

## Staff Report

**Subject:** Variance (First District)  
**Author:** Chelsie Fernald  
**Department:** Development Services  
**Meeting Date:** November 21, 2023  
**Item Description:** **Marnier Group Ltd. As agent for Robert Fletcher Waldour and Lynette Waldour** requests variance from section 5.6.3, to exceed the maximum building height allowed in R-3. Located on Blue Jay Road, zoned **AR-1**, proposed zoning **R-3**. **[Map# 326 Parcel #17]**

### Summary Recommendation

Staff has reviewed the application, and recommends **approval** of the request of a variance from section 5.6.3, to exceed the maximum building height allowed in R-3.

### Executive Summary/Background

- Pursuant to Appendix C-Zoning Ordinance, Article VII-Planning Board, Section 7.1.8, variances may only be granted if the following findings are made:
  - That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness, of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not to circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located; and*
  - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
- Appendix C – Zoning Ordinance, Article V – Uses Permitted in Districts, Section 5.6.30, the maximum height for a building in the R-3 zoning district is 35’.
- Section 5.10.4 describes maximum building height in the B-2 zoning districts as 60’, which pertains to multifamily residential development.
- The applicant proposes to develop an apartment complex with 3-story high buildings. Each floor’s livable area proposes 9’ high ceilings. Combined with unlivable vertical space needs and roof pitch, the applicant anticipates a total building height between 55 and 60 feet.
- Large areas of the property are potentially undevelopable due to wetlands. The variance allows the applicant to achieve desired density while being able to meet or exceed greenspace and amenity requirements.
- At the October 10, 2023 Planning Board meeting, Mr. Brad Smith made a motion for approval. Mr. Peter Higgins second, the motion carried unanimously.
- At the November 7, 2023 Board of Commissioners meeting this item was tabled to the November 21, 2023 meeting.

### Alternatives

1. **Approve** the request of a variance from section 5.6.3, with the following condition:
  1. The maximum building height shall not exceed 60’.
  2. The development shall in all other ways conform to the R-3 zoning district.
2. **Deny** the request of a variance from section 5.6.3.

**Recommended Alternative:** 1

**Other Alternatives:** 2

**Department Review:** Development Services

**FUNDING:** N/A

**Attachments:**

1. Rezoning application and checklist	3. Plat	5. Deed
2. Ownership certificate/authorization	4. Aerial photograph	