



# TOWN OF HUDSON

## Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

### **MEETING MINUTES – January 25, 2024 - approved**

The Hudson Zoning Board of Adjustment met on Thursday, January 25, 2024 at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH.

#### **I. CALL TO ORDER**

#### **II. PLEDGE OF ALLEGIANCE**

#### **III. ATTENDANCE**

Chairman Gary Daddario called the meeting to order at 7:03 PM, invited everyone to stand for the Pledge of Allegiance and read the Preamble (Exhibit A in the Board's Bylaws) regarding the procedure and process.

Members present were Gary Daddario (Regular/Chair), Tristan Dion (Alternate), Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair/Acting Clerk), Marcus Nicolas (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused was Dean Sakati (Regular). Alternate Dion was appointed to vote in Mr. Sakati's absence.

Chairman Daddario directed everyone's attention to Agenda item VII, Election of Officers

#### **VII. OTHER:** Election of Zoning Board of Adjustment Officers

Chairman: Motion made by Mr. Martin, seconded by Mr. Lanphear and unanimously voted 5:0 to reappoint Gary Daddario as Chairman.

Vice Chairman: Motion made by Mr. Martin, seconded by Mr. Nicolas and unanimously voted 5:0 to reappoint Normand Martin as Vice Chairman.

Clerk: Discussion arose that included the historical tradition that the position is usually filled by an Alternate Member so as not to conflict with participation in Board discussions, what's included in the duties of the Clerk and that the Board only has one (1) Alternate Member. As the only Alternate Member, Mr. Dion stated that he would accept the Clerk position but would like it to begin next week to allow him the opportunity to review the duties involved. Mr. Martin stated that he did not have a problem performing the Clerk duties for this meeting. Motion made by Mr. Lanphear, seconded by Mr. Nicolas and unanimously voted 5:0 to appoint Tristan Dion as Clerk beginning next week and for the February meeting onward.

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**IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**

1. **Case 231-026 (01-25-24):** George and Diane Ultrino, **5 Deer Run, Hudson, NH** [Map 231, Lot 026, Sublot-000; Zoned Residential-Two (R-2)] requests an Equitable Waiver of Dimensional Requirement to allow an approx. 360 square ft. shed to remain in its current location which encroaches approx. 13 feet into the side yard setback leaving approx. 2 feet where 15 feet is required. [HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and NH RSA 674:33-a.I.]

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 1/16/2024, noted that no in-house comments were received and that the boundary line dispute between 5 and 7 Deer Run was resolved in Superior Court in April 2023 and resulted in the shed infringement into the side setback.

George Ultrino introduced himself and addressed the criteria for an Equitable Waiver of Dimensional Requirement. The information shared included:

- a) *discovered too late*
  - The shed was built in 2017, two owners previous
  - I purchased the home in October 2023
  - At purchase I was given a boundary line settlement that changed the long held boundary of the property
  - The court indicated a clean title disclosure with no additional work necessary
- b) *innocent mistake*
  - Before the April 2023 boundary line settlement it was believed by all parties that the property line was a brock or stone wall
  - I do not know where the brick or stone wall is
  - I have no idea if a previous owner intentionally made it disappear, I did not
  - If I was told this, I probably would not have purchased the home until it was settled
- c) *no nuisance*
  - I do not know how the shed would be a nuisance
  - The previous owners installed a new door inside my fence
  - I was also informed not to use the door facing 7 Deer Run
  - I have no need to use that door any longer, so I will not be on 7 Deer Run land
- d) *high correction cost*
  - the shed is approximately 20' x 18' – see attached
  - the fence literally abuts the shed so that would need to be redone
  - the previous owner cut the fence to place the shed there – and was the one who laid the paving stones
  - as a new homeowner I simply do not have the funds to move everything
  - as for the benefit to be gained by the public, I do not believe moving my shed 8' benefits the public at all

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Public testimony opened at 7:18 PM. No one addressed the Board. Mr. Lanphear asked if the neighbor was present or if there was anyone in the public from the neighborhood. No one responded. Public testimony closed at 7:19 PM.

