development is unnecessary in this specific instance. To the contrary, the additional density requested herein is required in order for the development to provide the nursing care and common dining facilities that are intended. Common sense dictates that such facilities could not be provided where the Applicant to be limited to \_\_\_ bedrooms in the Nursing Care facility or Elderly Assisted Care Home and/or 7 units in the Senior Living facility. The Applicant respectfully submits, for all of the reasons set forth herein, the denial of the requested variances would frustrate the benefits the project stands to offer to the general public, and would result in an unnecessary hardship to the Applicant. Thus, the Applicant respectfully submits that there is no relationship between the general public purpose of the ordinance, and the specific application of the density requirement given the proposed uses submitted by the Applicant.

**2. Granting the variance would be consistent with the spirit of the Ordinance.**

The Applicant respectfully submits that if the variances are granted, the spirit of the ordinance would be observed as the use in question is suitable, considering configuration of the Lot and the buffering of the property from NH Routes 125 & 9. The spirit of the zone is to foster a mixed use of residential, commercial, civic and open space. Given the significant size of the property, the Applicant is proposing a reasonable plan that can accomplish the mixed-use goal, and provide a vibrant area within the Town, all consistent with the intent of the Town Center District.

To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. It is respectfully submitted, that given the reasons set forth above, the granting of the variances will promote the ordinance's basic zoning objectives as envisioned by the Town Center District.

**3. Granting the variances will not result in diminution of surrounding property values.**

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of structures to be located upon the Applicants' property. In this instance, the location of the commercial uses along or near NH Routes 125 & 9, with a mix of residential and civic uses further away from these roads will have no negative affect upon any abutter with respect to its property, as the use will be consistent with other uses in the near vicinity, and consistent with the intent of the existing zoning.

#### **4. Granting the variances will do substantial justice.**

The grant of the variances would do substantial justice as it would allow the Applicant's property to be utilized in a fashion contemplated by the drafters of the Town Center District regulations by allowing the location of commercial used such as the daycare and Nursing Facility or Elderly Assisted Care Home, while providing a cluster of Senior Housing on one of the largest lots within the Town Center District. This test considers whether the benefit to the Applicants outweighs the burden to the public. In this instance, given the proposed development plan, there will be no burden to the public whatsoever. To the contrary, this development will open up civic uses for the Town and provide services such as daycare and senior care. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus resulting in substantial justice being done.

#### **5. Granting of the variance would not be contrary to the public interest.**

The Applicant respectfully submits that the proposed use represents a reasonable use of the Lot. By permitting the increase density, the public interest is served by permitting orderly development in an area for the specific needs that are contemplated by the Town Center District. In order to provide the services such a nursing care, dining services, etc. that will be offered, the required density requested herein needs to be obtained in order for the project to be feasible. In this instance, the Lot is unique in terms of its location from NH Routes 125 & 9 and its size. It is understood that the basic intent of the Town Center zoning is to create a mixed use of commercial and residential uses. In the first instance, the density calculation allows for only very limited units/bedrooms as described herein within 13.1 acres. This limited amount of housing cannot support the services that are intended to be offered. In order for the Applicant to design a project that works, more residential units/bedrooms are required. Given the location of the Lot, and given the surrounding commercial properties located adjacent to the Lot, all of which will provide excellent support for the elderly living within the development, the Applicant submits that limiting the density within the Lot cannot not accommodate the desired residential or civic/open space uses that are provided in the Applicant's proposal. As such, the proposed use will not be contrary to the public interest, as the use will not "alter the essential character of the locality." Granting the variance will permit the use of the lot as intended and consistent with the purposes of the Town Center District.

#### **CONCLUSION**

For all of the reasons set forth above Town Center Properties, LLC respectfully requests that the relief requested herein be granted.

John Hopkins addressed the board discussing a crash course in geriatrics, with a couple of disclaimers and transparency, transparency and full disclosure. Number one, he has no financial interest in this project. Transparency number two, Dan Gabriel sold Mr. Hopkins two pieces of land which became Bellamy Fields and Watson Fields about 10 and 12 years ago. He went through the planning and zoning boards in Dover, successfully. Mr. Hopkins explained he has two 5055 BED facilities operating now and taken care of over 1000 people.

Mr. Hopkins explained the short story of his history, he is a Doctor of Public Health. After 20 years at Frisbee Hospital, he went into the assisted living business. Mr. Hopkins told of having taken care of my dying parents. He stated as a consequence of my father, who was dying "Why is the end of my why is the end of my knowledge not like the middle?" He was in a nursing

home. He was wearing somebody else's pajamas. He was in pain because he had lymphoma, but it hadn't been four hours, so he couldn't have any more medicine. Mr. Hopkins discussed he is here as a product of the end-of-life care story, which is poignant for this time of year.

John Hopkins further went to discuss his credentials in geriatrics care.

