



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Marilyn E. McGrath, Selectmen Liaison

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

MEETING MINUTES – April 22, 2021 - approved

I. CALL TO ORDER

Chairman Gary Daddario called the meeting to order at 7:01 PM, welcomed everyone and read the COVID-19 meeting procedure that in conformance with the NH State of Emergency Order #12 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. Daddario 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. Daddario noted that specific instructions for meeting access was included in both the Applicant Notification and the Abutter Notification and were posted on the website.

Mr. Daddario invited all to stand for the Pledge of Allegiance. Mr. Daddario announced that the Town requested that we be mindful that COVID procedures must still be followed at our meetings which included the wearing of masks, social distancing, hand sanitization and check-in requirements.

Mr. Buttrick read the Preamble into the record, identified as Attachment A of the Board's Bylaws, which included the procedure and process for the meeting, and the importance of the 30-day time period for appeal.

Clerk Etienne took attendance. Members present were Gary Daddario (Regular/Chair), Brian Etienne (Regular/Clerk), Leo Fauvel (Regular) and Jim Pacocha (Regular/Vice Chair). Also present were Bruce Buttrick, Zoning Administrator, Louise Knee, Recorder (via remote access) and Kara Roy, Interim Selectman Liaison. Excused were Ethan Severance (Alternate) and Marilyn McGrath, Selectman Liaison.

Mr. Etienne asked and received confirmation that Selectman Roy was recently appointed as the ZBA Liaison for 2021.

Mr. Daddario stated that with one (1) Member excused there would be only four (4) Members voting and offered every Applicant the option to defer their hearing until the May meeting with the hope that there would be five (5) Voting Members present.

II. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

Not Official until reviewed, approved and signed.
Approved 5/27/2021 as edited.

1. **Case 183-103 (04-22-21):** Roger Colby, **10 Thorning Rd., Hudson, NH** requests a Variance to install a 12 ft. x 24 ft. above ground pool in a proposed location which encroaches 9 feet into the rear setback leaving 6 feet where 15 feet is required. [Map 183, Lot 103-000; Zoned Residential-Two (R-2); HZO Article VII, Dimensional Requirements, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record. Roger Colby introduced himself and sat masked at the applicant table. Mr. Colby stated that he would like to install an above ground pool off their back deck which would go into the setback but would not be visible from the residence of that neighbor as it would be shielded by their garage. Mr. Colby stated that has spoken to all is neighbors/abutters and has signed letters of support from all but one who did not feel able to sign as the house is in Trust and she is not the Trustee. Mr. Colby submitted the letters.

Mr. Colby addressed the criteria for the granting of a Variance. The information shared included:

- (1) *not contrary to public interest* – house is on a corner lot and the proposed location is actually in their backyard between their neighbor’s garage and his deck so as not to be an eyesore for the neighbors.
- (2) *use will observe spirit of Ordinance* – no public rights would be violated, the proposed location behind his neighbor’s garage will not give them a direct view from their house
- (3) *substantial justice to the property owner* – the location selected is the only place to install the pool that would allow privacy for our neighbor and not be in a place that would result in constant damage to the pool from our other neighbor’s large oak tree that overhangs onto our property and to keep it out of the setback would also be at the top of our driveway
- (4) *use will not diminish surrounding property values* – there is no impact to our neighbors property and view of the pool will be blocked by neighbor’s garage
- (5) *hardship* – property is a corner lot with two front yard setbacks and the land is sloped and neighbor’s oak tree is old and large and its falling leaves and acorns will impact a pool installed underneath its overhanging limbs and yes the limbs could be cut, but would need a professional as the limbs are quite high and the tree will continue to grow

Mr. Pacocha asked if there was any fencing on the property. Mr. Colby responded that there is some fencing, a half fence between his neighbors to the west behind his garage that increases to six feet (6’) between his neighbor to the north and there is no fence between his property on his neighbor’s garage. Mr. Colby stated that he has considered a fence and noted that there is a large bush near the proposed location and would install a fence now if a fence is a condition of approval. Mr. Fauvel expressed concern for the temptation to neighborhood children with no fence and Mr. Colby stated that he only has one neighbor with young children and has no concerns and added that even if there was an eight foot (8’) at his side/front property line, the pool would still be visible due to the slope of his land.

