



TOWN OF HUDSON

Zoning Board of Adjustment



Charlie Brackett, Chairman Marilyn E. McGrath, Selectmen Liaison

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

MEETING MINUTES – February 27, 2020 – approved

The Hudson Zoning Board of Adjustment met on February 27, 2020, in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall. A public meeting for ZBA officer and member training was conducted at 6:30 PM. The public hearings for applications began at 7:00 PM.

6:30: ZBA workshop: ZBA officer/member training

Training / review occurred of the Clerk's revised role and responsibility.

7:00 PM: Meeting

- 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.

Clerk Daddario took the roll call. Members present were Charlie Brackett (Regular/Chair), Gary Daddario (Regular/Clerk), Gary Dearborn (Regular/Vice Chair), Brian Etienne (Regular) and Jim Pacocha (Regular). Also present were Bruce Buttrick, Zoning Administrator, Louise Knee, Recorder, and Marilyn McGrath, Selectman Liaison. Ms. McGrath clarified her role on the ZBA and noted that even though she may participate in the discussion on any Case, she does not vote. For the record, all Members voted.

Mr. Dearborn read the Preamble into the record, identified as Attachment A of the Board's Bylaws, that included the procedure and process for the meeting, that copies of the Agenda and Application for Rehearing are on the shelf by the door, the importance of the 30-day time period for appeal as well as housekeeping items regarding cell phones, smoking and talking.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. Case 242-068 (02-27-20) (deferred from 1-23-20): Elaine Bettencourt, 26 Gowing Rd., Hudson, NH requests a Use Variance to allow the construction of a 714 SF Accessory Dwelling Unit (ADU) in the lower

level of a split level duplex where an ADU is not allowed in two family dwellings. [Map 242, Lot 068-000; Zoned Residential-Two (R-2); HZO Article XIII A, §334-73.3 A, Accessory Dwelling Units, Provisions].

Mr. Buttrick read the Case into the record and noted that an email was received from the Applicant's attorney, Joseph Clemont, on 2/25/2020 requesting to withdraw the application without prejudice. Motion made by Mr. Dearborn, seconded by Mr. Etienne and voted 5:0 to accept the applicant's request to withdraw without prejudice.

2. Case 243-022 (02-27-20): Julio Hiraldo, 21 Richman Dr., Hudson, NH requests an Equitable Waiver of Dimensional Requirement to allow a new driveway expansion to remain with an encroachment of 5 ft. into the side yard setback leaving 10 ft. where 15 ft. is required. [Map 243, Lot 022-000; Zoned Residential-Two (R-2); HZO Article VII, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record, referenced his Staff Report signed 2/18/2020 and noted that the new paved driveway expansion was installed to service the ADU (Accessory Dwelling Unit) recently built in the rear of the existing house and, that per the Zoning Ordinance, driveways must meet the same setback requirements as buildings.

Julio Hiraldo introduced himself, stated that he was in the process of creating an ADU Unit for his in-laws who currently live down south and had requested months before to expand the driveway, which he obtained a permit for, and his plan was to continue the driveway to the back for ADU access. Mr. Hiraldo hired a company out of Mass. and the assumption was made that if the line of the driveway was followed, that it would be okay, but the property line is not perpendicular to the road and an encroachment occurred. Mr. Hiraldo stated that it was an innocent mistake, a bad assumption, that the driveway extension to the ADU was already paved when the encroachment was noted and that the encroachment is five feet (5') for only a section of the newly paved driveway extension.

Mr. Brackett stated that when he drove by he noticed that it *almost* looks like the property has two (2) separate driveways and that there was a For Sale sign posted. Mr. Hiraldo confirmed and added that his in-laws have decided not to move north and that he and his family are moving south. In response to Mr. Brackett's next question, Mr. Hiraldo responded that the ADU is complete. Mr. Buttrick disagreed and explained that the Building Permit (BP) for the ADU was issued for five hundred square feet (500 SF) and upon last inspection the ADU exceeds 500 SF. Mr. Buttrick stated that at the minimum, the BP would need to be fixed to reflect the exact SF of the ADU and if that SF exceeds 750 SF then two options exist before a CO (Certificate of Occupancy) could be issued: (1) reconstruct the ADU to be less than or equal to 750 SF or (2) seek a

Variance from the ZBA to exceed 750 SF. Mr. Dearborn asked who would reconcile the square footage issue, the current owner or the new owner? Mr. Brackett noted that it is not an approved ADU and therefore cannot be part of the sale of the property. Mr. Hiraldo stated that the ADU is part of the sale, that the square footage of his home office was added to the ADU and that he would reconfigure the door to his office to block access of it to the ADU.