John Hopkins addressed the board on how the future of geriatric medicine would ideally evolve for an elderly care building where the patient(s) would be adequately attended to with a rotating nurse. The housekeeping and maintenance and the laundry with a large infrastructure, not a lot of people, but it's 24/7 365 and anything less than the number of beds they're proposing is probably not a viable business model. He further explained with similar properties, Bellamy and Cocheco, the notion that that this is going to be a monstrosity and obstruct the beauty of the parcel, just isn't going to happen. This is not a hard project to do on the size of the land that you're talking about, and it'll bring great value and quality of life to the elders of Barrington.

T. Hardekopf addressed Mr. Hopkins with a few questions. In reviewing the Bellamy Fields and Watson she stated that they have subscribed to a model where two patients or two clients are residing in a room for their socialization. She questioned Mr. Hopkins if that is dictated by just your programming model, or if the state of New Hampshire. Also, if Mr. Hopkins licensing model decides how many clients to room, or how many may serve at your facility.

Mr. Hopkins answered with a personal professional view. He answered with “I believe if you have Alzheimer's and it'll be a little vulgar when you're losing your mind, 2 heads are better than one. So I pitched families for having roommates. But the the roommates model for me, since there is no fewer for Alzheimer's coming, being with another live person to me, has added value.”

T. Hardekopf questioned Mr. Hopkins. What would stand in the way of taking 62 bedrooms and making it 124 clients or patients?

Mr. Hopkins answered if they are to apply for beds in the state of New Hampshire today from the healthcare perspective, he would have to go through the Bureau of Health Facilities and ask for a license which sets the number of beds. That's determined by a separate licensure process. Next, he discussed health, safety, life safety. My Hopkins receives two surveys a year from the state, and again in the interest of disclosure because I own these properties, they're not full capacity. He won't fill them if he can't staff them. Mr. Hopkins stated that they have to apply for a license to operate beds to certain way if they're going to be licensed as assisted living.

T. Hardekopf questioned Mr. Hopkins if the two facilities he operates are on city water and sewer in Dover?

Mr. Hopkins answered yes.

T. Hardekopf questioned Mr. Hopkins if he operates a for profit or not-for-profit model until the pandemic came along?

Mr. Hopkins answered “I was a for profit business, but not making a profit.”

T. Hardekopf asked Mr. Gabriel if they have the intention of building the facility and then selling?

Mr. Gabriel answered they have the capability and financing to do it. He expressed his hopes are to be able to first get through tonight, and then find somebody like John or somebody in the field first to see if they have an interest in doing so as he going to rely upon the professionals.

T. Hardekopf stated to Mr. Gabriel Frisbee is under PHP allowed 119 beds. They operate 80 and that's a very large facility. Potentially here with 62 rooms, a possibility of talking 124 clients. That's that's a rather robust facility.

T. Hardekopf asked Mr. Hopkins why he wasn't to follow through at this time, and to ask for a supply and demand perspective.

Mr. Hopkins answered the staffing issues, and he doesn't open beds if he can't staff safely.

T. Hardekopf addressed the board in asking if anyone else on the board had questions. C. Huckins asked the applicant about the 55 and older housing. She questioned the applicant how they ensure that the housing is only for 55 and older people. Ms. Huckins inquired why would it not be for the 65 and older?

FX answered C. Huckins stating that the 65 and older sets forth a lot of additional criteria that they may not be able to meet. FX explained for instance, programming in the building that just puts more staff that in that facility. The traditional way of limiting the age restriction and to still be legal under the Fair Housing Act is to utilize the 55 and older restriction. Most towns who adopt an elderly ordinance. FX explained that other Towns call it the 55 and older ordinance for a reason, because the 65 and older provision that does exist requires so much programming that those projects never get built or rarely get built.

C. Huckins addressed FX in asking that in a 55 and older housing, would the 55 and older on independent living would there be someone's son or daughter allowed to move in with their three kids.

FX answered C. Huckins with the provisions would allow for that because someone has to be 55 and older.

P. Thibodeau asked FX What does the Fair Housing Act require that the person 55 years of age or older? To live in the home as a percentage of time during the year.

FX answered P. Thibodeau it's primary residence status. It would be someone who's 55 and older. He explained that you wouldn't want that and the statute wouldn't protect someone who's 55 and older buying it and then renting it out to a bunch of college kids or something like that.

Mr. Gabriel stated we purposely made it 55 because that's what the town vision statement said. The 55 is all over that document, not another number.

FX went further on to explain there is a synergy as between a couple. He had a discussion with Mr. Hopkins earlier, about a couple finding themselves in that position where someone wants to



be or can be in the independent living but have a spouse who's in that assisted living and that happens more than we think. He further discussed the benefits of downsizing for 55 and up.

G. Bailey asked about the recreation users for the Town Center and wanted to verify it would be for Barrington residents?