Mr. Etienne asked why not just cut the oak tree limbs that are hanging over his property and Mr. Colby responded that the tree stands almost one hundred feet (100’) and he would have to hire a professional and added that there is the constant growth of the tree that needs to be considered along with wind carrying leaves and acorns onto his property from limbs that are not overhanging his property. Mr. Etienne asked if there is a plan to cover the pool at night. Mr. Colby stated that is their plan but

there are a lot of leaves and they go through between one hundred fifty to two hundred (150-200) bags of leaves a year.

Mr. Daddario stated that there are only four (4) Members voting at this meeting and offered Mr. Colby the option to defer. Mr. Colby responded that he was comfortable with just four (4) Members voting and noted that the option to appeal exists.

Public testimony opened at 7:20 PM. Mr. Buttrick stated that letters of support included: Linda Jezylo, 11 Greentrees Drive; Scott Tinkham, 5 Greentrees Drive; Raykwon Forcier, 8 Thorning Road; Chris Funk, 7 Greentrees Drive; Kyrlakoulis Tsouprakos, 7 Thorning Road; and Nickolas Bolton, 9 Thorning Road.

Being no one in house to address the Board, Mr. Daddario declared a five (5) minute recess at 7:22 PM for call-ins. Meeting resumed at 7:27 PM. Mr. Buttrick stated that there is one caller on the line

- (1) Tammy Leonard, Trustee of Shorey One Family Trust, owner of 8 Greentrees Drive, stated that she has no problem with the proposed pool because it will be on the side of the garage and not visible.

Being no one else connected to speak, public testimony closed at 7:29 PM.

Mr. Etienne stated that he is struggling with the fifth criteria because cutting the oak tree does not meet the hardship criteria. Mr. Daddario stated that the initial pruning of the oak tree does not satisfy Hardship however it is not the Applicant's tree and the tree will continue to grow and that, in his opinion, the hardship criteria is satisfied by the slope of the land and it being a corner lot.

Mr. Pacocha made the motion to grant the Variance. Mr. Etienne seconded the motion. Mr. Pacocha stated that the criteria have all been satisfied, the spirit of the Ordinance is met, it will not alter the neighborhood, justice is served and the hardship is due to the corner lot and added that using the existing deck makes common sense. Mr. Etienne concurred and added that the Applicant has no control over the oak tree. Roll call vote was 4:0. Variance granted. Mr. Buttrick noted the 30-day appeal period.

2. **Case 247-139 (04-22-21):** Kenneth & Andrea Kleiner, **15 Sand Hill Rd., Hudson, NH** requests a Home Occupation Special Exception to operate a state licensed Family Based Child Care home business. [Map 247, Lot 139-000; Zoned Residential-One (R-1); HZO Article V, Permitted Uses, §334-22, Table of Permitted Accessory Uses and Article VI, Special Exceptions, §334-24, Home Occupations].

Mr. Buttrick read the Case into the record, read the definition of Family Group Day Care Home allowing six (6) children into the record, noted that a power point presentation was provided and included in the Supplemental Meeting Folder and that an email was received from a Non-Direct Abutter William Marks, 6 Leonard Avenue.

Andrea Kleiner and Kenneth Kleiner introduced themselves and sat at the Applicant's table with masks. Ms. Kleiner stated that she is pursuing State Licensing to become a Family Based Child Care as outlined in the NH Code He-C 4002.31 and will include a Preschool Only Program for children ages three to five year old children operated Monday through Thursdays with two (2) sessions per day; a maximum of six (6) children in the 9:30-11:30 morning session and a maximum of six (6) children in the 12:30-3:00 afternoon session.

Ms. Kleiner addressed the criteria for a Home Occupation Special Exception and the information shared included:

- *Sales or service operation* – in addition to the regular sessions, a two-week (10-day) Summer Pre-K Boot Camp in July is being proposed to help prepare six (6) children for kindergarten
- *Use secondary to Principal Use* – two story house and day care will be in the living room on main level with a three quarter bath and entry/exit via the mud room off the kitchen – will discuss with Health Inspector if kitchen can be used or if set up for snacks and art need to be in the living room converted to Day Care
- *Use contained within residence or accessory structure* – use contained within main home with occasional outdoor activities and pick up/drop off
- *No exterior display without screening* – not applicable and there will be no sign, except for a temporary A-frame sign for announcing an Open House
- *No objectionable circumstances, noise etc* – plan is to utilize front and back yards for science experiments or observation or reading, outside time is not a playground setting, and the children will be outside in the front during drop off & pickup for approximately ten (10) minutes
- *Traffic generated not greater than 'normal' for neighborhood* - traffic will not be substantially greater in volume with the addition of a maximum of six (6) vehicles as Sand Hill Road can be used as a cut-through between Dracut Road and River Road and volume changes everyday.
- *Parking shall be off-street and limited to two vehicles at a time* – a picture was presented that showed that the length along the driveway on Sand Hill Road to Leonard Avenue can accommodate six (6) vehicles and the intent is to have a car pull up to the driveway and the Applicant would go to the parent's car for the child instead of having the parent park their vehicle and escort their child into the house. A temporary gate will be placed in the driveway for the children to wait until all assemble. If this plan is not acceptable, the driveway can accommodate five to six (5-6) vehicles; however, it is not the best option considering the parent would need to escort their child to the door and if there are other children in the car, they too would need to dismount and then there's the exit potential problem of being blocked in and having to back out onto Sand Hill Road.
- *Conducted by resident* – yes, Applicant has lived in the house since 1999
- *Parking of no more than one business vehicle* – not applicable

