



Village of Manchester, Vermont

Minutes of the Regular Meeting of the Development Review Board Held June 01, 2022 at 10:00am

Members Present: Chair Craig Powers, Tom Deck, Donald Brodie, Jack Morris, Gordon McClellan, Dana McCloskey, Renee Waller

Member(s) Absent:

Others Present: Zoning Administrative Officer Curan VanDerWielen, President of the Board of Trustees Orland Campbell, Trustee Nina Mooney, DAC Chair Terry Findeisen Margaret Pritchard, Owen Pritchard, Andrew Schmid, Jay Sheldon, Elizabeth Boepple, David Mooney, Sue Flanagan, Dan Flanagan, Andrea Sheldon, Joanne Van Heusen, Melinda Mull, Pete Mull, Rahel Aifley Berry, Andris Berry, Ellen Ogden

The meeting was held both in person at the old Bennington County Court House and via Zoom.

Chair Craig Powers called the meeting to order at 10:00am.

Minutes:

Approve the draft minutes of the May 04, 2022, meeting.

Approval of the draft minutes was deferred to the upcoming July 06, 2022 meeting.

Applications:

22-22 Margaret Pritchard, owner of 3738 Main Street. The permit application regarded an alteration to the rear structure consisting of the replacement of several windows, part of a wider exterior renovation process for which re-siding had already been permitted several weeks prior. The permit had already been recommended by the DAC during the week prior.

Chair Powers introduced the permit application and then yielded the floor to Pritchard so she could commence her presentation. Pritchard began by providing an overview of the property, indicating that there were two buildings on site. The rear building was the subject of this permit, which was to be re-sided and have several windows replaced as to bring it better in line with the design characteristics of neighboring properties on Main Street. Pritchard then indicated that this was the end of her presentation.

Chair Powers asked whether any images other than those displayed were available of the existing structure, or planned changes. Curan VanDerWielen stated that those displayed were all he had yet received from the applicant. At this point, Pritchard indicated she had more recent elevations, and handed copies out to various members of the Board.

Donald Brodie then asked if the windows were Marvin brand, to which Pritchard responded that they would be, depending on their availability due to supply-chain issues. Dana McCloskey then asked what the intended use of the rear structure was to be, to which Pritchard responded that she intended to use it as two residential units. McCloskey followed up, asking if these would serve as some kind of rental. Pritchard indicated that no, the building was to actually be sold after completion. McCloskey followed up again, asking if the intent was to operate the structure as a condominium. Pritchard responded that yes, once properly zoned as indicated in conversation with VanDerWielen the month prior.

Tom Deck then asked about any change in color to the rear structure, to which Pritchard indicated that a white siding with black clapboard color scheme was to be used, similar to that of the nearby Taconic Hotel. Deck followed up to ask if the existing white color of the building was available. Pritchard responded that she was unaware if the exact white or black was available, but that the new colors would match as close as possible based on availability. Chair Powers then asked if the black clapboard would match the color of the shingles, to which Pritchard responded that the intent was to repair and replace to the best of her ability, as closely as possible to what pre-existed. Chair Powers then asked about replaced material, to which Pritchard responded that most of the work, as indicated in her photos, was to consist of repairs. Chair Powers then asked if any structural changes were to be made, further asking if Pritchard could confirm that the same footprint was to remain as existing. Pritchard stated that no structural changes were being made, but that later in the project, a porch might be added, but would be filed as a separate permit at that point in time.

Chair Powers then commented that the Design Advisory Committee (DAC) had supported the application, then asking Pritchard if she had any further remarks. Pritchard added that the rear structure may, in the future, be expanded slightly to better match the existing front building. Powers then asked if the replacement clapboard was to be of a different style than of present. Pritchard stated that the clapboard would replace the existing style of clapboard already on the structure. McCloskey then asked what the purpose of the front building was to be. Pritchard indicated that the existing front structure consisted of two additional units, which she did not intend on using. McCloskey asked about the available parking on site, to which VanDerWielen commented that the property may not meet existing parking density requirements for that district if used for two separate residences. Chair Powers commented that it was a large lot which could potentially accommodate those parking needs. Renee Waller then asked if the rear structure was to be used for two residential units. Waller was attending via Zoom and could not hear Pritchard, so VanDerWielen answered that two residential units was indeed the intended use, and that questions on density or parking density were to be resolved as the project moved along.