FX addressed the question in stating that would be the responsibility of the recreation department. He further discussed that would be in the PUD requirements.

T. Hardekopf asked FX how he would ensure that Barrington residents were given priority both from the assisted Living environment and in the housing.

FX replied that he suggested they get priority and available to them. However, he stated that it couldn't be enforced. He further went to explain that the local population would use this location. FX stated to the Board, we are "not asking you to judge this application on those criteria, but I think it's fair to say that and rational to say that that's how this will work."

T. Hardekopf addressed the board in asking if anyone else on the board had questions.

A. Laprade addressed the applicant, and asked what is the sequence you would do to open this whole 13 parcel?

Mr. Gabriel answered they estimated it would take a year to get through engineering, traffic surveys, and planning department. He stated at the earliest this wouldn't start till 2024.

A. Laprade asked Mr. Gabriel how long would you think it would be to do the entire project?

Mr. Gabriel answered depending on the economy. The daycare likely first, then a family practice.

A. Laprade asked Mr. Gabriel if a drugstore location would be there. As a senior citizen, he expressed the use of a drugstore.

Mr. Gabriel said if parking could be lessened a drugstore might be possible.

A. Laprade asked Mr. Gabriel his next question was in relation to parking. Is the parking adequate for people who are going to visit the elderly person?

John Hopkins answered that "At this time all among all of my residents. Nobody drives. We we have the touchy subject, but it's going to decrease statistically and knowingly in the rate that they operate automobiles well, comma cataracts, neuropathy, dementia." In his experience, the the number of visitors of the elderly tend to be family members because the residents aren't driving. The rate of visitors tends to be related only to the number of family who are driving and then earlier the the staffing of people coming and going.

A. Laprade addressed his biggest concern is the Mallego Road issue with the amount of construction that's going to be occurring and the the amount of equipment is going to be in and out of there. He asked the applicant if they thought about how to relieve that issue for the

residents that use Mallego Road? How would you be able to alleviate that situation? Talk about the construction period and construction now?

Mr. Gabriel addressed the Board that during the construction phase, the planning board could direct and and and dedicate an entrance for construction vehicles. The next step would be to have a traffic engineer make his proposal, make the best use of the property, address that concern for construction and then when they go to the planning board, the Planning Board would have the ultimate decision.

A. Laprade addressed the applicant that under #5 of the criteria for a variance, for public interest it says it's such the proposed use will not be contrary to public use. It said the use will not alter the essential characters old quality. He answered: "It's certainly will in my opinion, all through that and you got to judge the benefit of doing it versus not doing it. I appreciate what you're trying to do but you know people coming from the Mallego area."

FX answered A. Laprade to put it in the context they are here tonight for the increase in density for these two buildings. They have offered buffering that will be going in place, and the density relates to mass and that's not going to alter the essential character because it's going to be buffered by that view. But at the same time, something is going to go on these 13 acres that's a permitted use in the Town Center. With respect to this project and the increased density, is it going to alter the characteristic with respect to what the permitted uses are? And our argument is no, it's not. In fact, it's going to be a diminished use with it. FX states that it's common sense that when you have an assisted living facility that has a group of people that are not mobile, that density, that difference and we could have a smaller one, that density isn't going to alter the the characteristic of this community as it is now zoned as Town Center.

T. Hardekopf addressed the board and the applicant, for the sake of time, we have not heard any testimony against the project. Anyone else on the board have questions that they would have to ask?

G. Bailey asked the applicant regarding financial feasibility.

FX responded to the question, from our perspective feasibility doesn't imply that you have to have a certain amount of income to provide the kind of services that this kind of facility will require. In a sense that plays a role or the size of how we've come to this size is related to how can we service this.

Mr. Gabriel answered if they had to build a building of 29, they would not do this project. It will be something else in front of you and it will not be enough.

P. Thibodeau addressed T. Hardekopf he had a question(s) to ask.

P. Thibodeau asked the applicant about how the conversation has evolved around assistant living, the elderly, nursing and so on. He states we are talking about a large amount of these units being 55 and older. He questioned the applicant obviously a person 55 or older does not have to be disabled in order to qualify to rent one of these units. Is that correct?

The applicant answered yes.

P. Thibodeau addressed the applicant, “these units will be occupied by people 55 and older. They're working, they have families, producing income, they're driving cars. They're living in normal life. They are not disabled. So now we have a person that comes along that is, say, 62 years of age or older, which is one of the Fair housing acts, uses that can be restricted to 62 years of age or older, and you don't have any place for them. There's no place because all of these 55 healthy. People are in there working, living, working and there's no space for that person that it sounds like you're trying to create. A living space for so how you adjust to allowing someone in their working years 55 to reside here, when you have someone who is disabled but there's no space left for them.”