Ms. Kleiner next presented a Power Point she prepared and the information contained included:

- Her work history and certifications
- Age and number of children – 3-5 year olds, maximum 6 each session
- Time frame for drop off and pick up – approximately five minutes each
- Floor plan of first level – 3 exit points identified in case of emergency
- Pictures/photographs of first floor

- Diagram of cars lined up on Sand Hill Road for drop off/pick up of children and position of temporary gate in driveway
- Picture of house and driveway with cars lined up showing last car before the corner of Leonard Avenue
- Diagram of 6 cars parked in driveway and picture of 3 cars in front of garage and mudroom door
- Picture of 3 cars parked in front of driveway and mud room door
- Reasons why alternate plan has drawbacks

Ms. Kleiner concluded her presentation and stated that she has established an LLC.

Mr. Fauvel asked about the pool and pool deck and Ms. Kleiner responded that the pool is not close to the house and the pool deck is locked. Mr. Fauvel noted the placement of the temporary gate on the driveway and suggested that the children be asked to wait behind the gate for their safety.

Discussion arose on the parking restriction to two (2) vehicles, the apparent discrepancy between the RSA Special Exception criteria, the Zoning Ordinance and the Decision Sheet. Selectman Roy questioned how to control where to park and the potential hazard for opening vehicle door to the traffic side. Ms. Kleiner stated that she could use roadside cones with a stick sticking out to identify parking locations and include instructions to the parents that the child be seated on the passenger side of the vehicle. Mr. Pacocha questioned if cars lining up on Sand Hill Road with their engines running constitutes parking. Both Mr. and Mrs. Kleiner expressed concern that the parking requirements were not known or part of the Application.

Discussion also arose on outdoor time and the discrepancy between State Law for Day Care to the Zoning Ordinance and Decision Sheet. Ms. Kleiner stated that the State Law is specific regarding outdoor time, even specify the requirement of fifty square feet (50 SF) and noted that outdoor time is not required if a child is there less than five (5) hours and her program only offers two (2) two and one half hour (2½) sessions.

Town Engineer Elvis Dhima was connected remotely and asked that the GIS be posted. Mr. Dhima expressed concern for the proposed off street parking on the shoulder to the corner of Leonard Avenue as the Town does not plow the shoulder to the corner of Leonard Avenue and that could result in cars lining up in the roadway of Sand Hill Road and impact sight distance. Mr. Dhima stated that septic loading is different for day cares than for a single family home and the current system could be stressed and suggested that the Applicant consult with the State of NH and get a new design prepared.

Mr. Kleiner stated that they have two (2) tanks and installed a new leach field eight (8) years ago. Mr. Dhima stated that septic capacity is designed by/for the number of bedrooms in the house whereas childcare facilities have a different criteria and that his main concern is the leach field.

Public testimony opened at 8:36 PM. No one present addressed the Board. Recess ended at 8:41 PM. Mr. Buttrick reported that there were no new call-ins but there was one identified as 7 Leonard Avenue from the beginning of the meeting. The caller was asked to address the Board. The phone number to call into the meeting was given. Mr. Buttrick referenced the email and questions raised by William Marks, 6 Leonard. A male from 7 Leonard Avenue called in and stated that he was just listening and that his questions have been answered. Public testimony closed at 8:50 PM.

Mr. Etienne stated that it is normal use to have children playing in the backyard, not the front yard and expressed concern with six (6) cars lining up on the side of the road as this is not a school but a residential neighborhood.

Board discussed possible conditions that could be set to satisfy the criteria for the granting of a Home Occupation Special Exception (HO/SE) to operate a day care.

