



TOWN OF HUDSON



Zoning Board of Adjustment

Charlie Brackett, Chairman

Marilyn McGrath, Selectmen Liaison

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MEETING MINUTES – April 11, 2019 - approved

The Hudson Zoning Board of Adjustment met on April 11, 2019, in the Community Development Paul Buxton Meeting Room in the lower lever of Hudson Town Hall.

Chairman Charlie Brackett called the meeting to order at 7:00 PM; stated that the purpose of the ZBA is to hear relief requests from State and Local Ordinances; 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 that anyone 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 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.

Selectman Marilyn McGrath introduced herself as the new Selectman Liaison to the ZBA, replacing Selectman David Morin, and announced to the public that she does not vote on ZBA Cases. Mr. Brackett noted that Selectman McGrath has served the ZBA in the past and welcomed her back. It was also noted that Brian Etienne is a new Alternate ZBA Member and that he was not able to attend tonight's meeting.

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

I. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. Case 191-116 & 115 (4-11-19): James D. Allard, 26 Cherokee Avenue, Nashua, NH requests a Variance at 23 & 27 Roosevelt Ave, Hudson, NH to permit a self-storage facility (and related improvements including parking) on split-zoned land, located partially in the Business (B) District and partially in the Town Residence (TR) District which is a use not permitted in either district. [Map 191, Lots 116 & 115, Split Zoned B and TR; HZO Article V, §334-20 Allowed uses provided in tables and §334-21 Table of Permitted Principal Uses].

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determination dated 2/27/2019 and his Staff Report signed 3/29/2019, noted that

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after consolidation of Lots 115 & 116, the frontages on both Roosevelt Avenue and F Street would be met and still be split zoned between Business (B) and Town Residential (TR) Zones. Mr. Buttrick stated that the applicant seeks a Variance to allow the non-permitted use in either Zone to construct a self-storage facility. Mr. Buttrick also noted that he received an email in support of the project from Atty. James Tamposi representing the Brookside Village residential apartment complex across the street on Roosevelt Avenue.

Atty. Brad Westgate of Winer and Bennett at 111 Concord Street in Nashua, NH, introduced himself as representing the owner and applicant, James Allard, who was also present and Tony Basso of Keach Nordstrom & Associates. Atty. Westgate distributed three (3) documents and two (2) 11"x14" plans which included: (1) an As-built Plan prepared by S&H Land Services documenting existing conditions of the land as of a year or so ago; a colored conceptual plan for the proposed self-storage facility prepared by Keach-Nordstrom & Associates; a letter from direct abutters Daniel and Virginia Dumont at 21 Roosevelt Avenue supporting the application; an email dated 4/11/2019, in support of the project from James Tamposi, attorney representing the Prolyn Corporation, owner of Brookside Village apartment complex directly across the street on Roosevelt Avenue; and a letter from Mark Prolman of Prolman Realty, Inc. in Nashua, NH, dated 4/9/2019, analyzing the impact of this proposed project on surrounding property values. Conceptual Exterior Views prepared by the Turner Group, colored elevation plans of the proposed facility, were also posted for view.

Atty. Westgate stated that 27 Roosevelt Avenue (Lot 115) is vacant land and 23 Roosevelt Avenue (Lot 116) has a building, which is bisected between two (2) zones and that the combined lots yield greater than three (3) acres of land. Atty. Westgate noted that the B Zone is by Roosevelt Avenue and consumes approximately two thirds (2/3) of the property and approximately one half (1/2) of the existing structure and that the TR Zone is to the rear and consumes approximately one third (1/3) of the lot. Atty. Westgate stated that there is existing vegetation in the back of the lot toward the southeast and noted that the land slopes upward from Roosevelt Avenue.