Mr. Gabriel answered that this building is tied in some fashion to the other building and the fact that there may be services to this building. There's going to be dining options available to the people in the independent that don't want to cook anymore, and they don't want it, and that helps support the staff of being able to cook and so forth. He states his option that the time of these two buildings will make it not attractive to somebody that has a family and and is is younger.

P. Thibodeau asked the applicant about the cost feasibility of rent. Stating about restricting this to 62 years of age or older, which is what the Fair Housing Act allows as one of the exceptions.

FX answered 62 does also require additional services and facilities that are not part of the 55 and older. He stated it's very unique and said it's rare almost to see that kind of facility created, whether it has more density or not because of those restrictions and requirements. But we're here tonight looking for that density with respect to what is more typical in terms of that age restricted housing.

Mr. Gabriel also answered to address P. Thibodeau that a project of this size typically would have an on-site manager and would have a lease agreement.

T. Hardekopf addressed the board and the audience that there will be a seven-minute break.

T. Hardekopf resumed the meeting and opened for public comment.

Jackie Lambert, 30 Mallego Road. She is not necessarily opposed to the uses proposed for this. But she does have some questions, some concerns. “There is going to be a large number of people utilizing these this property. What provision has been made for water and sewage? The house that I live in has water with a dug well. What's going to happen with the water table once wells or whatever it is, it's being used, starts working. There's no city water or sewer anywhere in Barrington. What's going to happen with the sewage this generated? I don't know if there's any provision made for that, but I'm concerned about is that going to pollute the groundwater and well? I'm very concerned about that, and I'd like to have some answers as to whether that's been considered. And then I have a couple of other questions.”

T. Hardekopf addressed the Ms. Lambert with information that has come before the select board, which will I assume be coming for the residents of the town of Barrington, something called an TIF District. It clusters commercial development in a way that has less of an impact on water usage. So good question. She stated not sure that this variance speaks to that.

V. Price stated that during the Planning board process those questions can be addressed.

Ms. Lambert, further went to express that she would want to know how these things are going to affect what decisions she is going to express. Since she is going to be a very close neighbor to this development, she deserves to have some information.

T. Hardekopf addressed Ms. Lambert that as part of the engineering of the project is when the water and sewer are discussed.

Ms. Lambert addressed the board that even though some other time would decide where the entrances and exits out for this development, it's pretty plain when looking at this that it's going to be at least one on Mallego Road. Mallego is used by a lot of kids who drive their bikes back and forth. A lot of people who walk their dogs or a lot of people would just walk it recreationally. Mallego Road is a very residential area. Once the traffic's that's coming in and out of that, wherever it's located, it's going to change. The entire length of Mallego Road actually is going to be affected and so that's an important thing too. The construction of that size is probably going to take maybe about a year. That there was going to be this change that would take place, but to have construction stuff going back and forth on Mallego Road for a year that just doesn't cut it. From her house, right now, when she looks across the street or down the street, it's dark except for the two couple of lights on the post office, which used to be very bright and now they're more yellow. It's very moderated. Light pollution now, with all of this, all those parking spaces are going to be lit up all the time. They don't shut parking lot lights at night. My whole neighborhood is going to be looking at those lights, and even though there's a buffer, you still see through that, especially in the wintertime when there are no leaves on the trees. This changes the character of our neighborhood completely. It affects 1-25 area more than that but they all are affected on Mallego Road.

George Calef, 35 Mallego Road, addressed the board he is very concerned with the water and didn't see any septic on the plan.

T. Hardekopf addressed Mr. Calef that Vanessa could speak to that.

V. Price addressed Mr. Calef that the Plan he is looking at is a conceptual plan to show the layout of the proposed project. It's only gone for the planning board, for conceptual or review, which is nonbinding, to get comments back from the planning board. They have not gone forward for the planning board for their formal application. The variance is for the density. It doesn't address the wells or the access of this time that goes through the planning board process. She addressed Mr. Calef that it's for everybody, not just directed at you, to let everybody know that they still have to go through the planning board process. She stated that his comments here aren't valid or not being heard, but the board here is just looking strictly at the density of the project. The entirety of project because that's where the planning board when it goes when they do their formal application.

Mr. Calef was concerned that he actually saw this as a bit of a curveball. The first place normally you go to the Planning Board, and it gets the plan and then you ask for the variance.

V. Price addressed Mr. Calef that the project did go to the planning board to get conceptual comments earlier, but you're not notified as abutters, it's nonbinding action with the board to see if there are comments from the Planning Board might be looking at before they submit a formal design.

Mr. Calef responded he really likes the idea of having something available in Barrington. He can relate to that probably more than anybody in the problem, as he stated his wife has been in a nursing home for about three years. He further went on to state anybody's going to stay there any longer than they have to because it costs a ton of money trying. Mr. Calef stated he liked the idea of a sidewalk as it's extremely dangerous walking on the road. There's no enforcement whatsoever of either the emergency exit from the school or speed on that road. The sidewalks on the plans, septic, traffic increase and it's a different buffer on the plan than I thought.

