

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – May 4, 2020

CALL TO ORDER:

This meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:12 p.m. by Vice Chair Adam Mulhearn. The meeting was held via Zoom software for electronic conferencing due to the COVID-19 health emergency in the State of New Hampshire. Emergency meeting pursuant to Executive Order 2020-04, Section 8 and Emergency Order #12, Section 3. Members present: Mulhearn, Anne Karasinski, Bryan Rudgers, Alternate Eric Kallio, Alternate Bob Mitchell, Alternate Ruth Snyder, Recording Secretary Beverly Bernard and Director of Planning and Economic Development Matthew Bachler. Bernard called the roll and Mulhearn read aloud the agenda for the meeting. Keith Thibault was recused from the meeting and Bill Hutwelker was recused. Seated for Thibault was Kallio and seated for Hutwelker was Mitchell. Also present was Attorney Michael Courtney representing the Town of Swanzey. Bernard read the Agenda and called the roll.

Roll call for the meeting:

Keith Thibault – not in attendance
Ann Karasinski – present and alone in a room at home
Bill Hutwelker – not in attendance
Bryan Rudgers – present and alone in a room at home
Adam Mulhearn – present and alone in a room at home
Alternate Eric Kallio – present and alone in a room at home
Alternate Bob Mitchell – present and alone in a room at home
Alternate Ruth Snyder – present and alone in a room at home

PUBLIC ACCESS: The public access to the meeting online via www.zoom.us, using the Zoom App on a cell phone or tablet or laptop, or using a landline by calling (929) 205-6099 and entering Meeting ID number 894 4040 1212. Bachler noted that if there is difficulty accessing the meeting, please call (603) 352-7411 ext. 108 which was being monitored.

INTRODUCTORY INFORMATION IN REGARD TO PUBLIC COMMENTARY AND QUESTIONS:

Bachler noted the number of emails received by the Town from the public. During the public hearing section, Bachler said the attendees will be unmuted in order to speak. He noted that those who wish to speak need to click on the blue hand “raise hand” icon to speak. The software date stamps Q&A and the raising of hands to be acknowledged and therefore speakers will be called upon in order of raising hand. At this point there were 59 attendees. Bachler also said there is a Q & A function where questions can be typed in. Staff will read aloud the questions or comments. He asked those in attendance to please provide name and address before commenting. Bachler asked the attendees not to use Chat function this night and use the Q&A function so that all comments will be in same place. The Vice Chair will announce when the public hearing is open and when it is coming to a close. Bachler said he and Branley will be hosting the meeting.

Mulhearn said the ZBA will do its best to have everyone who wishes to speak heard. Bernard read the Agenda.

Kallio **moved** to accept meeting Minutes of April 20, 2020 and there was a second by Karasinski with no further comment. All were in favor. **Motion passed by roll call.**

At this point it was noted that one person could not access the meeting by phone. Point of order by Rudgers on whether phone number was provided to the resident. Bachler said he had been aware of the issue and had provided instructions to the resident and the resident now has access.

Rudgers said he requested that testimony be continued for unanswered questions from the previous meeting. Mulhearn said phone testimony by "Raise Hand" and by Q&A on Zoom will be acknowledged. Bachler said he has a copy of the remaining questions from the Q&A feature provided at the April 20 meeting. He said he also has additional comments provided to the Board in the packet. Bachler put the questions from the Q&A feature on the Shared Screen function provided by Zoom.

PUBLIC HEARINGS - Public Hearing continued from April 20, 2020 and re-opened at 7:20 p.m.

Special Exception Application

Avanru Development Group, LTD requests to grant a Special Exception for a 76-unit multi-family dwelling on property located at 115 Old Homestead Highway, pursuant to Section V, Article B.2.b of the Zoning Ordinance, shown at Tax Map 37, Lot 7 in the Business District. This hearing was continued from April 20, 2020 due to the State and Federal emergency declarations related to COVID-19 health emergency.