Mr. Etienne made the motion to grant the HO/SE with the following conditions:

- (1) that only two (2) cars be parked at one time in the driveway for drop off & pick up;
- (2) that all activity pertaining to the day care occur within the house only;
- (3) that the Applicant review the current flow rate of existing septic system with the proposed day care activity with a Certified Septic Engineer and prepare a State approved septic system;
- (4) that the Applicant obtain a State Certificate and License to operate a Day Care before starting the business; and
- (5) that the Applicant submit a copy of the drop off and pick up instructions to be provided to the parents/caregivers of the children attending the day care.

Mr. Pacocha seconded the motion. Mr. Etienne stated that the proposed conditions satisfy the criteria for the granting of a HO/SE. Mr. Pacocha agreed and stated that the Applicant deserves the HO/SE; however, he is conflicted with the two (2) car limit as, in his opinion, drop off and pick up do not equate to parking. Mr. Daddario concurred because the driver would not be leaving the vehicle and therefore not parking. Mr. Etienne stated that the condition is needed, to give credence to the Town Engineer's concerns, as is the need for the protocol pick up and drop off instructions and emphasized that this is a residence and not a school. Mr. Daddario noted that the off street parking requirement is in both the Zoning Ordinance and on the Decision Sheet and suggested that the Application form be adjusted.

Roll call vote was 4:0. Variance granted with five (5) stipulations. Mr. Buttrick noted the 30-day Appeal period. In response to Mr. Kleiner's question, Mr. Buttrick stated that a Notice of Decision specifying the conditions will be prepared.

3. **Case 174-080 (04-22-21): Catherine Richard, 21 Derry St., Hudson, NH** requests a Variance for a proposed 375 sqft. addition with encroachments of 0.8 ft into the required front yard setback of 30 ft., leaving 29.2 ft. of setback and 3.3 ft into the required side yard setback of 15 ft. leaving 11.7 ft. [Map 174, Lot 080-000; Zoned Town Residence (TR); HZO Article VII, Dimensional Requirements, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record and referenced his Staff Report signed 4/12/2021 noting that the lot is an existing conforming (oversized) lot of record. Catherine Richard sat masked at the Applicant table with her daughter, Cynthia Senechal, and thanked the Board for holding meetings during the pandemic as she works in a hospital and is aware of the efforts to keep everything going.

Ms. Richard addressed the criteria for the granting of a Variance and the information shared included:

- (1) *not contrary to public interest* – the request is not contrary to public interest, the house will still be a ranch with a hip roof and end up being longer and the siding will match the existing house, the addition is to add a much needed fourth bedroom, extend the master bedroom and expand the bathroom and rid the questionable mold in the shower wall of the original sixty year old bathroom
- (2) *use will observe spirit of Ordinance* – want to preserve and enhance the quality of life and add value to the property to meet the needs of four adults and three children
- (3) *substantial justice to the property owner* – the addition without a variance would be nine feet (9'), but once the lot was surveyed by Jeffrey Land Survey, LLC and stamped by Greg R. Jeffrey, LLS, to be only six feet (6') in width making the new rooms very narrow, but by extending the wall width to 10.5' would be more of a usable safe space
- (4) *use will not diminish surrounding property values* – having four (4) bedrooms and a newer bathroom will bring up the value of the property and will also help the new houses built next door keep their value
- (5) *hardship* – the house is currently oriented at a skewed angle in relationship to the lot line, any addition on the north side would be by the garage and not a practical addition for a bedroom and the addition is the least intrusive possible while satisfying the residents' needs.

Mr. Fauvel asked if placing the addition at the back of the house was considered and Ms. Richard responded that it was considered but it was not practical and her daughter added that the back wall is just bedrooms and one would have to go through a bedroom to get to the addition.

Mr. Daddario opened public testimony at 9:17 PM. No one addressed the Board. Mr. Daddario called a five minute recess at 9:19 PM for anyone to call in or connect by the computer. Meeting reconvened at 9:24 PM. Mr. Buttrick reported that there were no call-ins and no one connected via the computer. Public testimony closed at 9:26 PM

Mr. Etienne made the motion to grant the Variance with no stipulations. Mr. Pacocha seconded the motion. Mr. Etienne stated that the criteria have been satisfied, that what is sought is not much of an encroachment, that the lot is odd shaped and the placement of the house is skewed and causes the hardship. Mr. Pacocha concurred and stated that the house is not parallel to the road. Roll call vote was 4:0. Motion passed. Variance granted. Mr. Buttrick noted the 30-day appeal period.