Geraldine Howard, Ivy Lane in Barrington. She stated she is for the project and the reason is it has a lot to offer. "Our Healthcare is changing and where's the clientele is changing and our 55-year-old community being in here doesn't mean that the 55 will be in all of it because you've got independent and assisted living independent. They have to meet, which by the state is called the RAT. Sorry, it's called a RAT, but it's a resident assessment tool. It lets you know where they're qualified to be, whether they're qualified to be an independent or assisted living. It's a quality of life. It's where they can continue to grow and be and be in their own community and be able to give back into the community and financially also help a project that is a wonderful project and I've been in the healthcare for a long time. Parents are getting older, and it also is an opportunity for a respite program where a lot of people have their families still home, and they love their family very much, they want to get away. What a great opportunity to bring somebody in here for rest bed and be able to stay and have the care that they need and be able to go on, have a wonderful vacation and not worry about their loved ones. I see a lot day in day out. Like I said, have been into healthcare for many years and the clientele is changing. We're not seeing that 80- and 90-year-olds anymore. We're seeing the 50- and 60-year-olds. So this kind of a project will keep them in where they still can be involved in things that they're going to be paying a certain price to be there. So the tennis courts and whatever is in here will be included. So the public coming in doing it, they're paying taxes into the town as these people are paying to stay in here, so there should not be any charge for anybody to come in and do the same thing. Who's ever in the in assisted her in in independent living 9 times out of 10 wouldn't be 55 years old. They have to be qualified to be in those. In that level of care, and they can continue to grow to be the level of care from the time they start to the time that yes, they do get into nursing homes, we in our nursing home, we need more veteran nursing homes. This is an opportunity for people to stay here and we can take in more veterans in our nursing homes. So I think it's a great project. I know it's got a lot of work to go and there's a lot to work out of it, but I think it's a great project for the town and brings in a US for our community to help our community and that they can stay because there is a lot of places that are not. They're closing their doors and we need. This is the generation that's coming and will all be there someday. Unfortunately, we do. Thank you."

Bryan Dubois, 42 Mallego Road. "My house is right here in front of one of the project entrances. A little bit about myself. I am a real estate appraiser. I have been since 1989. I am also a broker,

and dealing all sorts of properties. One problem with this is that you have to address is how will it affect abutters properties value. This is a conceptual plan it can change so you can't say that it won't affect value. You won't know until you have an actual plan that's being submitted. My point is that you can't say that it's not affecting value. That is a a strong issue with me and the road going from 1-25 to Mallego Road is it's it's an issue because of what other people have already addressed. The comment that Ms. Lambert had about the well and septic. That is a question for the planning board, but the the project itself could actually impact her value if she has to put in a new well. I don't know about the septic, but it would be more about the about well itself. If the well gets contaminated or if it dries up. Even though that's a question for the planning board, you still have to look at that impact on the values. So again, you don't know until until you have an actual plan that's before us to tell what's going to happen with value. I know Dan personally, he's standup guy. As far as the proposal, I kind of agree with everybody else you know something you know, should be done. At what density? You know, I don't know. Thank you.”

V. Price addressed T. Hardekopf with the board and the audience, there's several people online that would probably like to speak for or against the application. She stated to first hear from the audience here that's present and then we will go to online.

John Dube, 82 Mallego Road. He stated he is echoing what some of the people here have said about the graphic plan. One of the things he expressed he heard tonight was that they are probably the “first thing that would come up would be the daycare on that plan. It says 84 children. There's drop off and pick up right away. Mallego Road is already being used as a cut through Rd. People don't want to wait at the light. They cut down from the far end of Mallego Road and either cut down page or come down through. Any increase in the density of traffic in that area is just going to make that. It's going to exacerbate that. One of the other things that came up tonight was that he's going to be looking for somebody to take over the property once it's there. I would be concerned that whatever variance may be granted here may not stick to the people that are would take that over and I don't know whether there's any protection for things like that that would be. But that's one of the concerns that I have at night as well. But we had concerns last year when the drought was happening, whether it was, you know, we're going to have enough water at our particular place and to have this kind of draw on the aquifer in this area is a great concern. So those things there are big. I don't have an objection to the thing, and I and I do understand what they're saying about the density. But, know the rights of the people that are already here should have a bearing on whether or not something like that is allowed to come in. There's a shortage of these types of facilities right now, so if this were to be put up, what is to stop all the people from Portsmouth and Dover and surrounding area that right now can't find a place? And having this thing fill up right away and then the people in Barrington don't have access to it. Those are my concerns.”

T. Hardekopf asked Mr. Dube if Jennifer was his his spouse as we have received a letter, and asked to read the letter into record.