Chair Powers then opened the floor to public comment. Orland Campbell asked whether the permit covered just the window replacement or a change of use. Chair Powers

indicated that the permit application dealt exclusively with the window replacement. Campbell followed up, asking if a separate application had been filed for the re-siding. Pritchard responded that yes, a separate permit had been obtained. Campbell commented that he would like to see sketches of the planned changes. VanDerWielen clarified that the DAC had requested additional sketches, but he had yet to receive them from the applicant.

There being no further questions, Deck motioned to approve the permit application. Jack Morris seconded the motion. The DRB then approved the permit application, unanimously. Chair Powers then informed Pritchard that VanDerWielen would be in touch with further steps or clarifications.

22-24 Andrew Schmid, owner of 3962 Main Street. The permit application regarded the installation of a handicap ramp attached the front of the existing main structure. The permit application had already been recommended by the DAC during the week prior.

Chair Powers introduced the permit application and then yielded the floor to Schmid so he could commence his presentation. Schmid began by describing the need for a handicap ramp for patients attending his dentistry practice, indicating that he had already participated in extensive conversations with Chair of the DAC Terry Findeisen to make sure the ramp met certain design and safety criteria. Schmid indicated that the ramp would consist of an “L” shape wrapped around the building, for which the first section would measure 10 feet, with a 1 inch elevation per foot, as indicated in ADA compliance manuals. A railing would be installed to match the existing front porch railing, and the ramp itself would be fabricated out of pressure-treated wood and coated with an anti-slip material. A mix of pre-existing and new hedges were to screen the ramp from the street.

Chair Powers asked to see an image of the existing front of the structure, which VanDerWielen displayed. Chair Powers then asked how far from the sidewalk the ramp would be. Schmid answered that the ramp was shaped as a “dogleg” or as an “L”. Chair Powers asked if it would extend off from the front of the structure, which Schmid confirmed it would. Chair Powers then followed up, asking if railings were to extend along the entire ramp. Schmid answered that yes, they would.

Deck asked Schmid if the marble walkway shown on the sketches provided already existed. Schmid answered that they were pre-existing. Deck then commented on the “L” shape of the ramp. Schmid then stated that no additional lighting nor ingress/egress was to be added as part of the project. Deck then asked about the timeline for construction, to which Schmid answered that he was just waiting on the pressure-treated wood availability in order to begin, following the potential issuance of the permit. Deck then asked if any additional sketches were available. VanDerWielen responded that no additional sketches had been received by his office. McCloskey then asked Schmid if the ramp was to be painted white. Schmid answered that yes, it would be painted white.

There being no further questions, McCloskey moved to approve the permit application. Gordon McClellan seconded the motion. The DRB then approved the permit application, unanimously.

- 22-33** Elizabeth Boepple and Jay Sheldon for CWI Manchester Hotel LLC, owner of 27 Dillingham Avenue. The permit application regarded a change of use from that of an educational dormitory to an employee dormitory for employees of the Equinox Resort. Attached to the permit application was a request for a variance to be granted for the property, to that end.