Others Present:

Jack Franks representing Avanru Development Group, LTD, J.P. Harris, Esq. Attorney with Sheehan Phinney Bass & Green representing Avanru Development Group, Ltd., Attorney Michael Courtney representing the Town of Swanzey, Town Administrator Michael Branley

Members of the public with email comments or who were in attendance at the meeting or otherwise provided input to the Town for this meeting on the application: Ralph Randall, Rachel Elkins, Mary Verner, Ginnette Groome, Barbara Sheehan, Ann Heffernon, Katherine Snow, Sheila Heffernon, Joely Fanning, Bruno Kosheleff, Michael Ryan, Bill Hattendorf.

Q&A Emails

Bachler displayed the Q&A questions from April 20, 2020 meeting using Screen Share on Zoom. Bachler read aloud the comment from Michael Ryan of 14 Houghton Point. Ryan referred to traffic and not agreeing that traffic would not be minimal. He asked that the ZBA consider this a nuisance and a hazard. Franks was asked if he would respond and there initially was a problem with his audio such that he could not be heard. Mulhearn asked participants to be patient while the applicant tried to correct his audio. Franks audio was turned on and he responded noting the New Hampshire Department of Transportation (NH DOT) did not require a traffic study. He said Southwest Region Planning Commission (SWRPC) also weighed in stating that it was their estimation that 10-12 people would be leaving the facility during peak hours.

Bachler referred to Ralph Randall from Kingdom Hall who asked for plans and which Bachler responded that he had provided these to Mr. Randall. He read a Q&A from an anonymous attendee about utilizing only one acre. Franks said the requirement for the parking takes all the space. He said there will be

ample vegetation on the property and the site review will have to go to the Planning Board and they will have requirements to satisfy.

Bachler said some of the comments in the Q&A may have already been addressed and some of them were to thank the Board. From Joely Fanning -Bachler said she was able to speak on April 20th. Bachler said the next comment from Sheila that the building is not within the rural character of the neighborhood.

Comment from Katherine Snow – Bachler read her comment aloud regarding Wilson Pond and the impact on the pond with shoreline protection, drain-off, and increased public use. Franks said the building is away from the Shoreland Protection area and the drainage will run to the west and away from Wilson Pond. Snow also referred to public access to the pond and Franks said he was at the pond with his son fishing recently and the pond is a public waterway and available to everyone. He said it would be discussed at the Planning Board.

Bachler said an anonymous person wrote about reducing home values and that the building will be an eyesore to the local residents. Franks said he appreciates the concern, he said they submitted an appraisal form a local appraiser and it states that home values will not be impacted negatively. He said a new modern facility is likely to improve the values of nearby homes. He said residents should read through the materials provided on this subject.

Bachler read another comment from Sheila in regard to something that fits the ethos of the neighborhood, the safety on Route 32 and the impact on value of homes in the neighborhood. Franks said he hopes that folks will review the materials provided that state the homes will not be impacted negatively. He said professionals were hired to do the appraisals.

The last comment was from Katherine Snow about the applicant amending his application and her desire to be informed ahead of time if there is a change. Mulhearn said there is limitation to the Zoom format and doing their best to hear from all who wish to comment.

Raised Hand Speakers

Bachler reminded participants of how to make it known that you wish to speak. Branley will unmute folks in order that they ask to comment. Bachler said emails from residents have been provided to the Board, even some which came in today. Bachler said he noted if there is someone who is not able to speak, he will read their comments aloud at the end. Mulhearn asked if the Board members read the emails and they agreed they had.

