



TOWN OF HUDSON

Zoning Board of Adjustment



Charlie Brackett, Chairman

Marilyn E. McGrath, Selectmen Liaison

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MEETING MINUTES – July 9, 2020 - approved

I. CALL TO ORDER

Chairman Charlie Brackett called the meeting to order at 7:03 PM and invited everyone to stand for the Pledge of Allegiance and read the Covid-19 meeting procedure and in conformance with the Emergency Order confirmed the following: (a) providing public access to meeting by telephone and video access; (b) provided public notice on how to access the meeting; (c) mechanism to advise if there is a problem with accessing meeting and (d) should there be an issue with accessibility, the meeting will need to be adjourned and rescheduled; and (e) that voting would be by roll call vote. Mr. Brackett stated that the Board would go into recess so that the public could call in their questions or concerns during public testimony and added that if anyone cannot gain access, that the meeting would need to be adjourned. Mr. Brackett noted that specific instructions for meeting access was included in both the Applicant Notification and the Abutter Notification and on the website.

Acting Clerk Gary Dearborn took attendance. Members present were Charlie Brackett (Regular/Chair), Gary Dearborn (Regular/Vice Chair/Acting Clerk), Brian Etienne (Regular, connected via audio and visual remote access), Leo Fauvel (Alternate) and Jim Pacocha (Regular). Excused was Gary Daddario (Regular/Clerk). Also present were Bruce Buttrick, Zoning Administrator, Tracy Goodwyn, Zoning Administrative Aide to handle the call-ins, Louise Knee, Recorder (via remote access) and Marilyn McGrath, Selectman Liaison. Ms. McGrath clarified her role as Selectman Liaison and noted that she does not vote and asked that the Selectman Liaison role be included in the Board's Preamble. For the record, Alternate Fauvel was appointed to vote.

Vice Chair Gary 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, and the importance of the 30-day time period for appeal.

II. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. Case 173-022 (07-09-20) (deferred from 06-25-20): Turbo Realty, LLC by Patricia M. Panciocco, One Club Acre Lane, Bedford, NH requests to amend the Variance application heard on the 5/28/20 ZBA meeting for 15 Tolles St., Hudson, NH to request a one-year extension from the previously imposed June 7, 2020 deadline, to submit a complete site plan application to the Hudson Planning Board. [Map 173, Lot 022-000; Zoned Town Residence (TR); HZO Article V, Permitted Uses, §334-21, Table of Permitted Principal Uses].

Not Official until reviewed, approved and signed.

Approved 7/23/2020, as edited.

2. Case 173-012 & 014 (07-09-20) (deferred from 06-25-20): Turbo Realty, LLC by Patricia M. Panciocco, One Club Acre Lane, Bedford, NH requests a Variance at 4 & 14 Tolles St., Hudson, NH to be allowed to extend the same uses to Lots 173-012 & 014 as were granted by the ZBA on June 7, 2018 for three (3) variances at 15 & 17 Tolles St. [Map 173, Lot 012-000 and Lot 014-000; Zoned Town Residence (TR); HZO Article V, Permitted Uses, §334-21, Table of Permitted Principal Uses].

Mr. Buttrick read both Cases into the record and also read the email he received from Atty. Panciocco respectfully requesting that the Cases be continued to the 7/23/2020 meeting. Motion made by Mr. Pacocha and seconded by Mr. Dearborn to defer both Cases to the 7/23/2020 meeting. Roll call vote was taken. Vote was 5:0. Cases continued to the 7/23/2020 meeting. Mr. Brackett stated that the Cases should be the first two on the 7/23/2020 Agenda.

3. Case 158-035 (07-09-20) (deferred from 06-25-20): Carolyn Sassak, 145 Highland Street, Hudson, NH requests a Home Occupation Special Exception for a home beauty salon business in the garage of the primary residence. [Map 158, Lot 035-000; Zoned Residential-Two (R-2); HZO Article VI, Special Exceptions, §334-24, Home Occupations].

Mr. Buttrick read the Case into the record. Carolyn Sassak of 145 Highland Street approached the standing microphone wearing a facemask, introduced herself, stated that she is seeking a Home Office Special Exception, that she has been a professional cosmetologist for twenty (20) years and would like to move away from the large salon model as they are too big with too many variables and she wants her independence. Mr. Brackett offered Ms. Sassak the opportunity to sit at the presenter's table and Ms. Sassak respectfully declined. Ms. Sassak stated that the large model no longer works for her or her customers, especially in the current environment, and that she wants to work in a private studio that can provide her clients with a clean, safe and stable environment. Ms. Sassak stated that she needs professional space that is not dependent on someone else maintaining the property.