Chair Powers introduced the permit application before yielding the floor to Sheldon to begin his presentation. Sheldon first introduced himself as the General Manager of the Equinox Resort before yielding the floor to Boepple. Boepple began her presentation by stating that CWI Manchester Hotel LLC was seeking a variance for use at 27 Dillingham Avenue, before describing the history of the Equinox Resort's need for additional employee housing. Boepple began by describing the difficulty of the Resort in finding adequate staff for its daily operations, referencing a struggle to provide sufficient housing for potential employees as conditioning this difficulty. Boepple went on to state that the Resort had historically sponsored a cohort of J-1 Visa seasonal student-workers from abroad to supplement its staffing shortages, and referenced the use of another property at 43 Williams Street as employee housing to that effect. The property at 43 Williams Street and 27 Dillingham Avenue had been "swapped" between Burr and Burton Academy (BBA) and the Resort, in an effort to better arrange for both of their needs, the latter wishing to bring their off-campus student dormitory closer to the campus itself. This "swap" had been understood by both parties to be mutually beneficial. Boepple went on to describe that the historic use of 43 Williams Street as an employee dormitory as never having needed a variance, and never having been issued one by the Village. Boepple went on to state that she had not reviewed the Village zoning bylaws before arranging the "swap", as she had assumed that insofar as the Resort was maintaining a similar use to that of the Academy, that there would be no issue in their using 27 Dillingham Avenue as employee housing. Boepple then stated that this had been an incorrect assumption, and put forward that using 27 Dillingham Avenue as an employee dormitory was a reasonable use and would be good for the Equinox Resort. Boepple then stated that Sheldon was present to address any concerns regarding the use, but that it was her belief that the Resort had always been an excellent contributor to the community. Boepple then yielded the floor to Sheldon, to continue the presentation.

Sheldon began by describing the Equinox Resort's 250 year history of community contributions, including hosting blood banks, vaccination drives, lending golf carts for activities or events, and contributing 60-80,000 USD to the Equinox Preservation Trust. In all, Sheldon described the Equinox Resort as a good neighbor within the community. Sheldon then addressed several known concerns of the use of 27 Dillingham Avenue as

employee housing. He noted that Equinox Resort security was patrolling the street, that noise was to be kept to a minimum, and reiterated that the Resort sought to be a good neighbor. At this point, Sheldon signaled the end of the presentation.

Waller then commented that she knew of several emails from neighbors, who were not happy about the Resort's use of the property and stated that Sheldon needed to address those concerns. Chair Powers then stated that the Board would get to public concerns after the Board had finished its question-and-answer period. Brodie stated he wished to defer his questions until the end of the period. Morris then asked VanDerWielen to describe the historic use of 43 Williams Street. VanDerWielen stated that he had reviewed the Village archival records and had not yet found any meeting minutes nor permitting which indicated that the Village had permitted the use of 43 Williams Street as employee housing. VanDerWielen went on to state that it might be possible that he had missed something in his search, so he had requested details on such permitting from the applicants and had yet to receive anything from them. VanDerWielen added that no enforcement action was appropriate at present due to the longstanding nature of the previous use at 43 Williams Street, but that any future use on any new property—such as at 27 Dillingham—required a waiver or variance from the Board. Deck then asked VanDerWielen to describe what uses were permitted in the Village Residential zone, of which 27 Dillingham Avenue belonged. VanDerWielen explained that the Village Residential zone was largely allocated for residential development and use, adding that the majority of properties were zones for single or two-family dwelling use. VanDerWielen went on to describe the definition of family under the Village zoning bylaws, which included a group of persons related by civil union, blood, adoption, or other legal status and/or a group of five or less persons living as a housekeeping unit, which would require them to live akin to a traditional family or as roommates under a joint lease. VanDerWielen then stated that BBA's previous use of 27 Dillingham qualified as an educational dormitory and was permitted some time in 2004 as part of a change to the Village bylaw. He added that educational dormitories are regulated largely under the Vermont Department of Education, and that the property had fallen back in the lap of the municipality once the Academy had vacated it. VanDerWielen concluded that while some commercial and municipal uses were conditionally permitted in the zone—including educational dorms, golf clubs, farms, elder-care facilities, utilities structures, and others—none fit squarely the definition of employee housing or an employee dormitory, precluding the need for a variance.