Mr. Dube read the letter as record as follows:

“This is for our zoning board and town planning folks. My name is Jennifer Dubin. It's actually my wife, my husband and John and I have lived at 82 Mallego Road for 12 years. We chose Barrington specifically because of its small-town feel and the natural beauty of this immediate area. Our main concerns regarding the proposed Calef/Mallego Road project involved the potential significant increase of traffic, as well as the impact such a project will have on the wetlands around us. We have already seen greatly increased traffic from the elementary school decision was made several years ago to allow buses only to use the Mallego Road gate during drop off pickup times, but that gate is now accessible all day to anyone and everyone. Mallego Road was already a popular cut through between roots 9:00 and 1:25 and it's reasonable to concerned that adding new facilities 282 parking spaces adjacent to a busy elementary school could exacerbate access and safety issues on our Rd. In addition, in our neighborhood there are currently limited. But appropriate number of private wells, drainage areas and septic systems good to physical needs of the proposed facilities have a negative impact on a water table which is currently serving a much smaller population. I estimate roughly 120 toilets and sinks, perhaps 80 to 100 tub shower units, greatly increase laundry, need watering, etcetera. Compounding this concern, it seems that concentrated expanse paved areas could affect not only natural drainage options, but the road salt runoff could impact our groundwater and natural wetlands in this area.

Town maps will show that there's a natural box situated between Mallego Road and Pine Grove Cemetery on one of the plans, there's a tiny note notation indicating man-made wetlands. This is something I would guess would occur when natural drainage options are eliminated or greatly decreased. If we are already planning for a man-made wetland that perhaps this deserves a closer look. Drainage issues at the other end of Mallego Road, are well known and have been ongoing for years. Any wetlands study performed in 2022 will likely not provide accurate data due to the unprecedented drought in New Hampshire in New England last year. Indeed, throughout the entire NE, even prior to 2022, we are all aware that New Hampshire's water levels have been affected by the ongoing lack of precipitation. When we finally do receive adequate rain and snowfall in the years ahead, exactly where will that water be draining too?

We have not had swampy areas on Mallego Road nor would just be desirable, but as noted above, there are lot's long standing drainage issues. Barrington does have pressing needs for quality childcare as well as good options for senior living. There has been a huge increase in construction of all types over the last few years that would be interesting to know, say over the past 10 years, how many variances have been requested for each of those years and how many of them have been granted. Thank you for your time and thank you especially for the service to our town.”

Jim Farnam, 98 Mendums Landing Rd in Barrington. He stated he thinks this is very exciting project and in favor of it. He stated he appreciates the investigation that they are doing. He stated that Healthcare is a mess these days and to have for folks to have an opportunity not to have to spend a day in, you know, in the emergency room unnecessarily is something that's a wonderful thing. Thank you.

C. Huckins wanted to address the board, applicant and audience with regard to everyone worrying about amount of water. She stated when she was working for the town, a water bottling

company that wanted to come here and there was extensive research down our water and at that time and was told that the aquifer that runs under 1-25 is enormous. She stated that sewer naturally would be a concern, but the last thing she would worry about is water availability in that area.

Ben Bradley, 210 Mallego Road. He stated to voice support for the plan. He explained that his parents are getting older and expressed it would be a good plan for Barrington. Mr. Bradley stated he worked for Wentworth Douglas Hospital and can't speak on their behalf. He voices his own opinion, and shouldn't be construed to be attributed to the hospital. He stated that he knows the hospital does a community health needs assessment every three years as part of their nonprofit mission. Among the things that may be top of it is around mental health behavioral health. Other issues at the very top of the list of those is access to long term care. This plan is a well thought out plan that. He went to explain that it balances the needs in our community with a thoughtful approach for some town space. Additionally, Mr. Bradley stated his biggest concern with this process is the zoning board would get caught up in things outside of its responsibility and declined to move this process forward. The other issues from neighbors can be sorted out. He addressed the board to consider this on its merit for their job of reviewing the variances that are being proposed and allow the Planning Board and other processes to move forward without objection from this committee. Thank you.

Melanie Ross, 227 Mallego Road. She is in support of the project, as she stated we need these services, but her biggest problem is the water and the traffic. She stated that the a board member says that we have a great aquifer. Ms. Ross opinion is to disagree. "When we run out of water because we run the washing machine too many times in the day. They are building 15 houses out behind us now. That's going to take up more water and then you build this here. It's going to take a lot more water. We won't have any water at all. It's it's just not right. It's not fair for us people that live there. I've lived there for 27 years. And we're going to be run out because of overpopulating, overdeveloping."

Public comment in person has moved to virtual public comment.