Bill Hattendorf of 7 Pitcher Point thanked the Board for making do under the current circumstances. He said he got together with neighbors and photos were taken with balloons as to the height of the building. The balloon photos were shown by Bachler using Shared Screen. The photo showed the balloons as depicting the size of the proposed building versus a neighborhood house. 3-D drawing was shown to compare to perspective to neighboring homes. Hattendorf said the building showed as being quite jarring as compared to existing buildings. He said is it not an appropriate location for this size building and it is out of scale for the neighborhood, trading green for almost all building and pavement. He said as someone who walks the area and travels in the immediate neighborhood this project would add a serious hazard. He said he believes that the value of his home would go down in value. He

provided definitions for words used in the criteria the Board will consider: Injurious = detrimental. This would bring in more people, more vehicles, more noise, and more trash and would certainly be injurious to the neighbors. He said this project is obnoxious and offensive and defined these words. He said that the neighbors feel that this project is offensive to them. He said this is a big box monstrosity that will change the character of the neighborhood. He said this project is an abomination. He said he loves the neighborhood and hopes the Board will do the right thing and reject this application. Franks said he appreciates the time and effort put into the drawings. He noted there are large trees between the project property and the Jehovah Witness property. He referred to setting the building quite far back. He said a 4-story could be built there or a hotel there and would not need a Special Exception. He said that in the Village District there is municipal infrastructure which is designed for higher density and commercial use. It has the power and the sewers that are needed. He noted that the number of units in the project was reduced by 25% to accommodate concerns. He said this height is permitted in this zone and it is a zone that is designed for higher density. He also referred to traffic there and the developer relied on data provided to him. The building will be 125 feet from the highway.

Shelia Heffernon said the drawings were done with the plans provided by Franks. She contended that the NH DOT report did not really spend the time to understand the traffic in the area. She said people who are 62 and older are still working and travelling by car. Franks encouraged the folks to read the materials provided and reference to NH DOT.

Bruno Kosheleff thanked Bachler for his letter. He said he had not been able to participate in the prior meeting. He read a portion of his letter aloud. The section read: size of proposed structure to be out of sync with the neighborhood which is at most 2 stories. He said he feared that lower value of homes and noted traffic and all-night lighting for the building. Size of structure violates the sense of balance. Currently the land is an open field. He said he sought out a 4-story structure – 4 story building recently erected in Keene, NH and looking it that large a building does not belong in a single-family neighborhood, it doesn't fit. He said there will be increase in motor vehicle traffic, and referred to someone who said, "old people don't drive" , and he said he is almost 78 and he drives on Route 32 from three to five times a day. He said everyone visiting the Keene Senior Center drives themselves. He urged the Board to consider the project as inappropriate for this location. He said professional appraisers can be shopped for and there is a lot of opinion in there and there are many ways to interpret data. He thanked the Board on the work being done on this. Franks said NH DOT regularly measures traffic on Route 32 and with regard to the building in Keene, that building is right on the sidewalk and not back from the road. He said there will be ample vegetation installed around the building being proposed. He said the building will comply with whatever the Planning Board requires as well. He said the Master Plan also includes the Village Business Districts and the Master Plan recognizes there are industrial districts and wish to capitalize on the infrastructure in place. Franks said the spot was chosen because it is in the business zone and has the water, power and sewer and were careful to meet the criteria of the Master Plan which states this district is meant for higher density. He appreciated Mr. Kosheleff coming out and expressing his opinion.

Joely Fanning spoke next. She lives at 2 Pitcher Point. She noted 300 residents petition was ignored. She said that all those who signed it felt this was not the right place for this kind of project. She said in regard to 2-8 year wait for affordable housing which was spoken to about by Franks she has other data. She provided a copy of the Keene Sentinel newspaper which showed advertising for three senior facilities with available housing. She said there is no waiting list for these. She contends that senior

housing exists and is available without a prolonged wait. She spoke about transportation – about these folks do not drive. She said that the new generation of aging drivers are healthy and maintaining their driving. These folks do not drive less. She said the applicant downplayed how often the elderly uses the ambulance service. She referenced data from Wilton, NH where people 60+ represent 42% of total ambulance calls. She said the data submitted by Avanru was for 55+ folks. Fanning referred to Franks asking folks to read the materials provided by him and she said the data is outdated and relative to cities. She said it is an opinion that his appraisal offered. And she said her opinion is that she does not agree with his appraisal. Franks said the majority of senior facilities have 2-8 year waiting list. He referred Fanning to SWRPC website and the need for affordable housing. He said Cheshire County has a less than 1% vacancy rate. NH needs 25,000 units to get caught up. He referred to NH DOT and SWRPC data and NH DOT is the authority in this area. He referred to the appraiser being a professional and referred to professional engineers and professional architects. He referred to data reviewed by professionals with unbiased approach.