Waller then commented that she did not understand how many people were to be living in the main structure at 27 Dillingham under the proposed use. Sheldon responded that twelve (12) to fourteen (14) people would live in the seven (7) bedroom house, two (2) people to a bedroom. He reiterated that the intent was to use the structure similarly to how the Academy had used it, prior to this point in time. Waller then asked if many neighbors were in attendance at the meeting, to which Chair Powers answered that many were in attendance. Waller stated that she wished to hear the opinions of the public, to

which Chair Powers responded that the floor would be open to the public after the Board had concluded its question-and-answer period.

McCloskey asked Sheldon to comment on the how the proposed use constituted a continued use from the 43 Williams Street property. Sheldon stated that the historic use included fourteen (14) individuals and would remain similar in the new property. McCloskey stated that it appeared the use would not change, therefore. Boepple confirmed, yes, it would be the same use. Boepple then asked Sheldon for how long it had been used, to which he responded for a number of years. Boepple then stated that the historical use of the structure at 43 Williams Street was relevant to the conversation about 27 Dillingham Avenue. McCloskey asked to clarify if the change was different between the historical use of 43 Williams Street and 27 Dillingham Avenue. Boepple indicated that no change would be made in transition across the two properties, adding that a manager would be on site to mitigate potential issues onsite. McClellan then asked why, if the new building is 100 yards down the street, did the Equinox need a house manager on site, if the use was not to change. Sheldon answered that 43 Williams Street was closed due to the COVID-19 pandemic and that the best way to make the use work was to have leadership onsite which could provide assistance to residents, set expectations, and enforce policy. Sheldon also commented that having a house manager onsite was always part of the Resort's planned use. McClellan followed up, stating that he understood that the use at 43 Williams had not ways abided by noise and traffic regulations, asking if these items were to be part of future enforcement by the Resort. Sheldon responded that the intention of the Resort has always been to be a good neighbor, and that as far as noise or traffic concerns were concerned, he had observed many letters and emails from neighbors to that effect. Sheldon then commented that he had contacted Mark Tashjian, Headmaster of Burr and Burton Academy, to ask if he had observed any unusual traffic or noise patterns, to which Tashjian had reportedly stated he had not. Tashjian had reportedly added that the Academy would have heard of any potential issue at 43 Williams Street. In any case, Sheldon stated, there would be leadership onsite to prevent any potential issues at 27 Dillingham.

Powers now asked Brodie if he had any questions, to which Brodie stated he wished to defer until after the public had been offered a chance for questions. Powers then made several comments, beginning by stating that he had not experienced any problems with the use of 43 Williams Street, that he was very familiar with both properties in question, and that the majority of the current use(s) of structures in the neighborhood consisted of single or two-family residences. Powers went on to state his belief that placing 14-16 individuals in between two single-family homes, in the middle of a residential area, was inappropriate. Powers added that neighbors would have to shoulder some of the burden of such an accommodation. Powers then stated that when applying for a variance, very specific language applied to whether an application qualified. Powers continued, stating that he had read the cover letter provided with the application and felt sympathetic to the needs of the hotel for adequate staffing, especially in the midst of a nationwide housing crisis. Powers then stated that he believed that the applicant had not met the first criteria

for qualifying for a variance, as the proof provided, he believed, was not requisite. Powers added that the Board would review the variance requirements in full after the discussion was over.

McClellan then stated that he did not understand why, if the use was to remain the same as that for 43 Williams Street and 27 Dillingham Street respectively—namely, that a large number of Burr and Burton students and Equinox Resort employees were to live at either property—then shouldn't they be treated the same? Powers responded that while technically the use was the same across the swap, schools were allowed to operate dormitories in the Village Residential zone but commercial entities were not. Powers added that Vermont handcuffed municipalities regarding educational facilities, due to their regulation superseding that of municipalities. McClellan then asked what would stop the hotel from building facilities on their own land. Powers responded that such a project would be vetted through the Zoning Office as any normal development project would. Deck added that the rules listed under the Zoning Bylaw would apply in such a case.