Mr. Pacocha made the motion to grant the Equitable Waiver and Mr. Etienne seconded. Both were rescinded as the meeting had not been opened to public testimony.

Public testimony opened at 7:20 PM. The following individuals addressed the Board:

- (1) Damian Deneault, 23 Richman Road, stated that he objects to the granting of the variance, noted that the driveway abuts the property line and expressed concern regarding vehicle noise and headlights shining into his porch which constitutes a nuisance to him and his family. Mr. Denault stated that the driveway extension to access the rear ADU was done last year, around August, and noted that where the driveway meets the road is only four feet (4') from the property line.

Mr. Brackett stated that when he drove by he saw trees, vegetation and rocks along the property line and questioned the claim whether there was proof of the four-foot claim. Mr. DeNeault submitted pictures of the driveway – see Exhibit A

- (2) Larry Olsen, 20 Richman Road, stated that he lives across the street, that the first driveway expansion was good in his opinion and saw the second extension going to the back of the house, noted that the property can now hold six (6) vehicles which is too much for the neighborhood and expressed concerns regarding an advertisement for the apartment for rent at \$1,800 a month and noticed that a red pick-up truck was parked there and also a contractor's truck and is concerned that the backyard could become a parking lot.

Ms. McGrath questioned the rental claim and Mr. Olsen stated that he saw it advertised for rent with free WiFi.

- (3) Mary Gorman, 19 Richman Road, stated that she lives next door and that she knows that their pool is exactly fifteen feet (15') from their property line because when the pool was installed by the previous owner, they executed a land-swap for it to meet the setback. Ms. Gorman stated that about a year ago, Mr. Hiraldo hired a tree-cutter to cut trees that were shading the pool without any idea of where his property line is and ended up cutting some of her trees

In response to Ms. McGrath's questions, Ms. Gorman stated that she sold a pie-wedge piece of her land in order for the pool to meet the needed setback and that the exchange of land went through the Planning Board.

Being no one else to speak, public testimony closed at 7:32 PM.

In response to the comments received, Mr. Hiraldo stated that the trees were leaning over his house, that he did hire a tree-cutter to trim and clear the brush and stopped when approached by his neighbor; that when his wife's parents decided not to move north, he did place an ad but never rented it; that the driveway was installed after the ADU was constructed; that there are two (2) bedrooms at that end of his home and all he had to do was add a kitchen to convert it to an ADU; that the contractor with the red pick-up truck works with him and needed a place to stay for a short time.

Mr. Brackett questioned the pictures submitted. Mr. Buttrick referenced the picture in the driveway folder where the Town Engineer drew a line and pointed out that the picture is from the GIS Map and is known not to be 100% accurate.

Public testimony re-opened at 7:39 PM.

- (1) Damian Deneault, 23 Richman Road, stated that the pictures disagree and restated that there is still a nuisance factor.
- (2) Monica Denault, 23 Richman Road, stated that she has the survey of her property and the neighbors, signed by a PE (Professional Engineer – Edward N. Herbert Assoc., Inc., 1 Frost Road, Windham, NH dated 2006) that identifies the property line as the stonewall and noted that one of the pictures her husband submitted shows the stonewall at the rear and the new driveway right up against the stonewall. See Exhibit B

Being no one else to speak, public testimony closed at 7:45 PM.

Mr. Dearborn suggested getting the Town Engineer out to the property to locate the property pins because the Board cannot make a determination without knowing. Mr. Daddario agreed and suggested that a Site Walk would be in order. Mr. Brackett suggested that the Town Engineer also check out the plans just submitted (Exhibit B).