Tony Basso of Keach Nordstrom Associates addressed the Board and shared the following information. Regarding the surrounding area, across the street (Roosevelt Avenue) there are a couple of industrial buildings (Ashley Furniture), an apartment complex and condominiums to the east and west of the lot; the house lot below the subject lot is also owned by Mr. Allard and has an existing house; and single family residences to the rear. The subject lot generally slopes away from Roosevelt Avenue until the back inside corner where it jumps up about twenty-four feet (24'). The rise in land will generally stay in place when the site is developed. The proposal is to construct a ninety thousand nine hundred square foot (90,900 SF) climate controlled facility that will be accessed from Roosevelt Avenue. There will be a management person on site from eight in the morning to five in the evening (8 am – 5 pm) and access to the facility will be allowed from five in the morning to ten at night (5 am – 10 pm). There are mixed uses (residential and businesses) along Roosevelt Avenue. The proposed use is a minimal use for the property and is a low traffic generator. Mr. Basso stated that they did a comparison to the recently developed climate controlled BlueBird facility in Bedford, NH, to help quantify the minimal use of such a facility. The building will be connected to Municipal water and have a fire suppression system but will not be connected to Municipal sewer as there will only be one bathroom in the

facility. Mr. Basso provided brief history and outlined the changes in storage facilities and concluded that they are now more pertinent to the Business Zones than Industrial Zones and noted that by being a single building with access from within the building it avoids people driving up to individual units. Architecturally, the building will have split faced block on the lower half followed by architectural panels and is intended to be three (3) stories which should fit into the neighborhood considering the surrounding buildings are three-stories and the residences to the rear are at a higher elevation. Mr. Basso stated that they will go to the Planning Board and undergo Site Plan Review approval process.

In response to Ms. Davis' question regarding to the twenty-four foot (24') rise of land toward the rear of the site, Mr. Allard referenced the building elevation plan and stated that the trees depicted are the actual height of the existing trees on the site and noted that the trees to the north and west rise above the roofline of the proposed facility. Atty. Westgate noted that some of the elevation will be removed to accommodate the rear of the structure and Mr. Basso added that they would control the cut in the slope with a retaining wall. Mr. Brasso distributed the elevation sheet of the site and traffic memo from BlueBird and added that they are prepared to do a full traffic impact report for the Planning Board.

Atty. Westgate stated that the existing building was constructed in approximately 1945, that Hudson adopted Zoning in 1942 and imposed the TR Zone decades later, and that the building has been used industrially until 2017 when Mr. Allard bought the property. From approximately the mid 1960's through to 2017, the site was essentially a woodworking facility, which is classified as an industrial use. Back in 2017, Mr. Buttrick determined that the woodworking use was a non-confirming use and Mr. Allard came to the Board (ZBA) to change from one non-confirming use (woodworking) to another non-confirming use (indoor personal & group class training - Crossfit). Atty. Westgate noted that the use of an on-site septic system reduces impact on Municipal services and added that it is conceivable that there may be some drive-up units to the rear of the building on the northeast side.

Atty. Westgate addressed the five (5) Variance criteria. The information shared included:

1) *not contrary to public interest*

- the request is not contrary to public interest
- razing an outdated building and constructing a new single climate controlled building is an improvement
- will have minimal impact on Town infrastructure and Municipal services with an on site septic system and only one (1) bathroom in the building
- proposed use is a low traffic generator
- any use would require a variance due to the lot being split zoned
- this use can serve the immediate area – both residential and commercial

2) *spirit of Zoning Ordinance observed*

- it does observe the spirit of the Ordinance
- razing the existing building and replacing with a modern building meets the purpose of the Zoning Ordinance
- it does not alter the existing mixed character of the neighborhood