4. **Case 111-017 (04-22-21):** Elvis Dhima, Town Engineer and authorized representative, Town of Hudson, 12 School St., requests a Variance for **151 Robinson Rd., Hudson, NH** to allow a front yard setback of 30 feet where 50 feet is required. [Map 111, Lot 017-000; Zoned General-One (G-1); HZO Article VII, Dimensional Requirements, §334-27, Table of Minimum Dimensional Requirements].

Mr. Buttrick read the Case into the record. Town Engineer Elvis Dhima was connected remotely. An aerial view of the lot was posted. Mr. Daddario noted that only four (4) Members were present to vote and offered Mr. Dhima the option to defer hearing with the hope that there would be five (5) Members voting next month. Mr. Dhima stated that he is comfortable with just four (4) Members voting.

Mr. Dhima stated that the lot was created in 1969, it was an excess property and that it has been before the Board before. Mr. Dhima stated that the lot, when created, was a conforming and buildable lot, however, in 1978 the front setback was increased from thirty feet (30') to fifty feet (50') and in 1990 the wetland setback was also increased. The Town has a potential buyer and the Town is now before the Board to help the buyer. The Planning Board 1969 recorded Subdivision Plan, identified as the Robin Ridge Acres for Lots 1 to 11 dated 9/5/1969, had this lot as #10 with a ROW (Right-of-Way) access way preserved for a potential future road for potential future rear lot development and the Site Plan prepared by the Town of Hudson Engineer's Office dated March 2021 locating the house out of the wetland and with the thirty foot (30') front setback were referenced.

Mr. Dhima addressed the criteria necessary for the granting of a Variance that is now needed due to the setbacks that have increased since the lot was created. The information shared included:

- (1) *not contrary to public interest* – existing developed lots in proximity to this lot (143-148 and 155-157 Robinson Road) currently do not comply with the 50' front setback – granting the Variance would place the proposed house in similar location to most of the properties around it.
- (2) *use will observe spirit of Ordinance* – the proposed use provides a thirty foot (30') front setback while avoiding impact to the wetland in the rear of the property while minimizing wetland buffer impact
- (3) *substantial justice to the property owner* – this is currently an approved lot by the Hudson Planning Board and State of NH and the variance should be granted because the lot was created in conformance to the rules and regulations of the time, prior to the expansion of the front setback distance and wetland setbacks were changed
- (4) *use will not diminish surrounding property values* – this lot would have the same front setback as most of the existing developed properties along this road and would not result in diminution of surrounding properties as there would be an improvement (a single family house) built
- (5) *hardship* – this is an existing lot of record that is currently undeveloped and since it was created the rules and regulations have changed (increased) making this lot currently a non-conforming/grandfathered lot and the proposed layout provides for the thirty foot (30') front setback as was the standard when the lot was created and does not impact the extensive wetlands in the rear of the lot

In response to Mr. Fauvel's queries dated 4/16/2021, and to other questions raised by the Board, Mr. Dhima offered the following:

- the front setback was increased in 1978, nine (9) years after the lot was created
- a plan to develop the site does exist and keeps everything out of the wetland
- if the Variance is granted, the plan will need to go before the Conservation Commission and the Planning Board for a CUP (Conditional Use Permit)
- the septic system is proposed to be ten feet (10') from the property line, in the front setback
- well is to have a fifty foot (50') radius to the septic tank and be seventy five feet (75') from the leach field

- other lots developed in the area do not meet the current fifty foot (50') front setback, 155 Robinson Road has only a forty foot (40) front setback
- there are no plan to develop the lot behind and it would be challenging considering the wetlands
- the strip of land has been identified as a potential access way to the lot behind for a potential road/access way should it be developed
- the prior application that was denied for this lot did not meet the thirty foot (30') front setback that was the requirement at the time the lot was created in 1969; it was presented at twenty feet; therefore it is two separate applications
- the Town has a potential buyer, 4 NH Homes, LLC
- a 250 SF septic system accommodates a two-bedroom house
- the ten-foot Buffer line to the wetland marks the "no touch" boundary

Mr. Fauvel questioned if the Planning Board or the Conservation Commission could alter the wetland setback requirements and expressed concern that if it was altered that it could be perceived as preferential treatment to the Town and set a precedent. Mr. Dhima stated that is why the requirement for a CUP exists. Mr. Buttrick stated that Mr. Fauvel was a developer in Town when the CUP option did not exist. Mr. Dhima recalled and stated that in the past the ZBA was involved and an Applicant had to deal with three (3) Boards but with the change from a Special Exception to a CUP, only two (2) Boards are now involved.