Board discussed possible Site Walk dates and whether to continue the hearing to the regular March meeting or possibly to the overflow meeting scheduled for March 12th. Mr. Hiraldo stated that he already has Closing Dates, 3/23/2020 for his property in Hudson and 3/27/2020 for his new property.

Mr. Dearborn made the motion to schedule the Site Walk for Saturday, 2/29/2020 at 9:00 AM. Mr. Daddario seconded the motion. Mr. Brackett stated that it is a public meeting and that the neighbors are invited to attend and added that it could be possible that the Board could render a decision regarding the Equitable Waiver at the Site Walk. Vote was 5:0. Motion carried. Mr. Buttrick asked to do the required noticing and coordinate review with the Town Engineer.

Board took a five-minute break at 7:55 PM. Board reconvened at 7:59 PM.

Site Walk Meeting Opened at 8:56a.m. on 02/29/2020, 21 Richman Street driveway

All voting members of the ZBA were present. Also present, the neighboring owners who spoke against the applicant at Town Hall (Mr. & Mrs. DeNeault, 23 Richman Road, and Larry Olsen, 20 Richman Road).

Chairman Brackett announced that the purpose of the meeting was for board members to take an actual viewing of the circumstances to assist with the decision on the application for relief. It was explained that Chairman Brackett and the Town Engineer visited the site on Friday, 2/28/2020. At that time, the Town Engineer was able to identify the property line, as well as paint a green line on the asphalt that outlines a pie shaped area that was encroaching on the setback. It was noted that the application was correct in that the encroachment is about 5 feet at the street and tapers down to no encroachment at all by the time the driveway reaches the garage. Chairman Brackett further explained that the plan provided by the neighbors was for purposes of establishing the subdivision itself, not the actual property lines. It was noted that the stonewall is not the property line.

At this point, the party moved into the driveway and the applicant Julio Hiraldo came out of his house. Chairman Brackett pointed out that the Town Engineer located a pin for purposes of designating the actual property line. Both the pin and the property line were pointed out.

Chairman Brackett stated that the situation appears to fall within an equitable waiver scenario. He also stated that it would appear consistent with other equitable waivers that have issued in Town. Mr. Daddario noted that the encroachment appears minimal and that even removal of the encroaching asphalt would result in no apparent change in use of the driveway. Mr. Etienne remarked that the removal costs would outweigh any benefit.

Mr. Pacocha made a Motion to Approve. Mr. Etienne seconded. Mr. Daddario called the vote and the Motion passed by a vote of 4-1. Mr. Dearborn opposed

The meeting adjourned at 9:18a.m.

Respectfully Submitted, Gary Daddario, Clerk

3. Case 234-012 (02-27-20): Mark Tempesta, 12 Linda St., Hudson, NH requests a Home Occupation Special Exception to operate an online sales and on-site light service/repair business of motorcycles. [Map 234, Lot 012-000; Zoned General-One (G-1); HZO Article VI, §334-24, Special Exceptions, Home Occupations].

Mr. Buttrick read the Case into the record, referenced his Zoning Determination dated 1/29/2020 and his Staff Report signed 2/19/2020 and noted that Review Comments were received from Engineering, Fire Department and the Town Planner.

Mark Tempesta introduced himself, stated that he runs his business in Peabody, Mass., that he now has a newborn and wants to save on commute time and establish his business in Hudson, at his home until his business reestablishes itself in NH. Mr. Tempesta stated that most of his business is conducted online and wants to apply for a motorcycle only dealer license from the State of NH and for that he needs to offer minimal repairs for bikes to pass inspection, services like oil changes, tires, tune-ups. Mr. Tempesta stated that servicing is secondary to sales.

Mr. Tempesta stated that he has a two-car detached garage, that one half would be for the business, to store and repair motorcycles as needed, that exterior storage is not needed, that his three-season porch will serve as the business office, that he would be the only employee, that he is required by the State to have a sign, that he would use his pick-up truck for the business and possibly a small enclosed trailer and that any noise would be consistent with the running of his personal motorcycle.

Public testimony opened at 8:03 PM.

- (1) Tina Stevens, 10 Linda Street, asked the hours and days the business would operate, how much traffic would be generated and stated that she likes and wants quiet on the weekends.

