



# TOWN OF HUDSON

## Zoning Board of Adjustment



Charlie Brackett, Chairman

Marilyn E. McGrath, Selectmen Liaison

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### **MINUTES – April 25, 2019 - approved**

The Hudson Zoning Board of Adjustment met Thursday, April 25, 2019, at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall.

#### **I. CALL TO ORDER**

#### **II. PLEDGE OF ALLEGIANCE**

Chairman Brackett called the meeting to order at 7:00 PM and invited everyone to stand for the Pledge of Allegiance.

Mr. Brackett welcomed new Alternate Member Brian Etienne and explained that Ms. McGrath is the Selectmen Liaison to the Board and is a non-voting Member.

Mr. Brackett stated that the ZBA hears requests for relief from the State Law and Local Ordinances and noted that there are four (4) Cases before the Board. Mr. Brackett outlined the meeting procedure where the applicant will present their request to the Board followed by receipt of public testimony and if negative testimony received, the applicant can address and a second round of public testimony would be opened and invited everyone addressing the Board to come either to the table or the lectern and provide their name and address, with spelling; noted that copies of the Agenda and the Appeal [Application for Rehearing] are on the shelf by the door; and announced housekeeping matters that included silencing cells phones, no talking, no smoking and an 11 PM curfew.

Members present were Charlie Brackett (Regular/Chair), Gary Daddario (Regular), Maryellen Davis (Regular/Clerk), Gary Dearborn (Regular/Vice Chair), Brian Etienne (Alternate) and Jim Pacocha (Regular). Also present were Bruce Buttrick, Zoning Administrator, Marilyn McGrath, Selectmen Liaison, and Louise Knee, Recorder. For the record, all Regular Members voted.

#### **III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**

1. Case 247-045-010 (4-25-19): Gabriele Vernacchio, 8 Lucier Park Drive, Hudson, NH requests a Home Occupation Special Exception to allow the medical fostering of dogs, which would allow the registration of their physical address and meet the licensing requirement with the State of NH. [Map 247, Lot 045-010, Zoned Town Residential (TR); HZO Article VI, §334-24, Home Occupations].

Not Official until reviewed, approved and signed.  
Approved 5/23/2019, as edited and amended.

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determinations, dated 4/2/2019 and 4/12/2019, and his Staff Report signed 4/16/2019 and noted that the Home Occupation Special Exception is for the registration of her non-profit business, Harvey's Hope Animal Rescue (HHAR), with the State of NH and to be able to provide medical fostering for dogs. Mr. Buttrick also noted that he received an email from abutter Michael Maynard of 2 Chestnut Street expressing concerns.

Gabriele Vernacchio, property owner, introduced herself and stated that she started her business, Harvey's Hope Animal Rescue (HHAR), in 2019 and is in the process of filing for 501-C3 non-profit status, and noted that she has three (3) dogs and a fenced-in backyard so her dogs can go off-leash and not escape the yard and added that she has been involved with rescuing animals since she was ten years old. Ms. Vernacchio explained that several States (GA, TX, FLA, LA) have strict guidelines to euthanize and that she has been involved with rescuing dogs, most recently volunteering with Poor Paws Rescue and Bark Animal Rescue and Rehabilitation for K9s, and even has her License to Transfer Live Animals or Birds as a Broker from the State of NH Department of Agriculture, Markets & Food Division of Animal Industry. The State of NH requires a physical address for HHAR and she would also like to foster one to two (1-2) dogs in her home. There is no intention to become a kennel or shelter facility.

Ms. Vernacchio stated that her goal is to save and rehome as many dogs as possible, to provide a safe place for them to heal, relax and prep for adoption as some dogs come from shelter kennels and are not necessarily familiar with a home setting, children or other pets (ie cats). The foster goal is a minimum of two (2) weeks until adoption. The adoption process is strict and includes a home visit. HHAR has no employees, only volunteers. The adoption fee pays for medical needs. Ms. Vernacchio stated that all dogs will arrive fully vaccinated and vetted per State requirements (rabies, distemper, parvo shots, health certificate, etc.) and submitted a letter from Jamie Terry, DVM and owner of Lake Hartwell Veterinary Clinic stating that they provide medical services and all recommended vetting for rescues of HHAR and an email from Jana McMillan, Animal Control Supervisor of Hudson in support of fostering dogs.

Ms. Vernacchio stated that she would like to foster one to two (1-2) dogs and provide the necessary training for adoption, which can include potty training, socialization etc. Her three (3) personal dogs go out unleashed in the fenced-in back yard but initially the foster dogs would go leashed. All dogs (her three and foster dogs) stay on her property. Rarely are the dogs walked off the property and if so, would be on a leash.

Ms. Vernacchio addressed the criteria for the granting of a Special Exception Home Occupation and shared the following information:

- Home is her primary residence. They have approximately one quarter (1/4) of an acre land and a fenced in back yard
- Need Home Occupation to register an address with the State of New Hampshire to allow medical foster permissions and licensure
- There are no employees

- The business is not conducted “on-site” but rather through social/on-line network of volunteers
- There will be no sign, unless required by the Town of Hudson
- There will be no added structures or structural changes to her home
- There will be no exterior storage
- The business requires no vehicles, any need will be satisfied by their personal vehicles
- They have a two-car driveway and if ever there is a need, there is space for a visitor to park “off street”
- All dogs bark but barking is controlled and dogs will not be outside unless she or her husband are home; no noise disturbances are expected

Public testimony opened at 7:17 PM

- (1) Michael Maynard, 2 Chestnut Street, stated that he lives directly behind Ms. Vernacchio’s residence and referenced his email. There is probably no impact to his property value on paper but could affect his home’s salability as he can see directly into their backyard and someone may not want to live next to a medical foster home for dogs; that there are noise concerns with the houses so close together; and there are safety concerns regarding potentially aggressive foster dogs and dogs escaping if the fence is ever left open or is damaged and added that he has been bitten by his neighbor’s dog in another neighborhood and is sensitive to it. Mr. Maynard stated that he is supportive of fostering dogs, that his childhood dog was a rescue, and asked the Board to consider placing a cap on the number of dogs that could be allowed, and suggested a cap of two (2) dogs as Ms. Vernacchio mentioned would be fine.

Being no one else to speak, public testimony closed at 7:18 PM.

Ms. Vernacchio referenced the letters of support received from her neighbors, the HHAR Foster Guidelines, the protocol she and her Vet are finalizing to insure the health of the dogs, noting that they are held for forty eight (48) hours to assure that they are disease free, spade or neutered and added that her fiancé and she are planning to have children in the next two years and would not take in any aggressive dogs, that they have their own dogs and that they have a protocol in the event an animal needs to be euthanized. With regard to the property values, it is a business license and people would not really know it exists on the property. Ms. Vernacchio also distributed a colored picture depicting the six-foot tall (6’) fence in her back yard. With regard to biting, the dogs are within her own yard and pose no greater risk than any other of her neighbors that have a dog. With regard to noise and barking, dogs bark but are never left outside barking and never left outside all day and if they begin to bark, they are brought inside the house. Ms. Vernacchio stated that the Town allows up to five (5) dogs, she has three (3) personal dogs and is agreeable to only fostering two (2) dogs at any one time.

Public testimony opened for a second round at 7:25 PM. No one addressed the Board.

Mr. Etienne asked, with regard to the fencing, if there was any added security for digging, like chicken wire. Ms. Vernacchio responded that there is no chicken wire, that they had the fence erected to the ground and would address any gap immediately if it occurred from erosion or digging. If it becomes an issue, they could put in chicken wire and noted that they just had the fence adjusted down by the [gate] lock because the land compressed over the winter.

Mr. Dearborn asked if someone was home all day, whether the dogs are ever left unattended. Ms. Vernacchio responded that she and her fiancé work off shifts and the dogs could be left unattended up to four (4) hours a day and added that her dogs are crated if they are not home.

Mr. Dearborn asked to elaborate on the “medical” fostering. Ms. Vernacchio stated that they are not required to rehabilitate, that it is their goal to prepare each dog to go to their “forever” home and added that some of the behavioral issues they deal with include separation anxiety or are not crate trained or potty trained, socialization with other dogs/pets (cats)/children, and that they do a “meet and greet” with other dogs/cats/children for fourteen (14) days to acclimate.

In response to Mr. Dearborn’s questions, Ms. Vernacchio responded that fostering is a minimum of two (2) weeks until adoption and adoption can take one to two (1-2) months and that the State of NH does not impose a limit on the number of dogs to foster.

Mr. Brackett inquired about the volunteer group and the business and any requirements regarding the certification. Ms. Vernacchio stated that the Home Office Special Exception will allow her to get her license from the State of NH and that her business is the coordination of the volunteers throughout the State of NH and that, in addition, she would also like the ability to provide medical fostering in her home, and that in the first year the State will conduct an inspection every six (6) months, then yearly after that..

In response to Ms. McGrath’s questions, Ms. Vernacchio responded that she will have no employees, that she deals with volunteers throughout the State of NH, that the only person paid is the Vet for his medical service, that the total number of dogs she would foster at any one time in her home would be two (2) dogs as she has three (3) dogs and the Town has a limit of five (5) dogs, that she has a NH Broker license to transport the animals, that ‘tractor trailer’ trucks transporting animals would never come to her home, that the animals are transported from the South in either USDA licensed transport or volunteer transport similar in style of a relay race and immediately go to a quarantine facility, ADC in Manchester, NH, where they are held for a minimum of forty eight (48) hours and from there are either picked up by an adopter or a fosterer, that transport is coordinated with volunteers throughout the State and even though she has had pets her whole life, she too has gone through obedience training.

In response to Mr. Pacocha’s question, Ms. Vernacchio responded that her volunteers are vetted through the same process as one seeking adoption, that she has volunteers all over the country and needs to be licensed in every State.

Ms. Davis inquired about dog waste and Ms. Vernacchio responded that it would be no different than how she treats waste from her three (3) dogs, it is picked and placed in the trash container outside.

Ms. Davis stated that she drove by the property and it is a small lot in a development of small lots with back-to-back homes with backyards abutting one another and expressed concern with the activity level five (5) dogs can generate in a small space. Ms. Vernacchio stated that the Town limit is five (5) dogs, that she can, by right, have five (5) personal dogs. Mr. Buttrick stated that he is not aware of a Town limit on the number of dogs, just that each dog is to be licensed and that the owners practice BEST Management regarding the dogs care and noted that dogs are not regulated in the Zoning Ordinance. Mr. Buttrick stated that if a problem or unsanitary issues arise, it would fall under the jurisdiction of the Animal Control Officer; that barking can become a nuisance, especially after 11 PM, and anyone disturbed can call the Police; and referenced Jana McMillan, Animal Control Supervisor, email dated 4/3/2019, that clarified that the "pet vendor" license under RSA 437 is what Ms. Vernacchio is pursuing with the Special Exception to allow her to have medical fosters. Ms. Vernacchio added that she has another email from Jana McMillan dated 4/3/2019 supporting her application.

Motion made by Mr. Pacocha and seconded by Mr. Daddario to grant the Special Exception Home Occupation application with the following three (3) conditions:

- (1) that there be a maximum of five (5) dogs on the property at any given time; initially three (3) personal dogs and up to two (2) foster dogs
- (2) that one of the property owners be home when the dogs are let outside
- (3) that generally the foster dogs be on leash when outside and all dogs to be on leash when leaving/off the property.

Mr. Pacocha spoke to his motion noting that all the Special Exception Home Occupation criteria have been satisfied. Mr. Daddario agreed that the criteria have been met with the conditions and added that the conditions also address the concerns raised. Vote was 3:2. Ms. Davis and Mr. Dearborn opposed. Ms. Davis stated that she is concerned with the number of dogs on the small lot, the behavioral issues that could arise and the level of outside noise that could be generated with five (5) dogs. Mr. Dearborn concurred. Motion passed. Home Occupation Special Exception granted.

2. Case 169-011 (4-25-19): Stephen Hebert, 27 Windham Road, Hudson, NH requests an Equitable Waiver of Dimensional Requirement to allow a newly poured detached garage foundation that encroaches 2.6 ft. into the rear setback. [Map 169, Lot 011, Zoned Business (B); HZO Article VII §334-27, Table of Minimum Dimensional Requirements].

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determination and Stop Work Order dated 3/29/2019 and his Staff Report signed 5/15/2019. Mr. Buttrick stated that the applicant was granted a variance on 1/29/2019 to construct a 48'x28' residential garage, obtained the necessary Building Permit #2018-01227-1, had the foundation poured and upon inspection it was noted that the rear corner of the garage foundation encroached the setback by 2.6'

Stephen Hebert introduced himself, stated that he received permission to construct the garage, that they (himself, the excavation contractor and the person putting in the filling) walked the line from a prior survey of his land and staked the corner, that the stake was removed for the excavation, that it was re-staked and the foundation was poured and then another survey was conducted to obtain the framing permit and that is when it was discovered that the rear corner of the foundation encroached into the setback by approximately two and a half feet. The problem was created when the garage was re-staked after the excavation even though he instructed them to realign based on the rear property line, it was realigned to the side property line which is not perpendicular and created the encroachment.

Public testimony opened at 7:54 PM. No one addressed the Board.

Mr. Etienne asked if there was an overlay of utility easements. Mr. Hebert stated that he does not know if there are utility easements, that the rear of his property abuts Route 111 (Central Street) and that the State owns the land to the left of his property.

Mr. Daddario stated that the encroachment into the setback is not a setback to a neighbor but to a road and occurred despite the fact that there was a survey performed that was used to stake the foundation, before excavation and the pouring of the foundation. Mr. Hebert clarified that only the corner was staked because it was critical, but it had to be removed for the excavation and the re-staking occurred from the side property line instead of the rear property line.

Motion made by Mr. Dearborn and seconded by Ms. Davis to grant the waiver. Mr. Dearborn spoke to his motion stating that it is his belief that it was an honest mistake, that the applicant came before the Board to get a variance to construct the residential garage on his property, that is in the Business Zone with no businesses in the area. Ms. Davis concurred and added that it was a contractor error. Vote was 5:0. Equitable waiver granted.

3. Case 198-157 (4-25-19): Tim and Mandy Powers, 36 Pelham Road, Hudson, NH requests a Variance to permit enlargement and rebuilding of existing front stoop to construct a 27'-7" x 8'-0" farmer's porch which will encroach in the front setback of the existing non-conforming structure, leaving resultant front setback of 8.45 ft. [Map 198, Lot 157, Zoned Town Residential (TR); HZO Article VIII §334-31 and Article VII §334-27, Alteration and expansion of non-conforming structures and Table of Minimum Dimensional Requirements].

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determination dated 1/29/2019 and his Staff Report signed 4/16/2019, noted that the existing house is non-conforming as it is in the front setback and that the applicants wish to replace the front stoop, which currently encroaches approximately thirty eight feet (38') into the required fifty foot (50') setback, with a farmer's porch that will encroach approximately forty two feet (41.55') resulting in a front setback of 8.45'. Mr. Buttrick also noted that both the Town Engineer and the Town Planner have submitted their review responses.

Tim Powers introduced himself and his wife, Mandy Powers, stated their desire to build a farmer's porch noting that it is a reasonable and customary addition to a residence and addressed the Variance criteria. The information shared included:

- 1) *not contrary to public interest*
  - the request is not contrary to public interest
  - the existing stoop is outdated and in poor condition
  - enlarging it by creating a farmer's porch will enhance their ability to enjoy their front entrance, yard area and use of their home
- 2) *spirit of Zoning Ordinance observed*
  - it does observe the spirit of the Ordinance
  - the expansion and rebuilding of the stoop will enhance the safety, functionality and normal use of allowable expansion of 'non-conformance'
  - a farmer's porch is in character to residential uses
- 3) *substantial justice done*
  - the house is approximately 140 years old
  - to deny normal and typical use (ie farmer's porch) would harm use as a residential home
  - farmer's porches are a normal use of residential homes in Hudson
- 4) *surrounding property values not diminished*
  - the proposed farmer's porch is a beneficial amenity to any residential property
  - adding a farmer's porch will actually add value to the home
- 5) *unnecessary hardship if not granted*
  - fair and reasonable use would be restricted by not granting the normal and typical use of a farmer's porch as proposed and typically allowed throughout the Town of Hudson
  - special conditions exist because the house was built around 1875 before any Zoning Ordinance
  - in effect, the Town imposed the hardship with the required front setbacks, originally set at 30 feet and currently set to 50 feet
  - the restrictions are imposed on the property by the Town and not the property owners

Public testimony opened at 8:04 PM. No one addressed the Board.

Mr. Daddario asked and received confirmation that currently there is only twelve feet (12') of the required fifty-foot (50') front setback and the front setback would be reduced to eight point four five feet (8.45') with the farmer's porch. Mr. Brackett questioned the math with the proposed eight-foot (8') deep farmer's porch and Mr. Powers stated that the numbers work with the elimination of the front stoop, which is a little over four feet (4'), and noted that the front stoop would be replaced with the farmer's porch.

Ms. McGrath read Elvis Dhima, PE, Town Engineer email dated 4/11/2019 into the record: "... I have safety concerns about the front porch so close to the road. During construction of the new bridge on Pelham Road in 2016, speed and geometry of the road was the biggest concern. There is currently no guard rail in front of this property." Ms. McGrath noted the curve of the road on the site plan and noted that Pelham Road can be a treacherous road especially with the curve in the road close to the applicant's driveway and questioned the sight distance as that could pose a safety concern. Ms. Davis added that, at that curve section, the road also takes a dip. Mr. Etienne asked about the guardrail. An aerial view was put on the screen that showed the guardrail ending at the applicant's property line and Mrs. Powers added that coming down the hill, a driver would encounter the guardrail and Mr. Powers noted that just the appearance of the road narrowing with the guardrail in combination with the dip and curve tends to slow a driver's speed and added that if a vehicle managed to go through the guardrail, they would encounter their stonewall and a tree and not hit their home. Mr. Brackett asked if there were many accidents there and both Mr. & Mrs. Powers responded "not since the guardrail was installed."

Ms. McGrath also noted the Town Planner, Brian Groth, responded and noted his questions pertaining to any stairs to the farmer's porch creating a further encroachment to the road and whether the stonewall would remain.

Mr. Dearborn stated that he is relying on the Town Planner and the Town Engineer who both expressed serious concern with the setback encroachment and the dangerous nature of Pelham Road with speeding and accidents. Ms. Davis stated that there is a purpose for the setbacks and noted that there is a potential for Pelham Road expansion because it is a collector road, a through street and heavily traveled. Mr. Brackett noted that the house was built probably before Pelham was even paved and the setback has expanded and is needed to provide for future expansion and added that he too has a safety concern.

Mr. Powers stated that with the porch, the illusion will exist of a narrower vision which will slow people down, that his house is not responsible for the speeding that occurs and enforcement is not his responsibility, that there would be no stairs to the farmer's porch, just a 7" concrete slab, and that the stonewall will remain.

Discussion branched into future possible road expansion, eminent domain possibilities, the fact that a 50' setback was established and placed the house into the setback, to whether or not road expansion is in the Master Plan or whether it will get mandated due to increased traffic, winter road conditions and the increased number of vehicles colliding into yards and buildings.

Ms. Powers stated that she understands the concerns expressed, that it is something she and her husband have not taken lightly but questions if there is such a safety concern now for their desire to put on a porch, not a living room or a bedroom or a kitchen but a porch that will get used primarily in good weather, and if in the future the road may be widened questioned why their safety would not be considered and not have the widening closer to their home. Mr. Brackett stated that their safety will be considered during the design of the road widening and does not know if eminent domain will be invoked or not; that the situation exists today with the encroachment



and there is concern for further encroachment whether the road gets expanded or not and that the Board's concerns relates to the property and its future owners.

Mr. Powers asked where the concern was for his family's safety when the Town fixed the bridge and made the road straighter. Ms. McGrath stated that the bridge repair was mandated by the State of NH because it was red-listed (about to fail) and if not corrected, the road would have been closed. Mrs. Powers showed a picture and noted that their stonewall is right on their property line and that there are two trees before any vehicle could reach the porch.

Motion made by Mr. Dearborn and seconded by Ms. Davis to deny the variance application due to safety concerns and the severe encroachment to the road with just 8.45' of front setback. Ms. Davis noted that the concern for safety applies to both the public as well as to the homeowners. Mr. Daddario stated that personal preferences have been presented along with a variety of what-ifs and maybes but with respect to the criteria, it is his opinion that it failed two (2) criteria: #2 spirit of the Ordinance with regard to safety and placing human beings closer to the road; and #5, the hardship criteria as hardship is tied to the land itself and there is nothing from the land that forces the porch closer to the road. Vote was 5:0 not to grant the variance. Request denied. The 30-day appeal period was noted.