Campbell then stated that the Board needed to go over the variance criteria to allow the applicant to address each point, then arrange a detailed decision including specific bullet points. Powers then stated that he would read each criterion in step. Campbell commented that he could instead ask the applicant to prove their meeting each point. Boepple then stated that she believed this was correct, but that the only criterion which needed to be read were those which specifically applied to the project itself. Powers then stated that the Zoning Office had advised the Board that to grant a variance, an applicant needed to prove that the project met all criteria, and not a selected few. Powers then reiterated that all points needed to be met, and then read the first criterion. Powers commented that it appeared that the physical circumstances of the lot did not create an unnecessary hardship to qualify the project for a variance. Boepple then asked how the lot size could affect the use of the property. Powers then stated that Vermont statute requires each criteria to be met in order for the Board to grant a variance, and that the municipality was handcuffed by such requirements. Boepple then stated that she would let the Zoning Administrator advise the Board on the statutory requirements. Deck then commented that as it pertained to the use proposed in the cover letter, a variance would be necessary, and then asked Sheldon if there were any other reasonable use for the property. Sheldon responded that the same use as before for the hotel would be the intended use for the hotel. Deck then stated he believed that such a use might affect the character of the neighborhood. Sheldon then stated that the employee housing and occupants already existed and hadn't affected the character of the neighborhood. Sheldon added that he didn't understand that if there was a problem with this type of use, why it had not been enforced 10 years ago. Deck then commented that while he sympathized, it appeared the municipality was handcuffed to statute and bylaw.

At this point, Powers opened the meeting to public comments. Sue Flanagan was first to speak, stating that her home was the closest to 27 Dillingham, that she was not an

attorney or legal expert, and that she had lived in the neighborhood for the past 25 years and had always believed herself a good neighbor. Mrs. Flanagan then stated that she believed many inaccuracies had been stated by the applicant, first of which pertained to her belief that the previous use by BBA and the proposed use were not analogous. Mrs. Flanagan stated that she had welcomed international students hosted by BBA for over a decade, but that she believed that a business utilizing the structure was characteristically different than that of a school or a residence. Mrs. Flanagan continued, first claiming that the use should not be happening in a two-family dwelling, and that while she had always been upset about the prior use of 43 Williams Street, she had always assumed it had been permitted by the Village. Mrs. Flanagan then stated that she had already observed the hotel to have moved employees into the building before applying for a variance in a move, which she believed, had been set to avoid a public discussion on the matter and did not reflect good neighborly behavior. Mrs. Flanagan then reiterated that students and adult workers were not equivalent in their behavior nor use of the building, and that while the property swap had been a 'win-win' for BBA and the Equinox Resort, it had not been a win for neighbors. Dan Flanagan now spoke, stating that BBA had used to house 5-6 students in the building and that doubling that amount would be unsustainable. Mr. Flanagan added that while BBA had maintained well 27 Dillingham, Equinox Resort had let 43 Williams Street fall into disrepair. Dan continued, stating that he is an employee of BBA himself and that he believed BBA had always performed well on maintenance of their off-campus structures, while Equinox had not. Mr. Flanagan then too commented his belief that it had been inappropriate for the Equinox Resort to have moved in employees before applying or obtaining a variance.

Nina Mooney now spoke, stating that she lived across from both 43 Williams and 27 Dillingham, and that she believed 14 people were now living in 27 Dillingham before the Equinox Resort had obtained a variance and that it was not right that the Resort had moved forward in such a manner. Mrs. Mooney then added that she had not expected the Resort to have moved in unscreened individuals from abroad. Sheldon interrupted, stating this was untrue. Campbell too contested Mrs. Mooney's language. Mrs. Mooney then clarified that she had meant that they had not been screened by the municipality. David Mooney then claimed that the Village had not met its warning requirements to hold the meeting, specifically that a public hearing needed to be warned 15 days in advance, not the 7 days warned in actuality. VanDerWielen responded that while he would be happy to review the requirements again, in case of any irregularity, that he believed the Village had met its obligations under V.S.A. Title 24, Chapter 117 to warn such a meeting. VanDerWielen also stated that the meeting was not, to his knowledge, a public hearing but a regular meeting of the DRB.