Fanning added a comment about opinion of appraisal that the Board be reminded that the data was not from a rural community and not being up to date. She said a marketer said that markets change over time and the Monadnock region is different from rest of state. She said data from elsewhere should not be considered.

Branley asked Attorney Courtney to comment on the petition. Courtney said it is a one piece of evidence. A petition of 300 names doesn't get to specific points in the criteria and not material to what the Board considers.

Ginnette Groome of 6 Pitcher Point referred to future land use mentioned in the Master Plan. She said it refers to discouraging new residential use in existing industrial and business districts. She referred to the criteria questions. She said they speak to the value to the town's people and the impact on the town's future. They speak to the spirit of the neighborhood and the character of the town. The reference to the appropriateness of the location – she said that the neighborhood does not feel the project is appropriate. The building would block the view and hills beyond. She said Injurious, obnoxious, and offensive speaks to the spirit of the town. They do not speak to the technical issues. She noted the design is all pavement. The intent is injurious to the human spirit and there is no effort made to blend into the character of the town. This would be injurious to the town's reputation. She continued recalling terms in the criteria: Obnoxious = extremely unpleasant. She said she believes it would be extremely unpleasant to the residents in the area. Offensive = causing hurt. The project creates upset and anger. The height is offensive, the block design is offensive, and the fact that they are trying to cram a large building on a small lot is offensive. She spoke about no place for residents to safely walk and there is very little green space for recreation. Outside the complex is not safe along Route 32. She referred to the risk for pedestrians walking on Route 32. There is no place to walk to get to the pond. Between Lake Street and Wilson Pond, many curb cuts, adding two in a short space would not be good. She referred to the Swanzey Open Space Committee brochure which stated that Swanzey grew twice as fast as the region as a whole, and that given that growth the town has been paying less attention to preserving and protecting the land. She referred to NH Realtor magazine which Avanru provided. She referred to the last paragraph – solutions need to arrive locally. Housing defines a community's identity. She said she was a judge of a competitive sport – what you choose to award will be perpetuated. She asked the town to preserve the rural character. Franks expressed appreciation for Groome's comments. He noted that the Town has already approved large residential complexes. He referred to the article about local

involvement in solutions. He said everyone wants growth somewhere else but “Not In My Back Yard”. He said those people are our friends and neighbors. He said he was verbally abused by folks in Walpole who did not want his building but that now that the building is done, the people who insulted him are now aware of the need for housing. He said people need affordable housing. He noted an individual who is paying \$1650 a month for a two-bedroom apartment which does not include heat. He said the article is clear about the local need for real people. Groome said she found these comments offensive. She said the neighbors are not opposed to helping people. She said we are offended by the scale of the project and why not build 20 or 30 units instead. She said the proposed project does not fit this town and community.

Mulhearn said that they are trying to get through all the questions and comments and would now return to the Q&A comments and questions.

Q&A Questions and Comments

Scalera asked: will the property manager be on site and live in one of the units? And this person added please explain the tax credits and has the Town of Swanzezy negotiated real estate credits. Has the town considered doing their own studies as opposed to relying on ones done by the builder? Franks said it is unlikely that the property manager will live there. He noted there will be security cameras. Bachler said the Town is not in any way involved with real estate credits for this project. Franks noted tax credits from the Federal government for certain number of units. Franks said he has investors coupled with a bond. He will be investing his own money \$750,000 is about the amount. He is putting his money where his mouth is. He will be involved in the day-to-day management of this property. And will do above and beyond the norm. Bachler responded on studies by the Town saying it is up to the discretion of the ZBA or Planning Board to have studies done by a 3rd party expert. That is something that is available to the Boards.