Mr. Martin stated that according to the attachments to the Staff Report, the shed was built in 2005 and later apparently modified and moved with no permits and that with regard to whether it was an innocent mistake or not, all he can say is that it was innocent by the current landowner as it all occurred before he became the landowner.

Mr. Martin made the motion to grant the Equitable Waiver. Mr. Nicolas seconded the motion. Mr. Martin spoke to his motion stating that the discovery was discovered after the fact that was the result of a Court hearing/ruling, that there was innocence on the current property owner, that there is no nuisance and that there is a high correction cost. Mr. Nicolas spoke to his second noting that it was discovered too late and not the result of the current property owner, that testimony has been received that the door facing 7 Deer Run would no longer be used and there would be no trespassing onto 7 Deer Run property and that there is a high correction cost.

Mr. Lanphear voted to grant and cited the same reasoning as Mr. Nicolas. Mr. Dion voted to grant and noted that in his opinion, all the criteria were satisfied. Mr. Daddario voted to grant as all the criteria have been satisfied.

Roll Call vote was 5:0. The Equitable Waiver of Dimensional Requirement was granted. The 30-day Appeal period was noted.

**2. Case 190-029 (01-25-24):** Antonio Marcos Pinheiro De Carvalho, **14 Riverside Dr., Hudson, NH** [Map 190, Lot 029 Sub lot 000; Split Zoned Town Residence (TR) and Business (B)] requests the following from the provisions of the Hudson Zoning Ordinance:

- a. A Home Occupation Special Exception to allow a home business office as permitted by special exception only. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses and HZO Article VI: Special Exceptions; §334-24, Home Occupations.]
- b. A Variance to allow the continued accessory use of existing outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is not permitted in the TR district and prohibited in the TR and B Districts per the Table of Permitted Accessory Uses. [HZO Article III: General Regulations; § 334-15 B. (2), Parking; HZO Article II: Terminology; §334-6, Definitions–Commercial Vehicle, Heavy; HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses; HZO Article VI: Special Exceptions; §334-24 L.(2)(b), Home Occupations.]

Mr. Sullivan read both requests into the record, referenced his Staff Report initialed 1/16/2024, noted that in-house review comments have been received from the Town Engineer and the Town Planner who noted that the driveway is within the building side setback and in need of a permit and suggested that the applicant provide a full

list of all vehicles he owns and where they will be parked in case there is no active job site.

Antonio Carvalho introduced himself and stated that he is an excavator and started his own small company called AMC Excavating last year and has one operator and that he needs the Home Office Special Exception (HO SE) for administrative needs to run his business, like project planning, communicating with clients, managing the finances and composing emails and to have as a mailing address. Mr. Carvalho addressed the criteria for the HO SE and the information shared included:

*(1) Proposed use for services provided on-site*

- Proposed use is for the administrative tasks necessary to operate a business including project planning, communication with clients, managing finances, using email etc.
- Actual construction/excavation happens at project site

*(2) Proposed use shall be secondary to principal residential use*

- Yes, house is his primary residence, the business is secondary

*(3) Proposed use shall be conducted within the residence*

- The home business administrative needs will be carried in the home and that physical work is done at the project site

*(4) There shall be no exterior indication of the proposed use*

- There will be no sign or any exterior indication of proposed use
- The only exterior indication/display would be my red truck as it has my business name on the side of it
- My truck is a Chevy 5500 with a GVW >13,500

*(5) There shall be no exterior storage unless*

- There won't be any exterior storage, just a trailer parked in the driveway

*(6) There shall be no objectionable circumstances such as noise, odors, dust*

- There will be no noise, vibrations, dust, smoke or electrical disturbances, odor, heat, or any glare produced
- The only noise that will be heard is the truck when it starts and that is normal noise