Being no one else to speak, public testimony closed at 8:04 PM.

Mr. Tempesta responded stating that the majority of his business is online where he posts to his website, that he does not expect physical traffic to his neighborhood as the majority of his motorcycles are delivered directly to new customers/owners, that motorcycles on his property will be there for repairs which will be contained in one of the garage stalls, that he anticipates starting with a small number and that he anticipates the same hours, 10 am – 7 pm Monday through Friday and 11 am – 6 pm Saturday.

Ms. McGrath asked if there would be motorcycles in the garage “for show” and Mr. Tempesta responded that there could be as pictures can only do so much and some customers like to “touch and feel”. Ms. McGrath asked about the type of noise level. Mr. Tempesta responded that motorcycles each sound different and vary depending on their exhaust system and confirmed that he would not be allowing test-drives from his property and noted that he also owns a motorcycle as do others in the neighborhood.

Public testimony re-opened at 8:13 pm. No one addressed the Board.

Mr. Pacocha asked and received confirmation that all service repairs would be done inside the garage. Mr. Dearborn noted that tune-ups usually require a test drive and that it is a close neighborhood and asked Mr. Tempesta if he has approached any of his neighbors. Mr. Tempesta responded affirmatively stating that he has spoken with the Stevens on his left, his neighbor across the street and his neighbor two doors down on his right and added that his neighbors to his right are “snowbirds” and have not yet returned north.

Mr. Brackett stated that Home Occupation Special Exception is good for business start-up and allowed in good faith, but as the business grows, the challenge becomes identifying the threshold and knowing where to draw the line and to have the line enforceable. Mr. Tempesta stated that he understood, noted that the majority of his business is on-line and added that he started his business in 2001 and by 2003 it grew so he moved into another location and it continued to grow so that he had to move again in 2005 to Peabody. Now he wants to eliminate his commute and does not know the NH market to gage how fast it will grow. Mr. Brackett asked if the option exists to do the on-line portion at home and repairs off-site and Mr. Tempesta responded “not really”.

Mr. Etienne inquired how the sales are transacted on-line and whether there is a difference if the customer comes to the home to see the motorcycle before buying it. Mr. Tempesta stated that the purchase is either by credit card, cash, check or credit union. Mr. Etienne noted that the Zoning Ordinance prohibits retail transactions on site. Mr. Etienne asked about the sign. Mr. Tempesta stated that the sign is a NH State DMV requirement for the dealer license. Mr. Brackett noted that a sign is allowed for a Home Occupation and is regulated.

Mr. Dearborn stated that a Home Occupation is supposed to be “invisible” and does not feel that tuning and test-driving motorcycles qualifies as invisible. Mr. Tempesta noted that all motorcycles make noise, that several in the neighborhood own their own bikes and many bike owners do their own repairs and routine maintenance.

Mr. Daddario referenced the Town Planner’s Review Comments and expressed his agreement that subsection J, F & E are not met.

Motion made by Mr. Dearborn and seconded by Mr. Etienne to not grant the Home Office Special Exception as it failed to meet subsection E, F & J. Mr. Dearborn stated that the repair aspect is not invisible even though he recognizes that it is okay to work on one’s own motorcycle. Mr. Etienne concurred and added that it is in a tight residential neighborhood. Vote was 5:0 to not grant the Special Exception. The 30-day appeal period was noted.

Zoning Ordinance Section 334-24

Subsection E: The requested Special Exception shall be for an occupation which is consistent for what is routinely and/or typically done in a home environment

Subsection F: On-site retail sales are an expressly prohibited home occupation special exception use

Subsection J: Objectionable circumstances, such as, but not limited to, noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare shall not be produced

4. Case 190-109 (02-27-20): Mary Ellen Bourassa, 16 Fulton St., Hudson, NH requests a Variance for 1 Chapin Street, Hudson, NH to allow 60 ft. of frontage for a proposed lot line adjustment where 90 ft. is required. [Map 190, Lot 109-000; Zoned Town Residence (TR); HZO Article VII, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record and referenced his Staff Report signed 2/19/2020. It was noted that the original Lot was a corner lot with frontage on both Chapin Street and Fulton Street, that the existing residence's driveway accesses Chapin Street, that the Property Owners received approval from the Planning Board to divide their lot into two (2) parcels with the condition that the existing driveway be discontinued and a new driveway constructed on Fulton Street in order to provide the required frontage for the new lot on Chapin Street; however, asbestos and contaminated soils were discovered when the attempt was made to install the new driveway on Fulton Street. The variance before the Board is to allow for reduced frontage on Chapin Street for the newly created lot so that the existing driveway may remain.