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- it meets all setback requirements
- 3) *substantial justice done*
- The question “is there any loss to the individual that is not outweighed by a gain to the general public” – in other words, if the Board is going to impose a restriction it should benefit the public – a balancing act
 - The site is surrounded by mixed uses, business, residential and industrial
 - There is no justice gained for the general public if variance is denied
- 4) *surrounding property values not diminished*
- nearby new development generally enhance nearby property values, especially when new development replaces an old outdated facility
 - size of parcel is large enough to meet all setback requirements, building and parking requirements
 - site provides appropriate buffering by topography and vegetation for most of their immediate neighbors
 - building will be architecturally designed
 - see letter from Prolman Realty, Inc., dated 4/9/2019
- 5) *unnecessary hardship if not granted*
- property is split zoned and the Zoning Ordinance does not stipulate how to deal with split zones and almost all split-zoned lots require a variance
 - very few Permitted Uses in the TR Zone overlap with Permitted Uses in the B Zone
 - Permitted Uses in both Zones are assisted living facilities and schools which would have a greater impact on traffic and infrastructure and utilities that the proposed Use
 - Site has been historically used as commercial and industrial since 1942
 - TR Zone imposed on site decades after its established use
 - Sanitary sewer service does not exist along the frontage of this site and favors a use that does not require such a connection, which the proposed use does not require by having only one bathroom serviced by an on-site septic system
 - Site has two (2) road frontages and must meet two front yard setbacks, which it does
 - General purpose of the Ordinance is to lessen congestion on the roads, provide adequate light and air, buffering, avoid undue concentration of population and conserving property values. This proposal meets all.
 - The proposed use is a reasonable use
 - There is no fair and substantial relationship between the general public purposes of the Ordinance provisions and the specific application of that provision to the premises
 - General public purposes of the Ordinance are not fulfilled by denying this variance.

Atty. Westgate read the Dumont letter into the record along with Mr. Tamposi's email.

Public testimony opened at 7:41 PM. The following individuals addressed the Board.

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- (1) Nancy Nordstrom, 15B Roosevelt Avenue, represents the Over 62 Community on the corner of Roosevelt Avenue and F Street, and noted that the Board of Directors of the Community were also present at this meeting. Ms. Nordstrom stated that what is proposed is very contrary to public interest, shared observations, expressed concerns and asked questions which included: the lot was left in a mess after all the trees were cut; the trees along F Street were all removed; Mr. Dumont's fence was damaged by the trees removed; there are other storage facilities nearby (off Melendy Road and Able Street as well as on the corner of Belknap Road and Central Street) and concerned with saturation; property values are impacted by the current state of the lot; concerned with lighting as homes on F street have their bedroom windows facing that lot; will the entrance from F Street be used?; what about fencing?; any landscaping proposed?; hours of operation need clarification; trash removal and current trash on site already an issue now; what about unclaimed goods, any provisions for their removal, will they hold "yard sales"?; how many units will there be?; whether two or three stories high, 90,000+ SF is a large building.
 - Mr. Brackett noted that some of the issues raised will be reviewed by the Planning Board – lighting, fencing, trash, landscaping etc – and urged her to attend the Planning Board meetings if the Use variance is approved tonight
- (2) Richard MacQuarrie, 15C Roosevelt Avenue, President of the Roosevelt Condo Association to the west of the site and stated that with regard to business owners and home owners, the only ones who have been contacted for any opinion regarding the splitting of the zones was a realtor who owns apartment complexes and the Chevrolet Dealer; no condominium owner was contacted. The only notice he received was from the Town, just a week ago. Not fair.
 - Ms. McGrath stated that it was the applicant's choice to seek out the neighboring businesses, not the Town.
- (3) Dave Naro stated that his father, Henry Naro, is the property owner of 30 B Street directly behind this lot, pointed the lot on the posted plan and stated that currently the existing building is one story tall and expressed concern that if it were to become two stories tall, the HVAC equipment would be visible and if it became three stories tall, his father's view would be a complete wall. Mr. Naro expressed concern regarding the lighting and that his parents' property value would be affected with this development. Mr. Naro stated that there is a reason for the buffer and was put there to protect the neighbors, the houses that were built there at the top of the hill. There is also erosion concerns if they cut into the hill, whether the hill be protected with fencing as well as water runoff. Please don't compromise the commercial/residential line.

Public testimony closed at 7:55 PM.