*(7) Traffic in the neighborhood shall not be substantially increased*

- There will be no additional traffic to the neighborhood as clients do not come to my home

*(8) Off-street parking required*

- There will be no customer/client parking as pricing quotes are done on the project site – customers/clients do not come to my home

*(9) Home occupation shall be conducted only by residents*

- Only the Applicant/Property Owner will be involved

*(10) Any vehicles required for Home Occupation?*

- There will be only one vehicle for my home occupation – my personal vehicle which is a red Chevrolet Silverado 5500 diesel truck

Mr. Lanphear inquired if there was an excavator on site and/or a diesel tank on the property. Mr. Carvalho responded that all he keeps on site is his personal truck and the trailer and that there is no diesel tank in site as he goes to the gas station for his diesel needs. Mr. Dion asked if there is any other equipment at the home and Mr. Carvalho responded that there was not, that maybe there will be a storage bin someplace on the property but he is just seeking to park his truck and trailer and run his business from his home.

Mr. Dion asked about the hours of operation and whether there have been any complaints from neighbors. Mr. Carvalho stated that his day can start at 5:00 AM or 6:00 AM or 9:00 AM depending on the job and how far away it is and stated that there has been some complaints as the houses are really close to the property lines and that his direct neighbor's house has its bulkhead partially on his property.

Public testimony opened at 7:44 PM. The following individuals addressed the Board and the information shared included:

- (1) Michael Beauchesne, 10 Oak Avenue, expressed concern for the safety on the road, that it is a one-way road, that it is a big truck and a long trailer, that there are kids in the neighborhood who ride their bikes and there are dog walkers and that the area is zoned Residential.
- (2) Diana & John Ferreira, 16 Riverside Drive, stated that they moved there in 2019, that their window is just 10' to Carvalho's driveway, that it is their home whose bulkhead lands on Mr. Carvalho property, that they have no concerns regarding the Home Office but they do have concern for the noise caused by the truck as it is not just Monday through Friday, that the excavator has been on site before, that it is a small street, all residential with lots of kids

Mr. Nicolas inquired about the diesel noise and noted that it is of similar sound to other diesel engines. Mr. Dion asked about the back-up alarm sounds.

Mr. Daddario stated that the Board is now discussing the HO-SE and not the Variance and asked if anyone else in the public wished to address the Board. No one responded. Public testimony closed at 7:48 PM."

Mr. Nicolas made the motion to grant the Home Office Special Exception as all the criteria have been satisfied, that the operation occurs inside the home as a secondary use, that there is no sign or exterior advertising or exterior storage, that there is no noise dust or traffic produced and the vehicle that is used is the owner's personal vehicle. Mr. Lanphear seconded the motion and stated that all the criteria have been met with the exception of the personal vehicle being in excess of 13,000 pounds and that there is no screening for either the truck or the trailer.

Mr. Dion voted to grant and noted that in his opinion all the criteria have been satisfied. Mr. Martin voted to grant as the criteria have been satisfied with the exception that the service is provided off-site and that it is the owner's personal vehicle that serves the business. Mr. Daddario voted to grant as all the criteria have been satisfied and noted that there is no business traffic to the home.

Roll call vote was unanimous at 5:0 to grant the Home Office Special Exception. The 30-day Appeal period was noted.

Mr. Carvalho stated that he seeks a Variance to allow continued parking of his trailer and use of his personal truck for the business as he needs no other equipment stored at his home for his business. Mr. Carvalho stated that he disabled the backup alarm on his truck a long time ago out of consideration for his neighbors, that his truck is large but not loud, and that he needs a place to park his trailer. Mr. Carvalho addressed the criteria for the granting of a Variance and the information shared included:

(1) *not contrary to public interest*

- The granting of the variance will help me with my business and is not contrary to public interest

(2) *will observe the spirit of the Ordinance*

- My truck won't be bothering the neighbors or breaking any ordinances and is just like a normal truck