Ann Heffernon commented about the appraisal comparing to places out of state and none of that was local.

Sheila Heffernon said they residents have read Mr. Franks materials.

Joely Fanning stated Swanzezy already has a high percentage of affordable housing, much higher percentage compared to Keene. She noted a list was put together by resident Nancy Carlson and Bachler said that list was provided in the packet to the Board.

Comment from Michael Ryan about a change in age restriction in Walpole project because they were unable to fill the occupancy and therefore lowered the age.

Mulhearn said the comments are not posed as questions and doing our best to answer questions when they are posted.

Bachler read a story from Michael Ryan about a reduction in value of local homes where he grew up because of a project in the late 1970's that went bankrupt. Franks said his projects are monitored for financial stability. He referred to projects following HUD guidelines and the project has to remain as the initial project for an age restricted facility for 50 years. He acknowledged that no one has stated being in favor of this project but Swanzezy has 7300 folks and not all folks are participating in this hearing.

Bachler said Fanning asked what Jacks will get from Southwest Planning Community. Franks said the Walpole NH projects were \$5,000,000 each. He explained he put in \$325,000 into the project and there was \$3,000,000 + in private funds. These are outside investors who obtain tax credits for their companies. He said Federal government doesn't bring much money to the table. It is mostly private money.

Rudgers noted the time was getting close to 9 pm which was a normal time to end business for the ZBA and made a **motion** to continue the Hearing and reevaluate at 9:30 pm. There was a second by Mitchell. Mulhearn said at 9 pm there will be a five-minute recess. All were in favor by roll call. **Motion passed.**

Barbara Sheehan 21 Waters Edge asked if the project has obtained FAA approval of the project. Franks said they have not yet done so. They wanted to wait until decision of ZBA and Bachler said that could be a condition of approval for the project. Bachler noted there were no further comments or questions in the Q&A.

Rudgers **moved** to take the five-minute break now, second by Mitchell, there was no further discussion and all in favor by roll call. **Motion passed.** Break was taken at 8:59 pm.

Public hearing reopened at 9:04 pm

Mulhearn asked for additional questions or Hands Raised. Bachler said there are two additional comments. Fanning noted that the number of people attending this call and it is offensive that Mr. Franks is discounting that we are only 100 people. Franks said he is taking seriously the comments made. He said he referred to the idea that there is no one in support of the project. He said he is only trying to point out there are a 7,200 people who are not present to speak about their opinion on the project.

Ann Heffernon asked why if the residents think the project is a nuisance, the petition does not support this? Attorney Courtney said that the numbers of folks who are opposed to the project is not pertinent to the criteria before the ZBA.

Groome asked whether FAA approval was required. Bachler said this project would require approval from the FAA, but it would be appropriate for the Board to place that as a condition of approval. As to age 62+ age restriction, this could also be made a condition for approval of the project. Courtney said the Planning Board can also make those conditions as an approval of the project.

Fanning commented that about 300 who signed the petition also interested in the project.

Mulhearn asked if anyone has anything further. Then he asked if the Board has questions. Rudgers said nothing can be made a condition at this point. That only occurs when the Board votes on the project. Rudgers said he lives adjacent to this neighborhood and he notes that Swanzey has no say on State roads. He noted no sidewalks in this area. That is problem with Route 32. He said not the same problem as Route 10, it has more businesses and it is wider. Route 12 is also mostly without sidewalks and is also more business oriented. He said Route 32 is a highway running through a residential area and that is unfortunate. Rudgers said the developer must get FAA approval. He asked the developer about the

house that exists now, will that be torn down. Franks said the house will be removed from the site. Rudgers said the Board doesn't get the choice of whether we like a project or not. Only the Board can do is answer the criteria. He said many of the comments made by residents are more appropriate to the Planning Board than the ZBA.