Andris Berry now spoke, stating that no one had been notified by Equinox Resort before they had started to. Mr. Berry added that bears had begun roaming the neighborhood, knocking down trash bins at least twice the week past. Mr. Berry continued, stating that noise from both the building and from traffic had been inappropriate and that he wanted to see the building used for something covered under the existing zoning. Rahel Afiley

Berry then spoke, stating that while she did appreciate Sheldon's picking up trash on the property, that she continued to hear employees within the building nightly, that multiple cars were pulling in and out of the property frequently, and that individuals were spending evenings talking or listening to music loudly on the porch. Mrs. Berry then pointed out that while Ellen Ogden had called the Equinox Resort to solve the trash issue, she had been directed to multiple different managers for hours before someone had taken ownership of the issue. Mrs. Berry added that the pattern of near-constant traffic was concerning, and that the Equinox had continued to deny that individuals were living on-site despite having moved them in some two weeks prior.

Pete Mull thanked members of the public for being on top of the issue and attending the meeting. Mull then added that living in proximity to a dormitory of high school students was a different 'breed' than living next to a dormitory of workers. Specifically, lights were always turned on, and while he appreciated Equinox Resort being a good neighbor for many years, he wished for a better solution to be found. Mull also asked what Equinox Resort had used prior to their use of 43 Williams Street and suggested a possible revision to that previous arrangement. Ellen Ogden then spoke, stating that she believed Vermont law prohibited the placing of trash in an unlocked garbage bin, in reference to the recent issues of bears in the neighborhood. Ogden continued, stating that 43 Williams Street had never caught her attention due to its location at the end of a road, but that the new location was in the middle of the neighborhood and was an unacceptable location as surrounded by family households. Ogden then stated that the Equinox Resort had made empty promises of enforcing household regulations and that the new property at 27 Dillingham was likely to reflect the lack of maintenance displayed during their 20-year occupation of 43 Williams Street. Ogden then speculated that Equinox Resort had traded 43 Williams Street for 27 Dillingham Avenue to avoid paying to resolve maintenance issues at the former address. Ogden went on to ask what the state of 27 Dillingham Avenue would be after Sheldon had left the Resort as General Manager and what the property would look like 5, 10, or 15 years down the road. Ogden finally stated that no variance had been issued for Equinox for 43 Williams Street, and that she had moved here 17-18 years ago and just now had heard about this issue.

Mrs. Flanagan now spoke again, first stating that some of the members of the public had been discussing the matter under the presumption that the current use was permitted. Mrs. Flanagan emphasized that a violation of that use had already been issued and asked why the Village would want to approve of it considering its unpermitted use already. Mrs. Flanagan continued, stating that she wished to see the building used as intended: for a family as it was located in one of the best communities of the Village. Mrs. Flanagan emphasized that the area was not isolated and that such a use would alter the character of the neighborhood completely. Mrs. Flanagan then apologized for being emotional on the subject, as she had strong feelings about the nature of her neighborhood and her living there. Mrs. Mooney added that she believed everyone in the neighborhood felt strongly about the existing character of the area.