(3) *substantial justice done*

- Substantial justice would be done to me to have my truck at home as it is easier for me to run my company, to get my materials to project sites and is just faster and more efficient for me

(4) *not diminish surrounding property values*

- My truck will only be on my property and will not go on anyone else's property

(5) *hardship*

- I have a Chevy 5500 truck which I use for work and park in my driveway and I use it every day
- My property is in two Zones – Business and Town Residence

Mr. Lanphear asked if equipment is stored elsewhere and if so where and why the trailer could not stay on the job site or where other equipment is stored. Mr. Carvalho stated that he does store equipment in Nashua. Mr. Nicolas asked and received confirmation that the truck is also his personal vehicle that it is not just for the business. Mr. Dion stated that the backing up of the trailer onto the driveway prevents a safety issue especially considering that the back-up beepers have been disengaged. Mr. Carvalho stated that it is not a three-point turn to back the trailer into his driveway, that the road is wide, that he does it by pulling just beyond his driveway entrance and makes one turn backing into his driveway.

Mr. Dumont stated that the truck sounds like any other diesel truck, that anyone can have a sixteen-foot trailer and be able to park it on their property and suggested that consideration could be given to the hours of operation because there is a noise ordinance that he believes is from 7:00 AM – 7:00 PM. Mr. Martin noted that diesels



go into high idle mode and that does sound louder. Mr. Lanphear noted that it is no different than school buses being driven to a driver's home during school hours.

Public testimony opened at 8:15 PM. The following people addressed the Board:

- (1) Michael Beauchesne, 10 Oak Avenue, referenced his prior testimony and added that he now has more concern with no back-up beepers on the truck and agreed that it is a wide road, but it is a one-way road.
- (2) Diana Ferreira, 16 Riverside Drive, stated that she does not have any concerns for the Home Office Special Exception but does have concern with the commercial vehicle use.

Being no one else to address the Board, Public testimony closed at 8:20 PM.

Mr. Dion questioned the hardship criteria and Mr. Martin stated that it could be satisfied because the lot is split zoned.

Mr. Dumont stated that the truck is the owner's primary vehicle and if denied by variance it would force the owner to buy another vehicle and nothing could stop him from getting another diesel engine truck. Mr. Sullivan stated that the noise ordinance could limit the hours from 7:00 AM – 7:00 PM Monday through Friday, with reduced hours on Saturday for 9:00 AM – 5:00 PM and no hours on Sunday. Mr. Dillon pointed out that the truck is his personal vehicle and he may have a personal need to go somewhere on a Sunday. Mr. Nicolas stated that the issue is the noise of the truck, but there is no Ordinance restriction for diesel engines. Mr. Dion added that it is also the safety for the children and pedestrians without active back-up beepers on the truck.

Mr. Lanphear made the motion not to grant the Variance. Mr. Martin seconded the motion to deny the Variance. Mr. Lanphear spoke to his motion stating that according to testimony from the neighbor it is a noise and safety concern, that it does not observe the spirit of the Ordinance and the safety and welfare of the neighborhood and the neighbors don't feel comfortable with the extra equipment on site, that substantial justice is done to the owner, that it will diminish the property values of surrounding properties and that there is no hardship.

Mr. Martin spoke to his second stating that diesel engines are a nuisance in winter as they go into high idle mode and that does not observe the spirit of the Ordinance and that even though substantial justice would be done to the owner, the noise from this vehicle while idling is very loud, that no evidence was presented that it would not diminish surrounding property values, but who would want to move next to a noise of an idling truck, and that hardship is not satisfied as the applicant has ample use of his property without having the vehicles parked there, and that the proposed use is not a reasonable use because of the size of the vehicle.

Mr. Nicolas voted to grant the Variance as safety is not an issue if the truck and trailer can be parked in the driveway, that the character of the neighborhood will not be altered and any vehicle can be parked in a driveway, that there is no certainty of harm to the public is outweighed by harm to the property owner, that any diminution to surrounding property values is debatable since there is not a situation whereby the

truck cannot be located elsewhere and the property is in the TR Zone and the truck is the property owner's primary vehicle and main mode of transportation.