Mulhearn asked for other comments. Kallio asked the developer about the color of the building. Franks said the building is more likely than not going to rely on the Planning Board to make adjustments to what they feel would be appropriate. Neutral in color. Project in Walpole is white and red. They are going to rely on Planning Board to give guidance. He said tan and green or white come to mind.

Karasinski asked the developer about the notes someone asked about fire department 20-foot lanes for both north and south sides. Approval for south side being only 16 feet – is that correct? She said there had to be two-way vehicle traffic on both sides. Franks said he met with the Swanzey Fire Chief and north side will be a 20-foot lane. He said they will go back to the Fire Department for Planning Board presentation and they will have everything they want. Mulhearn asked if the ZBA had anything further from Fire Dept. Bachler said he spoke to Captain Eric Matson and he was ok with the 16-foot lane on the south side of the property. Bachler added that the site plan review application would heavily involve the Fire Department and looking at those travel lanes to meet the Fire Dept. need.

Mulhearn asked Snyder if she had questions even if she is not seated. He encouraged comments from Alternates who are not voting. Bachler said Snyder said her questions have been answered.

Fanning asked if there was comment from another resident – Mary Verner provided comments were emailed to the ZBA today. The members agreed that they had received the letter. Bachler showed her email by Screen Share and acknowledged that the Board has read her email. Mulhearn said he has read her comments and the others agreed.

Bruno Kosheleff was acknowledged. Bruno provided a story about George Bush's presidency and a decision he made. He made a decision based on "the people didn't want us there." Kosheleff said the people here do not want this development.

Mulhearn said he appreciated everyone using the technology and believed that everyone had an opportunity to speak and closed the public hearing.

Branley asked whether Bachler had information about anyone not being able to access the meeting. Bachler said he has been monitoring the phone and he did not hear from anyone other than Mr. Ryan who was able to connect in at the beginning of the meeting.

Franks said his Attorney had a summation to present and would that be done under Public Hearing.

Applicant Summation by Attorney Harris

Franks said his attorney has a summation to make. Attorney JP Harris spoke. He thanked the Board for their consideration and navigating the new technology. He asked the Board to imagine building a 4-story hotel, which would be almost identical to this project that would go ahead without needing a Special Exception. He said the criticism of citizens is really speaking about the district zoning, which is for business use. The ZBA has to be objective and aesthetic appeal is subjective. He said the number of

people involved in opposition is irrelevant. Traffic was spoken of. He said a warehouse with several shifts would have significant impact on traffic, but that project would go forward. A Business District is not inconsistent with rural character of a town. Included in a rural area is Business District which allows for high density. Business District is to discourage single-family housing and what is appropriate is multi-family residents. Harris then reviewed the criteria and asked the Board to consider the usages that would be appropriate like hotel or warehouses. In regard to the opinion that the project would reduce property value Harris said appraisal is professional and not anecdotal. He noted that “Injurious”, “Obnoxious”, are legal terms that refer to substances like odors. Nuisance is a legal concept – whether it causes harm and not inconvenience. Objective data has been submitted by the applicant. Harris said there is public water and sewer. He asked for approval of the application.

Bachler pointed out the time at being 9:38 pm and re-evaluation of time was in order. There was a brief discussion about all having been heard and many comments from both residents and applicant had been repetitive.

Kallio **moved** to end public hearing at 9:45 pm and continue meeting to 10 pm. There was a second by Mitchell. All in favor by roll call. **Motion passed.**

Mulhearn asked for new information since everyone has been heard. Fanning said a hotel has nothing to do with this. She said they know that it is a Business District. Traffic is concern of residents. She thanked the Board.