Ms. Sassak stated that she has spoken with her neighbors, that they are in favor of her Special Exception and submitted nine (9) positive abutter letters of support. The letters submitted were each dated 6/22/2020 and were signed by: (1) Marie Gautreau, 148 Highland Street; (2) Gal McGillvary, 149 Highland Street; (3) Pamela Moreau, 139 Highland Street; (4) Mark Evans 146 Highland Street / 22 Goonan Road, Hooksett, NH; (5) Christopher Callery, 147 Highland Street; (6) Patrick Verhoff, 141 Highland Street; (7) Steven Tate, 140 Highland Street; (8) Ronald Descoteau, 5 Glover Brook; and (9) Sean Ryan, 146 Highland Street.

The criteria for the granting of a Home Office Special Exception were addressed. The information shared included:

- The beauty salon will be secondary to the primary use of the property, their primary residence
- The Home Occupation will be carried out in the garage (after remodeling) of the primary residence

- The only exterior change will be to change the garage door into windows for light and a door for customer use
- Only one sign that conforms to the Zoning Ordinance will be displayed
- No exterior storage
- Based on current clientele, traffic could be approximately fifteen to twenty (15-20) vehicles per week – some already travel Highland Street
- Parking will be off-street
- Current driveway is wide and long enough to accommodate six (6) cars
- Appointment only – no overlap of customers waiting

Public testimony opened at 7:18 PM.

- (1) Davis Sassak, 145 Highland Street, spoke in favor and noted that his wife only takes one customer at a time by appointment only; their driveway is a six-car driveway and they only have two vehicles, so there will be no parking on-street; and that it would be great for his wife to be in charge of her own destiny and not rely on rental space.
- (2) The nine (9) letters of support submitted

Being no one else to speak in the building, Mr. Brackett called a five-minute recess at 7:19 PM for call-ins. Meeting resumed at 7:24 PM. Mr. Buttrick reported that there were no calls. Public testimony ended at 7:24 PM.

Mr. Dearborn stated that his residence is on Highland Street and that he is not a direct abutter and does not know or has ever spoken to the Applicant and asked if he should recuse himself. General consensus among the Board and the Applicant was for Mr. Dearborn to remain a voting Member on the Case.

Mr. Dearborn stated that the Board has approved many Home Occupations and this application would be invisible to the public with no outside storage and off-street parking and controlled in a one-on-one environment. Mr. Pacocha stated that he did a drive-by and asked if the residence is now the color of yellow. Ms. Sassak confirmed that the house was painted yellow.

Mr. Brackett questioned the frequency, noting that Mr. Sassak testified that there would only be one person at a time, and asked if there is a time gap between client appointments. Ms. Sassak stated that she has always run her schedule with time gaps between appointments and does not double-book so there is only one car in the driveway and added that the exception would be with a family when the husband/wife each arrive in their own vehicle then there would be two vehicles in her driveway.

Mr. Brackett asked and received confirmation that the only person to be working would be just Carolyn Sassak. Mr. Brackett noted that because of the pandemic there have been phased re-openings and asked about the phase as it applies to salons and asked if Ms. Sassak was licensed with the State of NH. Ms. Sassak stated that her profession is at Phase 2.0 which means that all services are open/available and added that she is fully licensed with the State of NH as she holds two (2) State licenses plus a booth renters license and if the Special Exception is granted she will need to trade the

renters license for a shop license as it is her intention to operate a fully licensed transparent legal business. Ms. Sassak noted that the State does inspections.

Mr. Brackett asked if the State Regulators deal with Covid-19 in their inspections. Ms. Sassak provided a detailed review regarding Covid-19 procedures in the salon she currently works and noted the legality of facemask removal for certain services, like beard trimming, and the restriction to one client at one time, no double booking. Ms. Sassak stated that if a regulator notices a violation in the regular practice the owner is fined and sometimes receives training to avoid future violations and explained the hassles that now occur in a large salon due to Covid-19 restrictions. With regard to Covid-19 protection, Ms. Sassak stated that the procedures change and become less and less restrictive over time.

Mr. Brackett stated that he and the Board do not know what is legally required because of Covid-19, that Town Counsel has not been consulted to help the Board as to what specifics should be asked, what measures should be taken and what measures have been included in State inspections. Mr. Brackett suggested that it should be a condition of approval, assuming the Board approves the Special Exception, that Town Counsel be consulted to review Covid-19 protection with regard to State inspections to protect the citizens of Hudson as well as Ms. Sassak and her clients. Ms. Sassak noted that if approved she will have to wait thirty (30) days for the appeal period to expire, then apply for a Building Permit to construct the salon in her garage and that a realistic time frame to be open for business is late October or November and supposedly there will be a vaccine available this autumn.

Mr. Dearborn asked for the hours of operation and days to be worked. Ms. Sassak stated that currently she works four (4) days a week, Sunday 10AM-4PM, and Tuesday, Wednesday and Thursday from 11AM-8PM and expects similar days and hours in her own salon.

Mr. Fauvel asked Ms. Sassak to address the Town's Engineer's concern regarding the septic system. Ms. Sassak stated that she has consulted with a septic company (Felix) who advised that her system should be okay with the addition of a pump to flush the water into the system and added that the State will also require ground/land testing. Mr. Brackett suggested that a condition of approval could be to have the septic system modification reviewed and approved by the Town Engineer.

Mr. Buttrick read the Town Engineer's comment into the record: "The applicant shall provide a statement by a licensed septic system designer, related to the existing septic system capability to handle the additional sewer flow related to the proposed business."

Mr. Buttrick also read the Zoning Administrator comment into the record: "The applicant is removing the garage capability, therefore the parking arrangement should be evaluated for the applicant's vehicles as well as patron's vehicles. I would suggest applicant consult with Town Engineer as to a possible turnaround be incorporated within the existing driveway to facilitate a safer egress/exit from the property." Ms. Sassak responded that the garage is not used for their vehicles, it provides storage for the snow blower, lawnmower and other items. Mr. Brackett asked if that would be

reviewed as part of the Building Permit process and Mr. Buttrick responded that it could/should.

Mr. Etienne asked for clarification regarding the proposed hours of operation. Ms. Sassak stated that she typically works until 8 PM and generally starts her workday at 1 PM and on occasion could begin late morning.

Mr. Dearborn made the motion to approve the Home Occupation Special Exception with the stipulation that the septic system be resolved with the Town Engineer and that the resolution be in writing what would be done by a licensed septic engineer. Mr. Brackett asked if there could/should be a condition to have a favorable review by Town Counsel regarding the Covid 19 issues/concerns. Mr. Dearborn responded that he is uncertain whether it should be a condition considering the State will conduct their own investigation/inspection and whatever applies today may not be an issue in four (4) months when the applicant can be operational in her converted garage. Ms. Sassak added that the rules and regulations and guidelines are on the web at NH.gov@cosmotology2.0 . Mr. Brackett stated that the Board does not have expertise to evaluate and believes that Town Counsel should review as it is a precaution that, in his opinion, is warranted at this time considering the pandemic.

Motion restated. Motion made to approve the Home Office Special Exception with two (2) stipulations:

- (1) that the septic system be resolved with the Town Engineer and that the resolution be in writing regarding what would be done by a licensed septic engineer
- (2) that Town Counsel review the regulations governing salons as to Covid-19 requirements and advise whether sufficient to protect the citizens of Hudson, the applicant and her clients.

Mr. Pacocha seconded the motion. Roll call vote was 5:0. Home Occupation Special Exception conditionally granted. The 30-day appeal period was noted and Mr. Brackett stated that Town Counsel should have addressed in that time period.

4. Case 204-002 (07-09-20) (deferred from 06-25-20): Keri Demers, 23 Dexter Street, Nashua, NH requests a Special Exception for 153 Lowell Rd, Hudson, NH to allow a dog day care, grooming, animal rescue services, retail sales, community pet education and kennel (day & overnight boarding) facility. [Map 204, Lot 002-000; Zoned Business (B); HZO Article VI, Special Exceptions, §334-23, General Requirements].

Mr. Buttrick read the Case into the record. Keri Demers identified herself and her Real Estate Broker Jess Hepler of 1 Greystone Terrace, Hooksett, NH.

Mr. Hepler stated that Dewey & Friends Pet Resort is designed to be a pet day care with limited boarding, grooming and retail services, pet education, a community resource center as well as animal rescue and noted that all the proposed uses are allowed by right except for the overnight boarding, kenneling, that requires a Special

Exception. Mr. Hepler stated that Ms. Demers has approximately twenty five (25) years of experience working with animals and animal care and is passionate about pet care and an advocate for affordable pet care. Mr. Hepler stated that Ms. Demers graduated from Becker College with a degree in animal sciences. Mr. Hepler stated that Richard Demers, the applicant's father, is proposing to buy the property and has a Purchase & Sales Agreement pending the outcome of this hearing.

Mr. Hepler thanked the Board for rehearing this Case noting that it received approval from the Board on January 23, 2020 for the proposed facility in the Hudson Mall (Map/lot 165/155) at 77 Derry Street. Mr. Hepler stated that the Mall location has been abandoned because the HVAC became unreasonable and Ms. Demers sought another location.

Mr. Hepler stated that the proposed location at 153 Lowell Road is commercial space in the B (Business) Zone with a residence in the front portion of the building. Ms. Demers plans on living in the residence portion and operate the dog facility in the back in the commercial space. The business model is the same as that presented to the Board in December 2019/January 2020. The business model has been reviewed and approved by Hudson's Animal Control Officer and by the State of NH. The common concerns deal with barking and animal waste and have been addressed.

Mr. Hepler posted a Site Plan prepared by Costello, Lamasney & deNapoli Consulting Engineers of the current facility approved by the Planning Board in April 1987 and noted that the commercial portion of the site is currently a massage therapy school. Mr. Hepler stated that the residences on either side of the property are both non-conforming uses in the B Zone. Mr. Hepler stated that there would be no outside physical changes to the exterior of the building and the only addition will be a fence. Mr. Hepler stated that Ms. Demers has hired an engineer and will be going to the Planning Board where such things as parking ratios, traffic flow etc. will be addressed. Ms. Demers has already met with Town Planner Brian Groth in preparation to appear before the Planning Board for Site Plan Review.

Mr. Hepler next presented a copy of the floor plan and noted that no walls would be added or removed, just repurposed, unless something needs to be done to bring it up to Building Code standard.

Public testimony opened at 7:51 PM.

- (1) Richard Demers, Keri's father addressed the Board and stated that Keri has always been an advocate for animals, worked for Legal Animal Hospital in the Town of Dracut and always fought diligently to find a home for an animal in shelter before their 5-day window passed for euthanizing. Mr. Demers stated that he will buy the property so his daughter's life long dream can become a reality and has even used his retirement funds for the purchase as he knows she will do a great job and it will be good for the animals and for the Town of Hudson too.

Being no one else to speak in the audience, Mr. Brackett called a five-minute recess at 7:53 PM for people to call in with their comments. Mr. Brackett called the meeting

back to order at 7:58 PM. Mr. Buttrick reported that there were no call-ins. Public Testimony closed at 7:59 PM.

Mr. Fauvel asked and received confirmation that Keri Demers would reside in the residential portion of the building. Mr. Brackett asked and received confirmation that the existing business would need to relocate somewhere else and their space will be the dog day care space.

Mr. Brackett stated that he remembers this Case from January and that one of the concerns then was barking and asked if the size is comparable. Ms. Demers stated that the size of this space is slightly small than the one at the mall and she work with the Animal Control Officer regarding the issues raised.

Mr. Dearborn asked and received confirmation from Ms. Demers that the facility will be manned twenty four (24) hours a day, that there will always be a human when there is an animal on premise. Mr. Dearborn expressed his opinion that this is a much better location than the mall for the animals and the traffic concerns.

Mr. Pacocha asked if there are any differences in the business presented previously. Ms. Demers stated that the only difference is the location. Mr. Hepler added that it is the same business model but on a smaller scale because Ms. Demers won't need the same amount of animals to pay the rent.

Mr. Etienne stated that he has no questions and offered favorable comments on this location noting the larger outdoor space and the residence on site and with regard to barking noted that the businesses across the street are no strangers to a bit of noise.

Mr. Dearborn made the motion to grant the Special Exception with no stipulations. Mr. Pacocha seconded the motion. Mr. Dearborn spoke to his motion and Mr. Pacocha spoke to his second and each expressed that the previous location was not the best and that this location is preferable to the one at the mall. Roll call vote was 5:0. Special Exception granted. The 30-day appeal period was noted.

III. REQUEST FOR REHEARING: None

No requests for rehearing were presented for board consideration.

IV. REVIEW OF MINUTES: 5/21/20 Minutes; 5/28/20 Minutes

5/21/2020 Minutes:

Board reviewed the edited Minutes and made no additional changes. Motion made by Mr. Dearborn and seconded by Mr. Pacocha to approve the 5/21/2020 Minutes as edited and presented.

5/28/2020 Minutes:

Board reviewed the edited Minutes and made no additional changes. Motion made by Mr. Dearborn and seconded by Mr. Pacocha to approve the 5/28/2020 Minutes as edited and presented.

V. OTHER

Member List

Mr. Buttrick distributed an updated Member List that included Alternate Leo Fauvel. It was noted that Mr. Fauvel does not have an email address and Mr. Buttrick stated that when they are distributed electronically, they would get printed and mailed to Mr. Fauvel. Mr. Etienne asked to have the list emailed.

Land Use conference

Mr. Buttrick stated that the meetings generally occur in September but this year a virtual meeting has been scheduled for Saturday, 10/21/2020, with registration in September. Board Members encouraged to participate. Mr. Buttrick to advise when registration gets scheduled.

Motion made by Mr. Dearborn, seconded by Mr. Pacocha and unanimously voted to adjourn the meeting. The 7/9/2020 ZBA meeting adjourned at 8:08 PM.

Respectfully submitted,

Charles J. Brackett
ZBA Chairman