Richard Maynard introduced himself as a PE from Maynard & Paquette Engineering Associates, LLC, 31 Quincy Street, Nashua NH, 03060, as representing the Property Owners/Applicants, Mary Ellen Bourassa and Michael Shumsky and noted that both were in the audience. Mr. Maynard identified the location of the property noting it is being a corner lot, posted a plan of the two-lot Subdivision plan conditionally approved by the Planning Board on 6/29/2019 and the modifications for the proposed frontage change needing a variance.

Mr. Maynard referenced the Town Planner's Review Comments that admitted that no one knew the soil was contaminated on Fulton Street at the proposed relocation of the existing driveway to Fulton Street, as identified on the plan recorded at HCRD (Hillsborough County Registry of Deeds) and identified as Plan #40311. It is asbestos contamination. Mr. Maynard stated that options were discussed with the Town Planner on how to resolve the matter. Each option would require a waiver or a variance as well as a modification of the Subdivision approval. The option being pursued is to leave the existing

driveway on Chapin Street and seek a Variance for reduced frontage for the new lot and avoid disrupting the contamination on Fulton Street.

Mr. Maynard addressed the Variance criteria. The information shared included:

1. *not contrary to public interest*
 - would allow existing driveway to remain away from the street corner – a significant public street
2. *spirit of Ordinance observed*
 - the lot would be similar to others in the neighborhood
 - separation of driveway to lot line for 15' would be preserved
 - lot size would meet TR Zone requirements
3. *substantial justice done*
 - would allow lot owners to subdivide without disturbing buried asbestos
4. *will not diminish surrounding property values*
 - lot would be similar in character to those in the neighborhood
 - new construction tends to enhance property values
5. *hardship*
 - special condition exists – property contains substantial buried asbestos along Fulton Street ROW (Right-of-Way) and property line
 - granting the variance would allow existing asbestos to remain buried and undisturbed

Public testimony opened at 8:41 PM. No one addressed the Board.

Ms. McGrath referenced the email exchange between Mr. Maynard and the Town Planner and asked why the asbestos is not on the Plan. Mr. Brackett stated that it should at least be a Note on the Plan. Mr. Maynard agreed and added that the asbestos should also be noted on the Deed.

Discussion arose on driveway placement being under the purview of the Planning Board, that the June 2019 Planning Board approval was conditioned on the existing driveway being relocated to Fulton Street, that addresses are generally based on a property's frontage, that driveways are generally located along the frontage of a property, that the lot is a corner lot with frontage on both Fulton Street & Chapin Street, that the newly created lot only has frontage on Chapin Street, that the presence of asbestos was a recent discovery after the Planning Board approved the subdivision which now raises the question of whether the lot should have been subdivided and that any change to the driveway from Fulton Street would violate a condition of Planning Board June 2019 subdivision and would require Planning Board approval. Mr. Maynard agreed that a modification of subdivision approval would be needed if ZBA granted the variance.

Mr. Etienne asked if there were any alternatives to mitigate the asbestos and Mr. Maynard stated that it was attempted but there exists a fifteen-foot (15') grade along Fulton Street and construction would disturb the buried asbestos. Mr. Daddario noted that the Town Engineer's Review Comment #2 is requiring that the plan show that the lot can accommodate a driveway that meets grade.

Ms. McGrath stated that the Town Engineer's first review comment noted that the Plan does not identify whether the lot would be serviced by Municipal water and sewer and Mr. Maynard confirmed that it would be.