Mitchell **moved** to close the public hearing. There was a second by Rudgers and all were in favor by roll call. **Motion passed.**

Public Hearing closed at 9:45 pm

Mulhearn asked the Board for comments – Rudgers said he is struggling with the safety issues involved and would like to hear again the difference between a Variance and a Special Exception. Mulhearn asked Bachler to review the difference between a Variance and a Special Exception and Bachler stated districts have uses which are permitted, for example hotels are permitted in the Business District. Special Exceptions are allowed in a district but criteria need to be met to be approved by the Board. And he reviewed the criteria aloud. Mulhearn said he appreciated Rudgers asking to re-emphasize that point.

Mitchell said he was ready for the questions, Karasinski, Kallio, and Rudgers agreed.

The Chair reviewed the **Checklist for Granting a Special Exception** with the members of the Board:
Is the exception allowed by the ordinance? **Members said: Rudgers, yes; Mitchell, yes; Kallio, yes; Karasinski yes; Mulhearn yes**
Five yes

Are the specified conditions present under which the exception may be granted?

a. *Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?* **Members said: Mitchell addressed the applicant’s statement that this project would be similar to one or more uses already in place and noted the applicant**

mentioned Haley Heights and Colonial Village. He said he would vote on this section based on whether the housing noted by the applicant was similar or dissimilar to the proposed project, and when he compared the proposed project to Colonial Village, he noted that they are not similar based on density and setbacks and utilization of the land. He voted no; Karasinski said Mitchell had summarized what she had to say. She said Haley Heights is in the trees and did not see any similarities in that regard, in terms of the presence of the project, she voted no; Rudgers said that the project is similar in that is already authorized in the district but he does not feel that it is an appropriate location and therefore voted no. Kallio voted yes noting the project is similar to other locations in town; Mulhearn said that as the project pertains to similar use his vote is no.

4 votes no, 1 yes

b. *Will such approval reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood?* **Members said:** Kallio said he didn't see any evidence to reduce property values, noted no; Rudgers said the only evidence is from the applicant and that evidence did not show a reduction so he votes no; Mitchell said the proposed use would be offensive to the neighborhood – causing displeasure and resentment, voted yes; Karasinski said the project and location and the community in which it would reside, would find it to be offensive, she cannot speak to property values and she can't speak to injury, she added that given what types of homes that are there, she voted yes; Mulhearn with respect to reducing property values, applicant says no effect and he accepted that but as to related to offense to the neighborhood, he voted yes.

3 yes, 2 no

c. *Will there be a nuisance or serious hazard to vehicles or pedestrians?* **Members said:** Karasinski said given the traffic in the area and people in the vicinity, she does believe there would be hazard to the people in the area despite what the NHDOT has said and their data appears to be rather old, she voted yes; Mitchell voted no. He said he is aware of the traffic, but that is unrelated; Kallio acknowledged that it is a busy road but study presented from the NH DOT, he voted no; Rudgers said it is already a dangerous area and voted yes; Mulhearn said based on testimony from NH DOT and it is a state road, he voted no.

3 no, 2 yes

d. *Will adequate and appropriate facilities be provided for the proper operation of the proposed use?* **Members said:** Karasinski said yes needs FAA approval and Fire Dept, but voted yes because those are further down the road. Mitchell said yes; Kallio said yes; Rudgers said yes; Mulhearn said yes.

5 yes votes

The Vice Chair entertained a motion to deny the request for a Special Exception to Section V, Article B.2.b of the Zoning Ordinance based on the responses to the checklist for granting a Special Exception.

Rudgers **moved** to deny the request of Avanru Development Group, LTD for a Special Exception for multi-family dwellings, pursuant to Section V, Article B.2.b of the Zoning Ordinance and shown at Tax Map 37, Lot 7 in the Business District. Mitchell seconded the motion and there

was no further discussion. All were in favor by roll call except Kallio who voted "No" at roll call.
Motion passed 4 in favor, 1 opposed.

Mulhearn thanked everyone for their participation in the process and Attorney Courtney noted that the applicant has 30 days to appeal the denial.

ADJOURNMENT

Motion to adjourn was made by Rudgers, seconded by Mitchell and all were in favor by roll call. **Motion passed.** Adjournment occurred at 10:17 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary