



# TOWN OF HUDSON

## Zoning Board of Adjustment

Charlie Brackett, Chairman      Normand Martin, Selectmen Liaison

---

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

---

MINUTES – JUNE 7, 2018 – approved

The Hudson Zoning Board of Adjustment met on June 7, 2018, in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall. At 7:00 PM, Chair Brackett stated that the meeting would not begin until 7:10 PM as a Member was in route and would arrive shortly.

Chair Brackett called the meeting to order at 7:10 PM; welcomed the public in attendance and noted that this is a special meeting and actually a continuation of two previous meetings.

Members present were: Charlie Brackett (Chair), Gary Dearborn (Regular), Maryellen Davis (Regular), Kevin Houle (Alternate/Clerk) and James Pacocha (Vice Chair). Also present was Louise Knee, Recorder. Excused were: Bruce Buttrick, Zoning Administrator, Normand Martin, Selectmen Liaison, David Morin, Alternate Selectmen Liaison and Michael Pitre (Alternate). For the record, Mr. Brackett appointed Mr. Houle as a sitting voting members for this meeting.

The public constituted two individuals: Danthony Ciampa. 14 Tolles St., Hudson, NH and Tom Walsh, Sr., 47 Woodlawn St., Tyunsboro, Mass.

### **I. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD**

1. Case 172-018 & 022 (6-07-18) (Deferred from 5-10-18): Turbo Realty, LLC by Patricia M. Panciocco, One Club Acres Lane, Bedford, NH, requests the following Variances at 15 & 17 Tolles Street, Hudson, NH;
  - a) A Variance to allow each vested use to take place within any Unit located on the property. [Map 172, Lots 018 & 022; Zoned TR, HZO Article VIII §334-30, Changes to or discontinuance of nonconforming uses.]
  - b) A Variance to allow uses that are not allowed in the TR zoning district. [Map 172, Lots 018 & 022; Zoned TR, HZO Article V §334-21, Table of Permitted Uses.]
  - c) A Variance to allow uses not listed in the Table of Permitted Uses. [Map 172, Lots 018 & 022; Zoned TR, HZO Article V §334-20, Allowed uses provided in tables.]

Mr. Brackett read the Case into the record. Atty. Panciocco introduced herself and her client Thomas Walsh, Jr. Mr. Brackett stated that there have been several discussions since the last meeting involving Town Staff, Member Davis, Town Counsel and Atty.

Not Official until reviewed, approved and signed.  
Approved 7/26/2018, as edited.

Panciocco and that there were several drafts prepared. The most notable difference was that the Atty.'s draft identify the Uses with a generic set of conditions and the Board's draft placed conditions for each identified Use.

Atty. Panciocco stated that in her conversations with Town Counsel, he asked for a sketch of 15/17 Tolles's units and their corresponding outside designated areas on 14 Tolles Street and submitted an initial concept plan and noted that it does not dictate to the Planning Board, but is submitted as a reference point to the variances and marked as Exhibit A. It was noted that the availability of 14 Tolles Street was included in the leases of 15/17 Tolles Street. It was suggested that any and all reference to Exhibit A should be accompanied with a statement "& as further detailed by the Planning Board".

Discussion arose on which draft to finalize and whether each Use should be individually conditioned or whether a succinct set of conditions could apply to all/each Use. It was noted that if a list was finalized and one set of conditions that would be applicable to each Use, it would allow for better representation on the final Planning Board approved Site Plan that would be recorded.

The draft documents selected for review and finalization were: (1) 15/17 Tolles Street Uses permitted by Variance (with Stipulations) submitted by Atty. Panciocco that listed Commercial Uses, Industrial Uses and Stipulations (for all Uses); and (2) 15/17 Tolles Street Uses permitted by Variance (with Stipulations) with file name "Tolles St Variance Details\_Updated 04Jun18\_Rev4.docx", that also listed Commercial Uses and Industrial Uses, each with a definition if needed and individual stipulations as well as overall stipulations and with red-type identifying changes from previous editions.

Mr. Brackett noted that there appears to be three (3) items in red-type: (1) no business activities Sundays and holidays; (2) plantings; and (3) that business be conducted within 15/17 Tolles Street with space allotted on 14 Tolles Street. Mr. Brackett stated that only 15/17 Tolles Street is in front of the Board. Atty. Panciocco noted that Mr. Walsh is the property owner for all three lots and added that all would be presented to the Planning Board for Site Plan Review.

Ms. Davis stated that the list of Uses has been reviewed by Town Counsel and Atty Panciocco and that what is before the Board is a review and approval of the Uses with their stipulations and added that in her opinion Atty. Panciocco's list would better serve the Planning Board. Ms. Davis noted that the Variance for #14 Tolles Street has expired to which Atty. Panciocco disagreed and stated that she would be discussing with the Zoning Administrator. Mr. Walsh stated that they can identify the uses that have been on 14 Tolles Street, noted that there are no changes of use proposed for 14 Tolles Street, that they have existing non-conforming uses, that for the past fifteen years there has been interplay between 14 Tolles Street and 15/17 Tolles Street and noted that the Town approved sales of autos on 14 Tolles Street.

Discussion arose regarding holidays and how one would determine what are "Town observed Holidays". Mr. Walsh stated that not all Town businesses close on holidays. Consensus reached that the "national" major holidays would be used and would consist of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

The hours of operation were defined as 7:00 AM – 7:00 PM Monday through Friday and 8:00 AM – 5:00 PM on Saturday. Danthony Ciampa stated that he recalled the hours being set as 7:00 AM – 9:00 PM Monday through Friday. It was noted that the hours of operation were changed to mirror the hours of the Noise Ordinance. The hours of operation were further defined as “hours of noise generating operation”. Mr. Walsh asked and received confirmation that there would be no sales after 7:00 PM. Mr. Pacocha noted that there is no restriction to after hours if the activity is quiet. The words “and/or open to the public” were added to the definition.

Discussion then focused on the proposed stipulation regarding screening with plantings behind 15/17 Tolles Street. Ms. Davis stated that noise, especially with regard to the testimony received from abutters, was the motivation for proposing this condition. It was noted that this was not an abutters’ request. Mr. Brackett stated that plantings provide a visual screen and do very little with regard to noise screening. Mr. Walsh stated that both sides have rights and noted that the businesses existed first and added that they are before the Board because permits were being denied because of the existing uses and not because of noise. Atty. Panciocco stated that noise at night was the issue presented by the abutters and added that the tenant making the noise has given his notice to leave the premise. It was noted that the Noise Ordinance would rule. Thomas Walsh, Sr., asked what would happen in an emergency situation, like ice falling off the roof or ripped electrical lines and Mr. Brackett responded that emergency situations are the exception to any rule as the safety of the public would prevail. Atty. Panciocco added that screening is part of the Planning Board’s Site Plan Review process and asked that screening be addressed then. The general consensus was that a planting screen was not needed as a stipulation to the variances and would be left to the Planning Board.

Board reviewed the proposed stipulations and the changes discussed and agreed upon the following for each Commercial and Industrial Use approved for 15/17 Tolles Street:

**Stipulations:**

The following stipulations shall be applicable to both the Commercial and Industrial Uses approved for 15/17 Tolles Street:

1. All vehicles, outdoor display and associated storage shall be limited to the Unit and its appurtenant outdoor storage/display/parking area as shown on attached Exhibit A and as further detailed on the approved Planning Board Site Plan and shall be appended to any lease agreement for that Unit.
2. Employee parking shall be limited to the area designated on Exhibit A and/or any off-road space included with the Unit.
3. Hours of noise generating and/or ‘open to the public’ business operations shall be conducted from 7:00 AM until 7:00 PM Monday through Friday and 8:00 AM until 5:00 PM on Saturday. There shall be no hours of operation on Sundays or on the National Holidays defined as: New Year’s Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

4. All Motor Vehicle, Trailer and Snow Mobile Sales and Rental shall be conducted from 15/17 Tolles Street and all other activity shall be primarily conducted within the Unit(s) on 15/17 Tolles Street.
5. Granting of Variance for the approved Commercial and Industrial Uses is contingent upon the applicant completing Site Plan Review through the Planning Board within a two year period following the date of the approval by the Zoning Board of Adjustment and the approved uses, associated stipulations, hours of operation and designated parking areas shall be duly noted on the recorded site plan.
6. Granting of the Variance for the approved Commercial and Industrial Uses at 15/17 Tolles Street, Hudson, NH does not imply that the conditions and/or obligations imposed per the grant of the Variance on 14 Tolles Street, Hudson, NH are superseded or released.
7. Any future development and/or construction at 15/17 Tolles Street, Hudson, NH will comply with the then current setback requirements.
8. Any violations of the terms and conditions imposed on this Variance shall be subject to enforcement action by the Town of Hudson pursuant to RSA 676:15-17-a.

Ms. Davis read the list of Commercial and Industrial Uses agreed upon into the record.

**A. COMMERCIAL USES**

- **Motor Vehicle, Motorcycle, Trailer, Snowmobile, ATV Sales + Rental**
- **Motor Vehicle, Motorcycle, Trailer, Snowmobile, ATV Repair + Service**
- **Motor Vehicle, Motorcycle, Snowmobile, ATV General Body Repair**
- **Business or Professional Office**
- **Garaging and/or Parking of two or more Light Commercial Vehicles**

Light Commercial Vehicles are classified as a vehicle used in commerce which does not exceed 13,000 pounds gross weight.

- **Garaging or Parking of Medium/Heavy Commercial Vehicles and/or Equipment**

Medium/Heavy Commercial Vehicles are classified as a vehicle used in commerce that exceeds 13,000 pounds gross weight

Heavy equipment is typically and specially designed for executing construction tasks, most frequently ones involving earthwork and/or construction operations; examples of heavy equipment include backhoes, loaders, forklifts, etc.

**B. INDUSTRIAL USES**

- **Welding Shop**

Not Official until reviewed, approved and signed.  
 Approved 7/26/2018, as edited.

- **Machine Shop**
- **Stone or Monument Fabrication, Arborist and/or Snow Removal Business**  
Examples include granite countertop fabrication, headstones, etc.
- **Light Manufacturing**  
Light manufacturing shall include activities which include processing, fabricating, assembly or disassembly of items of new or refurbished items. Examples include wrought iron works, wood working, furniture refinishing and/or reupholstering
- **Retail Sale of Products Manufactured on the Premises**
- **Self-Storage**
- **Storage of incidental loam, sand, gravel, stone or other aggregate typically used in a landscaping maintenance operation.**

Ms. Davis agreed to update the List of Uses and Stipulations agreed upon at this meeting and to label the file “Tolles St Variance Details\_FINAL 07Jun18.docx” and to title the document 15/17 Tolles Street Commercial and Industrial Uses Allowed by Variance with Stipulations. It was noted that this document, along with Exhibit A, is to become part of the Town file and be attached to the Notices of Decision.

Motion made by Ms. Davis for Case #172-018 & -022a to allow each vested use to take place within any Unit located on the property at 15 & 17 Tolles Street with the eight (8) stipulations identified in the document “Tolles St Variance Details\_FINAL 07Jun18.docx” titled 15/17 Tolles Street Commercial and Industrial Uses Allowed by Variance with Stipulations and per Exhibit A which may or may not be further detailed by the Planning Board during Site Plan Review. Mr. Pacocha seconded. Ms. Davis spoke to her motion noting that the existing uses today are vested and non-conforming, that the activity on the site predated Zoning, that it is not contrary to the public interest, that it observes the spirit of the Ordinance and substantial justice will be done in the granting of this variance. Mr. Pacocha spoke to his second noting that he shares Ms. Davis’ rationale. Vote was 5:0. Motion passed. Variance granted.

Brief discussion arose on the next two variances and their similarities.

Motion made by Ms. Davis for Case #172-018 & -022b & c to grant the Uses identified in the document “Tolles St Variance Details\_FINAL 07Jun18.docx” titled 15/17 Tolles Street Commercial and Industrial Uses Allowed by Variance with Stipulations and per Exhibit A which may or may not be further detailed by the Planning Board during Site Plan Review. Mr. Pacocha seconded. Both Ms. Davis and Mr. Pacochia offered the same reasoning as with the first variance granted. Vote was 5:0. Motion passed. Variances granted.

Board took a break so Ms. Davis could go upstairs to make a a copy of her marked-up version of the list and conditions so they can be attached to the Notices of Decision. Office locked, unable to make copies. Ms. Davis stated that she will update the

document with the changes made at this meeting and forward it to Staff so that it can be on file and attached to the Notices of Decision

- II. REVIEW OF MINUTES**
- III. REQUEST FOR REHEARING**
- IV. OTHER**

The above three Agenda items were not addressed.

Motion made by Ms. Davis, seconded by Mr. Dearborn and unanimously voted to adjourn the meeting. The special meeting held on June 7, 2018 before the Zoning Board of Adjustment adjourned at 8:58 PM.

Respectfully submitted,

---

Charles J. Brackett, ZBA Chairman