Mr. Powers asked what specifically is the safety concern. Mr. Dearborn responded and stated that his motion to deny was not just based on safety but based on the extreme encroachment into the front setback.

4. Case 198-173 (4-25-19): Leroy & Denise Thompson, 140 Melendy Road, Hudson, NH requests a Variance to subdivide and create a new lot with insufficient frontage required to create a new flag lot with a shared driveway. [Map 198, Lot 173, Zoned General (G); HZO Article VII §334-27, Table of Minimum Dimensional Requirements].

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determination dated 7/19/2018 and his Staff Report signed 4/16/2019 and stated that the applicants propose to subdivide their 4+ acre lot into two lots creating a "flag" or "pork chop" lot to the rear of the property with approximately 2.5 acres where only one acre is required for the Zone and with insufficient frontage of 62.3 feet where 150' is required. Mr. Buttrick noted that both the Town Planner and the Town Engineer responded with comments.

Denise and Leroy Thompson sat at the table. Mrs. Thompson stated that they wish to subdivide their lot and create a second lot; that they have enough frontage but their home sits in the middle so the new lot cannot meet the frontage requirement and due to the steep slopes and ledge the new lot will need to share their driveway and not create its own curb cut.

Ms. Thompson addressed the criteria for the granting of a variance and the information shared included:

- 1) *not contrary to public interest*
  - the existing lot has enough land to subdivide

- the benefits of the proposal is that it will not require another curb cut onto Melendy Road as it will share the existing driveway
  - the non-conforming garage will be taken down
  -
- 2) *spirit of Zoning Ordinance observed*
- there is already a driveway that exists to the back of the lot
  - there will be easy access to the new flag lot
  - the new flag lot will be larger than required
  - the shared driveway will eliminate a curb cut
  - the new lot is proposed to be a single-family residence
- 3) *substantial justice done*
- hardship would be avoided to the property owners, the environment and the neighbors with no blasting, no possible damage to surrounding homes, no upset to the natural wildlife
  - by utilizing existing driveway there will be no additional curb cut which will be better for traffic
  - the non-conforming garage by the road will be eliminated
- 4) *surrounding property values not diminished*
- the proposed use is for a residence
  - the lot will be oversized
- 5) *unnecessary hardship if not granted*
- the creation of a flag lot with a shared driveway will avoid blasting, excavating steep slopes, disturbing wildlife and could upset the residential structures of surrounding houses
  - a shared driveway eliminates a curb cut onto Melendy Road

Greg Jeffrey, LLS (Licensed Land Surveyor) referenced his plan dated Feb 2019, noted the areas of steep slopes to the left of the existing house and stated that there is also ledge which would require blasting to provide a separate access way to the new rear lot. Mr. Jeffrey noted that the proposed layout was the least intrusive of the options considered. Mr. Jeffrey stated that the new lot will have 2.462 acres, have its own septic system and well but will only have 62.31' of frontage that will contain the shared driveway along with an easement. Mr. Jeffrey stated that the existing non-conforming garage by the road will be removed and that will improve sight distance.

Public testimony opened at 8:40 PM. No one present to address the Board.

Mr. Dearborn asked if the art studio was still in business. Ms. Thompson stated that it was but that even though she is allowed to operate it six (6) days a week, it is now only opened two (2) days a week, with the busiest day being Saturday with generally seven (7) cars. Mr. Dearborn noted that the shared driveway would then be servicing two residences and the art studio.

Mr. Daddario referenced the Town Planner's comments and noted the preference for the variance as there are several other parcels in the neighborhood with similar geometry and that the driveway can either be shared or separate and parallel, to be determined by the Planning Board. Discussion ensued. Ms. McGrath stated that in

all the years she's been on the Planning Board, she does not recall parallel driveways, just shared and added that shared driveways do sometimes result in difficulties with maintenance responsibility. Mr. Buttrick concurred and added that they become Code Enforcement problems. Mr. Brackett noted that shared driveways are allowed in Hudson. Mr. Dearborn noted the easement on the plan. Mr. Etienne questioned whether a width of 12' is enough for a fire truck to turn around in the back lot. Mr. Pacocha noted that with the elimination of the non-conforming garage, the width could be wider. Mr. Jeffrey stated that the proposed 62' works. Both Mr. Brackett and Mr. Buttrick noted that that would be determined at the Planning Board.