Mr. Etienne asked if the wetland has been delineated and if so, is there a plan stamped by a certified wetland scientist (CWS)? Mr. Dhima stated that the wetland has been delineated by Mr. Sanford, a Wetland Scientist. Mr. Etienne stated that he would like to see the CWS stamped Plan. Mr. Dhima posted the plan with the certified wetland stamp and added that the Conservation Commission is meeting Monday.

Public testimony opened at 10:03 PM. No one present to address the Board. Board went into a five-minute recess. Meeting called back to order at 10:08 PM. Mr. Buttrick stated that there was one call:

- (1) Michael Flanagan, 133 Robinson Road, expressed concern with the setback of the proposed house to the access road and noted that the minimum lot size is one-acre and this lot is less than one acre and added that last year this lot was determined to be unbuildable.

Mr. Buttrick stated that the minimum lot size met the standard for 1969 when it was created, that it is a lot of record and is a non-conforming lot by today's standard; and that the access way is not deemed a road by definition and does not create a front-yard setback requirement nor make this lot a corner lot. Mr. Dhima added that he does not see how this access strip could become a road on account of the wetland and the plan proposed does not seek a setback encroachment to the access way and satisfies its own side yard setback. Mr. Flanagan asked whether he would lose any rights if the Board approves the proposed plan and Mr. Dhima confirmed that he would not lose any of his rights.

Public testimony closed at 10:18 PM.

Mr. Etienne made the motion *not* to grant the Variance request. Mr. Pacocha seconded the motion. Mr. Pacocha stated that the request does not meet any of the Variance criteria, that it has been over fifty (50) years and Zoning Ordinance changes occur to make improvements and should be respected. Roll call vote was 2:2 with Mr. Daddario and Mr. Fauvel opposed. Motion does not succeed. Need three (3) votes to pass. Motion failed.

Motion made by Mr. Fauvel to grant the Variance request for a thirty-foot (30') front setback with the following stipulations: (1) that the Applicant inform the potential buyer that the septic system would be in the front setback and would need to be removed should the Town expand Robinson Road; (2) that the Applicant pursue obtaining the access strip with the Abutter; and (3) obtain Conservation Commission approval. Mr. Dhima stated that the potential buyer is aware of the septic system being placed in the front setback and that they need to obtain Conservation Commission approval as well as Planning Board approval for a CUP (Conditional Use Permit). Mr. Buttrick added that the placement of the septic system in the front setback would be on the plan recorded and that the next Procedural Steps is the Conservation Commission and the Planning Board. Mr. Fauvel stated that he does have concern with the Town setting precedent for privilege and would not relinquish the conditions to his motion. Mr. Daddario seconded the motion even though, in his opinion, the conditions are redundant and the criteria have been satisfied as the proposed development would match others in the neighborhood, that is no injury imposed onto the public, the lot was buildable when created, justice is done to the property owner and does not harm the public, a developed lot adds value to surrounding property values and the hardship is due to the massive wetlands on the property. Roll call vote was 2:2 with Mr. Pacocha and Mr. Etienne opposed. Motion does not succeed. Need three (3) votes to pass. Motion failed.

Mr. Dhima asked the Board to continue to the next meeting with the hope that there would be five (5) Voting Members present to break the tie and asked if it would be beneficial to have a CWS present? General concurrence that a CWS would be beneficial, along with a copy of a certified plan and an environmental report.

Mr. Etienne made the motion to continue Case #111-017 to the 5/27/2021 meeting. Mr. Fauvel seconded the motion. Roll call vote was 4:0. Mr. Daddario stated that the Case should be the first item on next month's Agenda.

III. REQUEST FOR REHEARING:

No requests were received for Board consideration

IV. REVIEW OF MINUTES:

03/25/21 edited Minutes: Motion made by Mr. Etienne and seconded by Mr. Pacocha to adopt the 3/25/2021 Minutes as edited. Vote was 4:0

V. OTHER:

1. OSI 27th Annual Spring Planning & Zoning. **Registration now Open.**

Mr. Buttrick noted that it is a virtual meeting scheduled for a Saturday and is free and encouraged everyone to attend.

Motion made by Mr. Pacocha and seconded by Mr. Etienne to adjourn the meeting. Vote was 4:0. The 4/22/2021 ZBA meeting adjourned at 10:40 PM.

Respectfully submitted,

Gary M. Daddario, ZBA Chairman