John Castles, 14 Red Fox Lane in Barrington. He states he is an advocate for senior housing. His career is advocating for older Americans and access to Equitable Healthcare. But he is in agreement with a lot of the concerns of his neighbors. He passes Mr. Calef almost every day walking his dog and understands the challenges of traffic on the road as well as the issue with sewer and water access. He asked a clarification question with regards to the variance and actual occupancy of what's being proposed. Mr. Castles asked: "Is the number of units has this project that's proposed versus the actual licensing. That will be requested from the state of New Hampshire for occupancy of these buildings."

T. Hardekopf replied this speaks directly to the variance of density being requested. She addressed the applicant that he stated the number of units, but wanted to know about the occupancy of each of the two.

Mr. Gabriel addressed T. Hardekopf if she has the paperwork?



T. Hardekopf confirmed yes.

Mr. Gabriel replied to T. Hardekopf ,FX will answer.

T. Hardekopf stated there are 32 housing units in the senior housing, and asked if that is the expected number.

Mr. Gabriel replied that it's 32 units from my understanding and he discussed with code enforcement, they are individual apartments. Those apartments could have a maximum of two bedrooms.

FX clarified and continued that the Variance is measured by units, not by bedrooms, stating it's the kind of juxtaposition of the ordinance itself is. The nursing facility, if you are assisted living, is measured by bedrooms and the 55 and older is measured by.

Mr. Gabriel stated the importance in the case of having people that are connected to the other unit, a spouse and maybe one occupant. But we don't anticipate more than two occupants at the Max.

FX stated that he answered that person's issue and maybe the boards as well. He stated that Mr. Gabriel had indicated that even though it might be common practice, other and other facilities to allow two people per bedroom with respect to the nursing facility. 62 bedrooms are looking and agreeing to a restriction with respect to one person per bedroom. Therefore, it would be again completely inconsistent with standard practice.

T. Hardekopf stated the assistant living environment or skilled nursing care environment, the occupancy is 62.

Mr. Gabriel replied to T. Hardekopf, it comes out of that number. In other words, is we'd then have an empty unit that would be utilized for something else.

T. Hardekopf asked that the the housing with the 32 units would be 64 people potentially in two-bedroom units. But it could be as high as 96.

Mr. Gabriel, answered no.

Mrs. Castles, 14 Red Fox Lane in Barrington. Asked the applicant if they want to make the distinction between a skilled nursing facility, which is what we know as a nursing home, it has a different level of care, different services provided than an assisted living and the various levels of care that may happen within assisted living. Within the independent living, it's her understanding those are just regular partners. She stated people can rent them, there's no care associated with it. There's no cost of care associated with it. How many units are you proposing for the independent living?

T. Hardekopf answered 32.

FX addressed the board, the available number of units for that building could be either, depending on what footnote you're in the (Zoning Ordinance), either seven or eight. It was interesting the question that one of the board members asked is what if those units are filled up

right away by. Either persons are healthy 55 years old or whatever. If we don't get the variance that the likelihood is that that happens quicker as opposed to later. We're asking you to make it easier for those 55 and older who are disabled to have a place to even think about. If you grant deny the variance, we're only limited to either seven or eight, let's say seven. FX expressed that it is an important distinction as well to make.

Ms. Castles further asked the applicant, "and then with the assisted living unit, how many units are you proposing, and how many licensed beds are you proposing within those units?"

FX answered 62 units and 62 licensed beds. It's limited.

Ms. Castles asked what's the what's the probability of you having 62 units that can have two people, that you're going to expand that licensure to double that occupancy?

FX responded with we're limiting our request in front of this board to that level.

T. Hardekopf stated that should the variance be granted. It would be with the caveat that those 62 units would only allow for single occupancy. Corrected to say 62 beds.

Ms. Castles asked the applicant: "What is the average rent in if you can share that? Because I'm trying to understand access versus equity and serving Barrington residents."

T. Hardekopf answered that that that's not valid to the request for the variance.

T. Hardekopf stated that there is a very good picture of the support, and certainly the concerns in reference to the density variance. She addressed during public comment that if there are fact issue statistics, something that you'd like to bring forward, please do. If not, I would like to move forward.

Ben Bradley, 210 Mallego Road. Mr. Bradley addressed the board to consider this plan that's coming before you, but it's because it's required to asking for a variance. He discussed that it alluded to, and what the presenter said, talked about which is if this isn't granted, it's likely not going to happen because it's not feasible. He stated that is an important point. However, the other point is you've got 13 viable acres that a plan could be put forth that maybe isn't as advantageous to the community needs that are outlined in various community needs assessments. He discussed the land could end up with a Kohls or a gas station or whatever else outside of this. Mr. Bradley expressed that the presenter is genuine and is interested in meeting the needs of the community. But his concern is you oppose this, you prevent the planning board from addressing some of those other concerns. A developer could come in and do something within the guidelines that exist in Town Center zoning. Mr. Bradley emphasized that's why he is so passionate about this project. He addressed the board that you actually heard from a number of people that like the concept. Mr. Bradley expressed the he would hate for it to move in the wrong direction just because they couldn't get though the variance request.