Atty. Westgate stated that Mr. Basso will address the questions raised regarding the project and slope in the southeast corner and Mr. Allard will address the tree cutting. Atty. Westgate stated that south of the Zone Line is the TR Zone that was established twenty to twenty-five (20-25) years ago and after the neighborhood was built.

Mr. Basso stated that their intent is to leave as many trees as possible, especially the ones on the higher elevation for their buffer effect and if the Planning Board directs there is also a possibility to do in-fill plantings; the retaining wall has not yet been engineered so its height is not yet known but will be addressed with the Planning Board and would have protective fencing if it reaches the height that requires one; drainage and storm water management will be addressed and mitigated during Site Plan Review; there are currently two (2) storm water retention areas being considered; that the access to the site will be Roosevelt Avenue and the access shown off F Street is actually an old driveway; there is a possibility to do additional landscaping along the F Street frontage to provide more of a buffer but that will be determined at the Planning Board; and lighting has rules and has to be downcast and not spill over the property line. Mr. Basso explained the comprehensive review process done at the Planning Board during Site Plan Review and noted that they are before the ZBA for a variance to permit the Use only, and if the Use is approved, then they will proceed to completely engineer plans in preparation for presentation to the Planning Board and added that the plans will also be reviewed by the Town's Engineering Consultants and the State of NH for Alteration of Terrain and septic permits.

Ms. McGrath inquired about the types of items to be stored and specifically whether there would be motorcycles as they could cause a noise disturbance. Mr. Pacocha asked if there would be any equipment (HVAC) on the roof and Mr. Basso stated that he was not certain an added that if it is, it could be screened.

James Allard stated that he did try to contact his two neighbors to the rear, one being the Henry and Nancy Naro, to discuss his plan but no one answered, he left a note, his name and telephone number, followed up again and still has not made contact. Mr. Allard stated that the site is vacant and has been vandalized and used by others to abandon furniture and trash. Mr. Allard started removing trees along the rear of Dumont's property to open up the area and spoke with Mr. Dumont who agreed to the cutting of the trees. Mr. Dumont also opened his fence so he (Mr. Allard) could cut down a tree on his (Dumont) property. No trees were cut nor was vegetation removed along F Street, just the area by Mr. Dumont's property line. Mr. Allard stated that the landscape plan has not been finalized but it is his hope to have the entire frontage along F Street landscaped and prevent entry to the site from F Street. There will be roof top equipment (HVAC) and has no objection to screening it and noted that the building and equipment will be below the maximum building allowed in Hudson. Mr. Allard stated that he has already removed much of the trash and has about a dozen tree stumps to clear.

With regard to the questions raised on the hours of operation and control over the units, Mr. Allard stated that the units will be climate controlled and the units will not have power so there is no worry for people working in them, that there will be security cameras, that the hours of operation are to be 5:00 AM to 10:00 PM with an onsite person from 8:00 AM – 5:00 PM, that access is electronically controlled, that tenants will have a PIN code to enter the building and should a tenant fail to pay their rent,

they can be denied access electronically into the building. In response to the question whether “yard sales” would be held for unclaimed goods, Mr. Allard responded “absolutely not”.

In response to Mr. Dearborn’s question, Mr. Allard stated that the facility would be available seven (7) days a week and Mr. Brackett added that hours of operation requires Planning Board approval. In response to Ms. McGrath’s concern with potential use for motorcycles in the rear outside access bays and resulting noise, Mr. Allard stated that external access bays were added to accommodate a wider range of options for tenants and if the Planning Board requires, he is okay with eliminating outside access bay doors as they were added for customer convenience. Ms. McGrath noted that hours for trash removal are 7:00 AM – 7:00 PM, Monday through Friday. In response to Mr. Brackett’s question, Mr. Allard stated that even though the ZBA approved a variance for Crossfit in 2017, the business never came to be on his site.

Public testimony opened a second time at 8:19 PM.

- (1) Nancy Nordstrom, 15B Roosevelt Avenue, stated that there is a difference between people coming to this site and not caring about making noise than a neighbor who works the odd shift and is quiet out of respect of his neighbors. Something happened to Mr. Dumont’s fence, it needs help. There are two storage facilities close by and there is no need for a third.

Being no one else to speak, Public testimony closed at 8:21 PM.

Mr. Dearborn noted that this self-storage facility will be climate controlled and that makes it different than others in Town. Mr. Dearborn asked what “related improvements including parking” meant and Atty. Westgate responded that it referred to landscaping and such items as utilities and septic system.

Discussion ensued. Mr. Pacocha and Mr. Dearborn questioned the link of individual self-storage units to warehousing and why self-storage units were not permitted in the B Zone especially in light of how self-storage units have evolved. Mr. Buttrick referenced item E8 in the Table of Permitted Principal Uses that groups self-storage units with warehousing and added that it is on the ZORC (Zoning Ordinance Review Committee) list to evaluate.

Mr. Daddario stated that the applicant is before the Board (ZBA) for the Use of the lot and must meet the five (5) criteria for the granting of a variance and based on the information presented, it is his opinion that the applicant has satisfied all five (5) criteria, including hardship with the spit zoned lot and two (2) frontages noting that both front setbacks have also been met. Mr. Daddario stated that the feedback received for the abutters is appreciated but most of the concerns and questions raised will be handled by the Planning Board and encouraged the public to attend the Planning Board meetings. With regard to the fact that there are a number of self-storage facilities in the area, that is a business consideration and not a ZBA concern.

Ms. Davis noted that it is a large lot for the area and to deny use is not fair and reasonable. Mr. Brackett added that it is a hard property to find compatible use with the neighborhood and noted that the proposed use is less intrusive with minimal

impact, especially as compared to a multifamily development or another business and requires minimum relief.

Motion made by Ms. Davis and seconded by Mr. Dearborn to grant the relief requested with no stipulations. Ms. Davis spoke to her motion stating that the proposed is not contrary to the public interest, the area currently has a mixed use, the prior use was industrial, it will not injure the public rights, it is a use with minimal intrusion and poses no threat, the applicant would be harmed by denial, it is a large lot for the area and there are similar uses in the area and it meets all criteria for the granting of a variance. Mr. Dearborn stated that the split-zone nature of the lot is a hardship imposed onto the lot, that the proposed use is less intrusive than many others that could be proposed. Mr. Brackett noted that the applicant still has to go to the Planning Board for Site Plan Review, that in his opinion, replacing an older building with a new modern building will enhance the neighborhood and the proposed use is a minimal use. Vote was 5:0. Motion carried. Variance granted. The 30-day appeal period was noted.

Board took a break at 8:35 PM. Mr. Brackett resumed the meeting at 8:43 PM.

2. Case 222-003, 004, 005 & 006 (4-11-19): The Lannan Company, 7D Taggart Drive, Nashua, NH requests a Variance for RDALE Holdings LLC, RDB Holdings LLC, Hol-Bri, Inc. and Corner Lot, LLC located at 225 Lowell Road, 227 Lowell Road, 2 Flagstone Drive and an unnumbered lot at the corner of Flagstone Dr. and Lowell Rd., Hudson, NH to construct a proposed bank structure and associated drive-thru-canopy and trash enclosure with fifteen(15) ft. resultant setback from Sagamore Park Rd, where a fifty (50) foot front yard building setback is required. [Map 222, Lots 003, 004, 005 & 006, Zoned Industrial (I); 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 2/28/2019 and his Staff Report signed 3/29/2019, stated that the applicant intends to consolidate four (4) lots into one (1) lot resulting in the new consolidated lot to have three (3) street frontages for development and that the applicant seeks a variance to encroach the fifty foot (50') front setback on Sagamore Park Road for three (3) structures: the dumpster enclosure appears to encroach approximately twenty feet (~20') leaving approximately thirty feet (~30') of setback; the drive-thru canopy appears to encroach approximately thirty five feet (~35') leaving approximately fifteen feet (~15') of setback; and the corner of the building associated with the drive-thru appears to encroach approximately twenty feet (~20') leaving approximately thirty feet (~30') of setback.

Matt Bombaci, PE, Bohler Engineering, introduced himself as representing the applicant, The Lannon Company, and noted that Richard Lannon was also present along with his attorney Jeffrey Zall. Posted for view was a surveyed plan by MHF Design Consultants, Inc. dated 10/23/2018 showing existing conditions and boundary information of the four (4) lots and a Preliminary Site Plan dated 3/11/2019 for the redevelopment of the consolidated four (4) lots.

Mr. Bombaci stated that the site is bordered by Lowell Road to the east, Flagstone Drive to the north and Sagamore Park Drive to the south and to the rear (west) is a moving company. It is in the Industrial Zone and has a Walmart nearby as well as Goodwill, Market Basket, Dunkin Donuts and Burger King.

Currently on site there is a 9,994 SF commercial building on Lot 006 to the rear and a 8,848 SF multi use building on Lot 005 and along Sagamore Park Road there is a single house with detached garage on Lot 003. Lot 004 has no structures. The proposal is to combine the four (4) lots, raze the buildings and redevelop the site.

Mr. Bombaci stated that the new lot has three (3) front yard setbacks, one along Lowell Road, a second on Flagstone Drive and the third along Sagamore Park Road. The applicant proposes to respect the front yard setbacks along Lowell Road and Flagstone Drive will be met along with the 15' landscape setback and would like to meet the 20' side yard setback along Sagamore Park Road.

Mr. Bombaci stated that Sagamore Park Road is in a very unique condition. The road itself actually terminates before it connects to Lowell Road and no public travel uses this section of the road as the only persons who use it is the residence on Lot 003, which will be razed when consolidated. Strict adherence to a front yard setback along Sagamore Park Road poses a hardship onto the project.

Mr. Bombaci stated that they prepared a Concept Plan that will be fine tuned when they work with the Planning Board, and proposes a 5,000 SF bank with drive-thru, a 2,200 SF restaurant with drive-thru and 10,700 SF of retail space. Access to the site will be from Flagstone Drive. They had an initial consultation with the Planning Board on 3/13/2019 and their initial thoughts was to consider a secondary access from Sagamore Park Drive and 10x20 parking spaces.

Mr. Bombaci addressed the criteria for the granting of a variance. The information shared included:

1) *not contrary to public interest*

- the request is not contrary to public interest
- Sagamore Park Road is unique in that it only provides access to one residence, that will be razed, and there are no abutters on the other side of Sagamore Park Road
- The proposed Use is permitted by right
- The proposed Use is compatible with the other in the area
- Consistent with the Master Plan
- Adequate utility services – water & sewer
- There will be a 25' landscape buffer along Sagamore Park Road

2) *spirit of Zoning Ordinance observed*

- it does observe the spirit of the Ordinance
- the Use is permitted by right
- will be correcting a non-conforming condition with the razing of the on Lot 003
- harmonious with the commercial uses along Route 3-A (Lowell Road) and the industrial uses to the rear

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Approved 4/25/2019 as edited and amended.

3) *substantial justice done*

- property is encumbered by three (3) frontages
- the proposed square footage is actually less than the square footage of the existing building

4) *surrounding property values not diminished*

- there is no residential use in close proximity of the project to have their property values diminished
- there exists both commercial and industrial uses in close proximity and their property values will not be diminished by this project

5) *unnecessary hardship if not granted*

- property is encumbered by three (3) front yard setbacks
- offering a reduced impact in the square footage of the proposed buildings
- there is no substantial relationship between the front yard setback of Sagamore Park Road in comparison to other right-of-ways in Town
- Sagamore Park Road dead ends and only serves one lot whose buildings will be razed, no public uses the road and will not be used unless the Planning Board's suggestion to use it as a secondary access point becomes a reality

Atty. Jeffrey Zall of 221 Main Street, Nashua, NH introduced himself as representing the applicant and quoted wording from the Master Plan that states that "flexibility in development ... and front setbacks can result in more efficient land use as well as improve community appearance." With regards to the unnecessary hardship issue, there is a hardship existing on this property that distinguishes it from other properties in the area with three (3) front yard setbacks. There is no substantial relationship to what a front setback is to protect which is to protect the people on the property from being too close to traveled roads. The purpose of the setback is not applicable to Sagamore Park Road because it is not a traveled road. The proposed use is a very reasonable use. Atty. Zall stated that setback variances are common in Hudson and cited two examples: (1) on Robinson Road, a very well traveled road, for Chase Steel; and (2) on 77 Lowell Road for T-Bone's restaurant.

Public testimony opened at 9:00 PM. No one addressed the Board.

Mr. Brackett stated that he did sit on the Planning Board during their conceptual consultation.

In response to Mr. Dearborn's question, Atty. Zall confirmed there will be no exit/entry from Lowell Road. Mr. Dearborn questioned whether the razing of the structures on Lot 003 will not interfere, to his knowledge, on the entrance to the Sagamore bridge and Mr. Bombaci responded that the improvements would occur to the section of Sagamore Park Road close to Lowell Road and that the easement would be preserved. Mr. Dearborn noted the size proposed for the restaurant (25' x 85') with its drive-thru and asked if it would be a fast-food restaurant to which Mr. Bombaci responded that the tenant is not yet known. Mr. Dearborn commented on the cumbersome travel way within the lot to get to the restaurant. Atty. Zall noted that the travel option between the buildings is so important. Mr. Brackett stated that the travel way was also

questioned at the Planning Board meeting and will be addressed during Site Plan Review. Ms. Davis added that the same concern exists for the bank drive-thru and added that once a vehicle is in queue, the passage way is blocked.

Mr. Brackett asked who owns Sagamore Park Road. Discussion and speculation ensued. Mr. Brackett wondered if instead of pursuing a variance whether the applicant considered pursuing discontinuance of Sagamore Park Road. Rich Lannon, property owner, stated that he once had a discussion with Elvis Dhima, Town Engineer, and remembered learning that it is a Town road in the State of NH ROW (Right-of-Way) and that the State had no interest in releasing the ROW. Mr. Buttrick also noted that there are other easements on Sagamore Park Road.

Ms. McGrath noted that if the size of the retail space or the bank was reduced, the encroachment into the setback could be avoided. Atty. Zall agreed and noted that the front setback on an unused road has no real legitimate purpose. Mr. Brackett stated that the front setbacks are usually to preserve land for future widening. Ms. McGrath stated that her concern is for the travel way within the site as it appears to be problematic. Atty. Zall noted that the travel way will be addressed at the Planning Board.

Motion made by Mr. Dearborn and seconded by Ms. Davis to grant with no stipulations and with the expectation that the Planning Board will do their due diligence. Mr. Dearborn stated that as long as it does not interfere with the proposed secondary access on Sagamore Park Road there is no issue with the front setback encroachment. Ms. Davis stated that it will not alter the character of the neighborhood and will improve the neighborhood and property values and that it would be unfair and unreasonable to require that the front setback be honored onto a road that goes nowhere. Vote was 5:0. Variance to encroach the front setback of Sagamore Park Road granted as requested. The 30-day appeal period was noted.

II. Public Hearing:

Second Reading of proposed by-law amendment

Public Hearing opened at 9:19 PM.

Mr. Buttrick noted that this is the second and final hearing on the proposed change with the correct wording of "each request" by a Member to Section 143.9 Decision Process of the Bylaws to comply with the State Law. Mr. Daddario noted that the change preserves the process/method the Board has historically operated by.

No one addressed the Board. Public Hearing closed at 9:22 PM.

Voice vote to adopt the change to the Bylaws was 5:0. Bylaws amended.

III. REVIEW OF MINUTES:

1. 03/14/19 Minutes

Board reviewed the edited version of the Minutes and made no further changes.

Motion made by Mr. Dearborn and seconded by Ms. Davis to approve the 3/14/2019 Minutes as edited. Vote was 5:0. Minutes approved

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Approved 4/25/2019 as edited and amended.

2. 03/21/19 Minutes

Board reviewed the edited version of the Minutes and made no further changes. Motion made by Mr. Dearborn and seconded by Mr. Daddario to approve the 3/21/2019 Minutes as edited. Vote was 5:0. Minutes approved

IV. REQUEST FOR REHEARING:

No requests were presented for Board consideration.

V. OTHER:

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

Mr. Buttrick distributed the sign up form, stated that the registration deadline is 5/24/2019, noted that the classes fill up fast and encouraged Members to sign up.

1a. Londonderry Cell Tower notice

Mr. Buttrick recapped the notice. Briefly discussed. No Board action needed.

2. Planning Board ZORC: propose possible Z.O. amendments.

Mr. Brackett gave his input on how well the process worked this past year and hoped that Brian Groth, Town Planner, would continue to liaison between both Boards (ZBA & PB). Mr. Buttrick was asked to resurrect the old ZBA list of potential Zoning amendments and distribute by email. Caution expressed regarding “email meetings”. Tracy Goodwyn, Zoning Administrator’s Aide, will be asked to act as the record keeper and Members asked to direct all communications to/through her similar in manner to how edits to the Minutes are processed. The goal is to have all potential Zoning Amendments prepared for submission to the Planning Board in/by September 2019.

3. Discussion of possible ZBA Bylaws revisions regarding Clerk, Selectman’s Rep. & Recorder duties.

Mr. Buttrick recapped the discussion to date. Ms. McGrath stated that she would discuss the Selectmen Liaison role with the Town Administrator and the Selectmen. Ms. McGrath noted that she is assigned to the ZBA and is also the Alternate Selectmen Liaison to the Planning Board and noted that on the Planning Board the Selectmen Liaison is a voting Member.

4. Unsigned letters to the Board

Mr. Buttrick stated that the question arose at the last meeting when an unsigned letter was received regarding one of the Cases and checked with Town Counsel. Mr. Buttrick referenced Town Counsel’s email response dated 4/2/2019. Discussion ensued. General consensus was to include how to handle in the Bylaws. Mr. Buttrick asked to draft an amendment to the Bylaws that anonymous correspondence be kept as an exhibit for the record and “give it the weight it deserves”..

5. Meeting decorum and process

Not Official until reviewed, approved and signed.
Approved 4/25/2019 as edited and amended.

- Pledge of Allegiance

Discussed. It was noted that some Boards in other Towns as well as in Hudson do and some do not. There is no strict guideline to follow, it seems it is a matter of preference. Consensus was to incorporate into ZBA meetings. Mr. Buttrick asked to list the Pledge on each Agenda and prepare a draft amendment to include into the Bylaws.

- Recognition and address of Board Members

It was noted that some Boards address Members by first name, others by Mr. or Ms. and others by title. Mr. Dearborn stated that recognition is also important for the cameraman to know who to put into view. General consensus was to use proper names, a person's last name preceded by either Mr. or Ms.

- Preamble

Mr. Brackett stated that he is working on standardizing his preamble before each meeting in order to be consistent. Mr. Buttrick agreed to forward an electronic version of Mr. Brackett's preamble for review and editing.

6. March Town Vote on Zoning Amendments

Mr. Buttrick reported that the proposed Zoning Amendments were all approved at the March Town Vote. Until the 2019 Zoning Ordinance is produced, Mr. Buttrick distributed a copy of the Amendments to include as an insert into the current 2018 Zoning Ordinance.

Motion made by Ms. Davis, seconded by Mr. Daddario and unanimously voted to adjourn the meeting. The 4/11/2019 ZBA meeting adjourned at 10:03 PM.

Respectfully submitted,

Charles J. Brackett, Chairman