Campbell now spoke, clarifying first that he spoke as a citizen and resident and not from his office as President of the Board of Trustees. Campbell began by recollecting how, decades ago, the hotel maintained a dormitory building on-site where college kids and seasonal workers would stay while working, and that during the height of the season very many people would stay in the dormitory at once. Campbell went on to state that where there was space there still is space for an on-site dormitory, but that the old structure had last been there in the 1950s. Campbell continued, stating that there was no question that the Equinox Resort was in a difficult situation concerning their ability to hire reliable hospitality staff, given the housing crisis. The issue, Campbell stated, was however, that the Village had zoned this specific neighborhood a certain way and that it contained some of the smallest and most compactly fit lots in the entirety of the municipality. Campbell then stated that Vermont had decided to make it difficult for municipalities to waive or grant variances for projects, setting strict conditions on municipalities to prevent such considerations being granted. In essence, Campbell continued, Vermont did not want variances granted unless under very specialized circumstances, which is why the Village had copy-and-pasted, word for word, the statutory variance requirements into its Bylaws. Campbell then read the first criterion listed under the Variance section of the Village Zoning Bylaws, then arguing that the Equinox Resort had not proven it met any of the physical circumstances listed under this criterion. Campbell then stated that the Village had, in actuality, been taking enforcement action on issues such as this for decades, even including previous instances of the Equinox Resort utilizing other structures for employee housing without obtaining permits. In any case, concluded Campbell, he did not believe the DRB had the authority to grant a variance in this case as not all the criteria for a variance had yet been met.

At this point, Terry Findeisen now spoke, stating that she shared the concerns of neighbors to 27 Dillingham Avenue, but had additional concerns as a licensed architect. Specifically, Findeisen expressed concern about life safety items including converting non-bedrooms into bedrooms in a four-bedroom home, the number of egress windows on-site, smoke and fire alarms, and the availability of fire extinguishers. Findeisen expressed her doubt that the property met an acceptable life safety standard and added while she saw no good solution regarding the use of the structure for housing, she definitely was worried about the safety of its occupants. Ogden now spoke, stating that she could not picture 12-14 people living in a four-bedroom home. Mrs. Flanagan then stated that the Equinox Resort could fix these items, but that it distracted from her main point, namely, that the home was not zoned for employee housing at present and should not be used in such a manner. No matter how the Equinox Resort defended its current use, Mrs. Flanagan stated, the question was not of what they could do, but what they should do in the neighborhood.

No further public comments seemed apparent at this point in time. Brodie then stated that although he wished to find a way around the issue, that he did not see one. Brodie then asked Powers how he should motion for a vote, either to deny or approve the application. Powers responded that before moving to vote, he wished to offer the

representatives for the Equinox respond to public comment, noting that he wished for Sheldon and Boepple to address the Board and not members of the public specifically.

Boepple indicated to Sheldon that he could address specific concerns. Sheldon began by prefacing that he would not address all the points made by members of the public such as speculations on his own employment with the Resort, adding that he hoped this wouldn't be considered and that his own job had no bearing on the matter at hand. Sheldon then addressed concerns for life safety and welfare, first stating that the building already had an installed sprinkler system and multiple hand-fire extinguishers, in addition to safety monitoring equipment, much of it left over from BBA's prior use. Sheldon then stated that these systems met all state-level regulations and that the building itself consisted of seven (7) bedrooms, as listed during its sale. Sheldon then moved on to address concerns about employee screening, indicating that those residing in the building were J-1 Visa university students, who had to have good standing with a university to qualify for the Visa and were then screened by the Federal government before obtaining it and then entering the country.

Sheldon continued, then stating that only two cars were present on the property for the weekend during which they had moved in the current residents. Sheldon too commented that he felt it was strange that the Equinox's moving in residents had triggered such a backlash, taking contesting specifically the concept that students were a different 'breed' to other individuals in the neighborhood. Sheldon continued, then stating that not only was the house being used for the same purpose as before but that it had been configured with 13 people to fit for that purpose. Sheldon then commented that just around the corner from 27 Dillingham Avenue was a business which displayed signs and a showcase for events. McCloskey then stated that the business he was referring to was the Manchester Music Festival, the use of which had been applied for before with a public hearing, and that she found the idea that they would have tried to slide past the DRB without applying for that use offensive. McCloskey added that she did not feel good that Equinox had not applied for a variance before using the structure for employee housing. Sheldon then asked why the Manchester Music Festival had not needed a variance. VanDerWielen responded that variances were determined on a case-by-case basis, and that just as with the 43 Williams Street property, he had been unable so far to find record of a decision either way. Findeisen then stated that Manchester Music Festival housed nine individuals once a year on-site. Sheldon then stated that none of this was of any concern. Campbell then interrupted, stating that he believed none of this conversation had anything to do with the variance application. Mrs. Flanagan then stated that this is why she had claimed that the prior use of 43 Williams Street should not be considered an argument for approving future use of 27 Dillingham Avenue.