Ms. McGrath questioned the septic system for the new residence if the area is all ledge. Mr. Jeffrey stated that they have proposed a raised bed and Mr. Brackett added that the septic system would also need NHDES (NH Department of Environmental Services) approval and permit.

Mr. Brackett and Mr. Pacocha curbed the discussion and stated that the ZBA is to decide on the concept, the creation of a flag lot with insufficient frontage and that the rest will be handled by the Planning Board.

Mr. Daddario stated that in his opinion the hardship criteria has been satisfied, the steep slopes, ledge and need for blasting are land based impositions. Mr. Brackett concurred and noted that it would create an unnecessary hardship to insist otherwise, to place a separate driveway to the left of the house.

Motion made by Mr. Pacocha and seconded by Mr. Daddario to grant the variance to create a flag lot based on the plan prepared by Greg Jeffrey, LLS, dated Feb 2019, with no stipulations. Mr. Pacocha stated that the original lot has enough frontage for two (2) lots but is topographically impaired and substantial justice is done with the granting of the variance with no harm to the public as it is not contrary to the public interest. Mr. Daddario stated that the first four (4) criteria are met in his opinion and supported by the Town Planner, noted that the lot configuration is consistent with others in the neighborhood and added that the hardship is met due to the land with its existing slopes and ledge. Vote was 4:1. Ms. Davis opposed and does not support the creation of a substandard lot and is a public harm. Motion passed. Variance granted. The 30-day appeal period was noted.

#### **IV. REVIEW OF MINUTES:**

1. 04/11/19 Minutes

Board reviewed the edited version presented and made one correction of a street name to Central Street. Motion made by Mr. Dearborn, seconded by Mr. Daddario and unanimously voted to approve the 4/11/2019 Minutes as edited and amended.

#### **V. REQUEST FOR REHEARING:**

There were no requests presented for Board consideration.

#### **VI. OTHER:**

1. OSI June 1, 2019 Spring Planning & Zoning Conference – registrations.

Mr. Buttrick reported that registration was closed and the Members are on a waiting list, at #26-29. Mr. Brackett asked Mr. Buttrick to see if any publications are available in the event they do not get to attend.

2. Continued discussion of possible ZBA Bylaws revisions regarding Clerk, Selectman's Rep. & Recorder duties.

Selectmen Liaison discussed at length. Bottom line, Selectmen Liaison is not to be a voting alternate, the Selectmen Liaison position is valued and beneficial, and the Board would like dedicated attendance for both the Town's historical knowledge as well as keeping communication open between both bodies.

Mr. Dearborn suggested adding two items to the Bylaws: (1) three (3) consecutive unexcused absences from a meeting to be reported to the Selectmen and/or Town Administrator to investigate/reprimand and take corrective action; and (2) to advise of the 30-day appeal period and process involved with appeals (error, additional information etc).

The Pledge of Allegiance should also be added to the Bylaws.

Mr. Brackett asked for feedback on his Preamble prior to the next meeting.

The change in duties for the Clerk and Recorder were reviewed

3. ZORC

General consensus was that fewer the meetings the better. Board asked to review the ranking in the spreadsheet and share information/thoughts with Staff for prioritization.

4. Cell Tower notifications are per RSA 12-K:7

Mr. Buttrick distributed a copy of RSA 12-K:7 and noted that the Town received another tower notification from Bedford.

5. May 2, 2019 BoS meeting for RTK

Mr. Buttrick stated that the Selectmen and Town Administrator have established a training session for Thursday, 5/2/2019 at 7:00 PM at the Community Center that will be presented by the NH Municipal Association's on-demand training entitled "Effective Meetings and Right-to-Know (RTK) Law". Ms. McGrath stated that the Selectmen have attended and found it beneficial and encouraged everyone to attend.

Motion made by Ms. Davis, seconded by Mr. Daddario and unanimously voted to adjourn the meeting. The 4/25/2019 ZBA meeting adjourned at 9:38 PM.

Respectfully submitted,

Charles J. Brackett, Chairman