T. Hardekopf replied she stated that in the terms of the unknown of what else could occur on the property,

G. Bailey stated that there are required instructions for the board to follow.

T. Hardekopf addressed the board and the audience our zoning administrator has pointed out, the maximum density for New Hampshire Department of Environmental Services, subsurface disposal regulations are no more than one bedroom per 10,000 square feet of upland soil, or the most restrictive requirement. There are requirements for the septic systems that will go before these properties to ensure that whatever is placed there is appropriate.

J. Huckins stated that it might be the density would be less than what was granted if that's what DES loading.

FX further discussed one of the final points he wanted to make, that through the process of the planning board, we have looked at water tables and we have looked at some drainage. All of that is self-contained on site and this is 13 acres. There's going to be a lot of possibilities in terms of 21st century treatment of that that doesn't exist in a lot of projects that are older. This will be state-of-the-art designing and the planning board will make sure that happens. But what was just pointed out is also important. If there are restrictions that are imposed by you, the planning board and or the state with respect to limits then irrespective of what you grant, we're going to still have to abide by those rules as well. And we fully expect that, and we just hope that we can provide as much as we can in terms of what we are trying to propose for the Community.

T. Hardekopf addressed the board, applicant, and the audience; before we entertain any motion, she stated a variance is a waiver or relaxation of particular requirements of an ordinance, and in this case the zoning ordinance. When strict enforcement would cause undue hardship because the circumstances unique to the property. Therefore, she wanted all to keep in mind we've been presented with the facts of four aspects of the of variance. All of them involved density or usage of the property we've been presented with facts, both from the public and from the applicant in this particular case. Our job as a quasi-Judicial Board is to entertain opinion, and facts that have been presented to us. She addressed the board, that based on that, she asked for a motion from any of the board members one way or the other regarding the variance.

G. Bailey stated: I'd like to close public comment.

T. Hardekopf stated that she closed public comment. Do I have a motion by any of our board?

P. Thibodeau stated he loved the concept of the whole plan. The daycare the the 55 and older, the older community being served. But the density for this 13 acre parcel is too much. It's a huge ask. He addressed the applicant by stating they are asking for 25 additional units and the additional beds that you're asking for is four times the density. It's just too much of an ask for this 13 acre parcel and he stated he is in agreement with a lot of the comments about the congestion on the Mallego Road in particular and coming out on the Route 9. He further went to discuss he knows that's the planning, board's job. But if we allow the variance tonight, then the planning board has to deal with that. With the flow of traffic, that is going to totally change the the whole the whole character of 1-25, Route 9, and Mallego Road. He stated with this many units, and the units that are proposed across the street and the units that just went down on Route 9, the density is too much of an ask. He stated if the project was smaller, I could support it.

T. Hardekopf addressed P. Thibodeau you have a motion Mr. Thibodeau?

P. Thibodeau I have a motion that we deny the application as proposed.

T. Hardekopf addressed the board Do I have a first or second?

G. Bailey stated to not make a negative motion.

T. Hardekopf stated if you are to decline the variance, you need to state your reasons for decline in the Variance.

T. Hardekopf asked the board: “Do I have a second?”

G. Bailey seconded it. He gave reasons for denial, the reasons are in the hardship, the density and also the other one there is public interest. He stated the public interest is a concern as it is going to change the appearance on that section of Barrington.

T. Hardekopf asked P. Thibodeau to give the reasons for his motion.

V. Price clarified in stating why for the motion about one of the five criteria?

P. Thibodeau stated that George just did it for me.

T. Hardekopf asked P. Thibodeau if he had another issue.

P. Thibodeau stated he an issue with the density and with the traffic.

T. Hardekopf stated a reason based on the qualifications might be that the land is able to be utilized in another capacity so that it does not meet the requirement of a hardship.

J. Huckins stated based on the five criteria, you have to base it on the criteria.

P. Thibodeau asked G. Bailey to say it.

G. Bailey stated he gave his comments. No hardship and the public interest and it’s going to change the area. Granting the variance would be contrary of the public interest.

*A motion was made by P. Thibodeau and seconded by G. Bailey to deny the application as proposed. The reasons that no hardship and contrary to the public interest.*

*Vote 1/4*

Roll Call:

P. Thibodeau-Aye

A. Laprade-Nay

C. Huckins-Aye

G. Bailey-Aye

T. Hardekopf-Aye

## **6. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD**

None

## **7. ADJOURN**

A. Adjourn the Zoning Board of Adjustment (ZBA) Meeting. Next ZBA meeting date is January 18, 2023, at 7:00 P.M.

*A motion was made by G. Bailey and seconded by C. Huckins adjourn the meeting at 9:56 p.m.*