Campbell then stated that the DRB needed to determine if the proposed use meets the standards of that written in state statute regarding variances. Powers asked Campbell how the motion for vote on the matter should be crafted, given the need to review nine criteria under a variance decision process. Campbell responded that he had already

relayed to the DRB what he had been advised for by Village counsel. Powers responded that they would then move forward with a motion to either approve or deny the variance application, then vote, and then document the decision in writing. Campbell then stated he believed they needed to vote categorically on each criterion.

VanDerWielen then interrupted, indicating that it appeared Boepple had a question. Sheldon too indicated to Boepple. Powers then gave the floor to Boepple. Boepple then requested that the DRB table the variance application and to give the applicant time to address each point more thoroughly, despite her understanding that variances could only be restricted by dimensional issues and not use. McClellan responded, stating that while he understood her position, but that he believed the applicant already had the time necessary to explain their position, and that what had been sent to the DRB did not, in his opinion, adequately address everything already. McClellan then asked why the DRB should wait for another letter when they had already heard the case today. Boepple responded, stating that as she said before, she had applied for variances across three different states and this was the first time she had a Board insist that a use variance have to meet dimensional requirements. Boepple continued, stating that she had not anticipated such a position, largely because she had been practicing law across New England since 1997 and had never seen it. Boepple reiterated that she had never seen a Board require a use variance meet dimensional variance requirements as a use variance could not meet those standards, although she had done her best to. McCloskey commented that while the DRB could offer more time, but that she would like to see Equinox move residents out of the building in the meantime as using the structure in violation of the Bylaws while deliberations were unfinished was not fair to neighbors. McCloskey then indicated to VanDerWielen to explain the status of enforcement action. VanDerWielen explained that while he had been in conversation with both Sheldon and Boepple about the ongoing use of 27 Dillingham Avenue, and had verified its present use by visiting the premises on 24 May, he had not issued a Notice of Violation yet in hopes of resolving the matter pending the DRB's decision. A Notice would be sent either later on the day of the hearing or the next, should the DRB deny the variance application and should the applicant refuse to move employees out of the structure. VanDerWielen having finished, McCloskey stated that while she understood the Resort's need for adequate staff in the face of little available housing, she believed that having such an employee residence located in a neighborhood with a need for a variance made her question whether it was the right solution to the issue. McCloskey then indicated that perhaps the community could work with the Resort to find the right solution, either by distributing the housing of employees to volunteers or some other arrangement. McCloskey finished by adding that she believed the community was ready to support the Resort but not in this way, adding that she did not believe she could vote in favor for the variance application.

At this point Powers asked whether the DRB wished to table the application. Brodie echoed Powers' question, asking whether the DRB needed more information or whether they could work with what had been presented. Campbell then indicated that whatever

decision was made could be appealed to the Environmental Court, adding that it perhaps might be better decided there if the applicant wished so, given what he considered an adequate amount of information provided by the applicant for a DRB decision. Powers commented that he agreed with Campbell. Brodie then stated he withdrew his prior motion.

Brodie then motioned to move to deny application 22-33 based on a lack of adequate proof to have met the requirements for a variance. McClellan seconded the motion. The DRB then denied the application, unanimously.

Public Comments:

There being no further business before the Board, Powers suggested the meeting close. Powers closed the meeting at 11:39am.

The next regular meeting of the Development Review Board will be held on July 6th, 2022, at 10:00am.

Respectfully Submitted,
Curan VanDerWielen, Zoning Administrative Officer