Mr. Etienne commented that sixty feet (60') is a "big ask" and results in creating a sub-standard lot. Mr. Maynard stated that the "ask" is for thirty feet (30'), to allow a sixty foot (60') frontage instead of the required ninety feet (90'), noted that the lot exceeds the minimum lot-size requirement and added the subdivision creates lots similar in size to others in the neighborhood. Mr. Daddario asked Mr. Buttrick to expand the map so the Board could take a broader look at the other lots in the neighborhood. Mr. Dearborn asked if the width of existing driveway could be reduced and increase the frontage for the new lot while preserving the fifteen foot (15') setback adding that the driveway does not lead to a garage.

Ms. McGrath asked if it was known whether the buried asbestos was elsewhere on the lot. Ms. Bourassa responded that there was no disclosure of the asbestos and had the land studied and noted that the white flags placed on the lot to identify the asbestos. Mr. Shumsky added that the asbestos was located in the Town ROW (Right-of-Way), not in their property.

Board reviewed the criteria for the granting of a Variance. Comments included:

1. *not contrary to public interest*
Mr. Dearborn, Mr. Pacocha & Mr. Brackett: asbestos discovered after lot was subdivided
Mr. Daddario : avoids disturbing the asbestos
Mr. Etienne: not met, small enough lots already
2. *spirit of Ordinance observed*
Mr. Dearborn: frontage on a street that is not heavily traveled and the size lot proposed is no smaller than many in Town
Mr. Brackett: "spirit" does allow for some latitude and there could be a *threat to public health or welfare* if asbestos is disturbed
Mr. Daddario: spirit observed, lot has required buildable area
Mr. Pacocha and Mr. Etienne: not met, creating a non-conforming lot
3. *substantial justice done*
Mr. Dearborn: if asbestos did not exist, criteria would be met
Mr. Pacocha: no issue, could harm general public if asbestos disturbed

- Mr. Brackett: asbestos was not known at time of subdivision
 Mr. Daddario: met, allows Property Owner use of his property without disturbing asbestos and there is no harm to the general public with a house on a lot with reduced frontage
 Mr. Etienne: agreed with Mr. Daddario
4. *will not diminish surrounding property values*
 Mr. Dearborn, Mr. Pacocha, Mr. Brackett and Mr. Daddario: met
 Mr. Etienne: is not an expert but lot would be smaller than others in the neighborhood and another house would be unattractive
5. *hardship*
 Mr. Dearborn: on a street not heavily traveled
 Mr. Pacocha: have home already on property, therefore lot has a use – condition not met
 Mr. Brackett: agreed with Mr. Pacocha but property owner bought the lot thinking it could be subdivided
 Mr. Daddario: asbestos was unknown at purchase, therefore met
 Mr. Etienne: agreed with Mr. Daddario, criteria met

Motion made by Mr. Dearborn and seconded by Mr. Daddario to grant the variance to allow sixty feet (60') of frontage for the proposed lot line adjustment with two (2) conditions: (1) that a Note identifying the asbestos be added to the Plan; and (2) that the deed reflect the existence of asbestos. Vote was 3:2 with Mr. Etienne and Mr. Pacocha opposed. Motion carried. Variance granted with two (2) stipulations. The 30-day appeal period was noted.

5. Case 174-079-002 (02-27-20): Barbara Chirone Young, 25 Derry St., Hudson, NH requests a Home Occupation Special Exception to conduct a home business office for off-site and (occasional on-site) pet care offering services of animal house sitting, dog walking and potty breaks. [Map 174, Lot 079-002; Zoned Town Residence (TR); HZO Article VI, §334-24, Special Exceptions, Home Occupations].

Mr. Buttrick read the Case into the record, referenced his Staff Report signed 2/20/2020 and noted that Review Comments have been received from the Fire Department, Town Planner and Animal Control Officer.

Barbara Chirone Young introduced herself and stated that she wants to run a pet care business in Hudson out of her home, noted that 90%-95% of her business will be conducted off-site and 5% - 10% would be on site at her home. Her services include dog walking, potty breaks, feeding and general care while the pet owner is away or at work. Ms. Chirone Young stated that she has been doing this business for three (3) years, in Massachusetts, and recently moved to Hudson where she began doing it here before finding out that she needed a permit. Ms. Chirone Young stated that she works part time as a waitress.

Ms. Chirone Young offered the following information: she has four (4) cats and three (3) dogs, registered with the Town, and that occasionally she would like to care for one (1) dog in her home who would not be seen as her yard is fenced in; all she needs to run her business is her cell phone and day planner; there will be no structures added and no storage needed; there will be no traffic as she travels to her clients and on the odd occasion where she would care for another's dog, her driveway can accommodate six (6) cars; she uses her own personal vehicle to travel to client's home and it has no lettering; there are no set hours of operation, she goes where she is needed; she sells no product; she does have a 3'x2' sign that she would like to hang off her fence or porch railing; that she does not run a doggie day care in her home; and she advertises via her website and Facebook.

Ms. McGrath questioned Mr. Buttrick on his 12/30/2019 Stay of Enforcement. Mr. Buttrick stated a Cease and Desist Order had been issued on 11/21/2019 for a sign without permit and operation of a business without approvals that was then followed by his Zoning Determination dated 12/17/2019 that a Home Occupation Special Exception would be needed and his 12/20/2019 Stay of Enforcement was to give Ms. Chirone Young the opportunity to come before the Board for the needed Special Exception, after she complied with removing her sign and changing her advertisement. Mr. Brackett asked if she has ceased running her business and Mr. Buttrick responded that he has not received any complaints or notice to the contrary.

Public testimony opened at 9:33 PM

- (1) Elaine Meuse, 18 Derry Street, stated that she lives across the street, does not object to one (1) dog but does not want to hear a lot of barking and does not support parking on a busy street.

Being no one else to speak, public testimony closed at 9:35 PM.

Ms. Chirone Young stated that she is not running a facility, just the occasional dog, and that her driveway can accommodate six (6) cars so there would be no on-street parking.

Ms. McGrath questioned the types of animals Ms. Chirone Young would care for and Ms. Chirone Young stated that her care is all off-site, not at her home, with the exception of one (1) dog. In response to Mr. Dearborn's question, Ms. Chirone Young stated that she would do a "meet and greet" before accepting a dog to be in her home and would not accept a barker and added that she could always separate the dog from her own pets if needed.

Mr. Dearborn stated that an approval could be conditioned to only allow one dog to be boarded at the residence. Ms. McGrath stated that a Special Exception could be tied specifically to Ms. Chirone Young and become void if

she moved. Mr. Pacocha questioned whether the restriction would limit to one (1) dog or to one (1) owner, as sometimes one (1) owner could have two (2) or more dogs.

Mr. Daddario referenced the Town Official Review Comments and noted that the problems/concerns raised were related to scale and with a condition to limit to only one dog, their concerns will be addressed.

Motion made by Mr. Dearborn to grant the Home Occupation Special Exception with the following three (3) conditions: (1) that the only type of animal allowed to be boarded on site is a canine (dog); (2) that only one (1) dog be allowed to be boarded with the Property Owner at the residence; and (3) that the Special Exception applies only to Barbara Chirone Young. Mr. Daddario seconded the motion. Vote was 5:0. Motion carried. Home Office Special Exception conditionally granted.

IV. REQUEST FOR REHEARING: No requests received for consideration.

V. REVIEW OF MINUTES:

1/23/20 Minutes

Board reviewed the Edited Minutes presented and made no further changes. Motion made by Mr. Dearborn, seconded by Mr. Etienne and unanimously (5:0) voted to approve the 1/23/2020 Minutes as edited and presented.

VI. OTHER:

1. Upcoming: NH OSI Annual Spring Planning & Zoning Conference-
Saturday, May 30, 2020, Concord, NH

Members expressed their desire to attend, noted that registration opens in April and asked Mr. Buttrick to stay on top and enroll them at the first opportunity as last year they were placed on a waiting list and not allowed to attend.

2. Next Meeting – March 12, 2020

Mr. Brackett stated that he would not be attending and that would result in only four (4) Members voting and asked Mr. Buttrick to contact the applicants and offer deferment to the 3/27/2020 meeting where hopefully there would be a full Board.

3. Site Walk Scheduled – Saturday, 2/29/2020 9:00 AM 21 Richman
Drive Case #243-022

Mr. Brackett adjourned the meeting at 9:55 PM

Respectfully submitted,

Charles J. Brackett, Chairman