Mr. Dion voted not to grant and noted that there have been numerous safety and noise concerns voiced, that the size and type of vehicle is too large and does not fit with the character of the neighborhood, that the neighbors have expressed dislike for the noise of the engine, that the direct abutters may have diminished property value due to the noise, and the property does not have any unique properties that differentiate it from others in the neighborhood.

Mr. Daddario voted not to grant the Variance stating that the public testified to noise, safety and aesthetic issues, that the commercial truck in residential neighborhood exceeds the weight limit, multiple public concerns voiced on noise, size, aesthetics, that the size & commercial nature of the vehicle in tightly spaced neighborhood may diminish property values, and no testimony or evidence presented asserting hardship.

Roll call vote was 4:1 not to grant the Variance as all five criteria failed to be satisfied. Mr. Nicolas opposed the denial and voted to grant.

Public testimony regarding spirit, safety, sound was received and there was no evidence presented or testimony given regarding impact to surrounding property values or hardship presented by the land.

The 30-day Appeal period was noted.

**3. Case 218-025 (1-25-24):** Patrick and Lisa Russell, **5 Homestead Ln., Hudson, NH** [Map 218, Lot 025, Sublot-000; Zoned General-One (G-1)] requests the following from the provisions of the Hudson Zoning Ordinance:

- a. A Variance to allow the continued existing (non-permitted) mixed principal uses: **(A.1.)** Residential Use– Single family detached dwelling and **(E.15.)** Industrial Use– Contractor's yard on the lot where mixed uses on a lot are not permitted in the G-1 district. [HZO Article III: General Regulations; §334-10 A., Mixed or dual use on a lot.]
- b. A Variance to allow the continued accessory use of existing (non-permitted) garaging or parking of heavy commercial vehicles and equipment where these uses are not permitted in the G-1 district if the property is not served by Town water and sewer. Outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses and HZO Article III: General Regulations; §334-15 B.(2).]

Mr. Sullivan read both applications into the record, referenced his Staff Report initialed 1/17/23, noted that the site is not serviced by Town water or sewer and that the Town Planner noted that the applicant had to seek Site Plan Approval from the Planning Board and that the Town Engineer questioned the drainage and water quality improvements related to the runoffs considering the amount of impervious that has taken place since 1998 and noted that according to the plan provided and the



2022 ortho images indicate that the driveway goes beyond the building setbacks and beyond the property line.

Patrick Russell introduced himself, stated that he uses his lot for garaging or parking two (2) or more light commercial vehicles and associated equipment storage outside, that he owns two (2) pickup 3500 trucks and the following equipment: 1 Bobcat skid steer 10K, 1 Bobcat Mini Excavator 10K, 1 1968 swinger loader 7K, 1 white enclosed 22 foot trailer that holds the laser grader 14K, 1 deckover 24' equipment trailer 14K, 1 tilt 20' trailer 14K, 1 dump 14' trailer 14K and 1 black enclosed trailer 7K. Mr. Russell stated that there are also various bobcat buckets and attachments such as roller attachment, rake attachment and sweeper attachment.

Mr. Russell stated that his daily operation includes finish grading of sports and athletic surfaces as well as light excavation and light site prep and typically laser grade turf fields, basketball courts, hockey rinks and large concrete floors. He travels to the job site and leaves equipment for multiple days on site. When possible, he stages equipment from job to job and avoid bringing equipment back to the shop to avoid excess logistics. Mr. Russell stated that light excavation is done locally, such as pulling stumps and grading lawns. Materials are typically delivered to customer sites. Mr. Russell noted that he does not own any large dump trucks or equipment larger than 10,000 pounds and that they typically tow a trailer every day but most of the time they are able to leave the trailers on site with the equipment for multiple days.

Mr. Russell stated that his operation is busy between May and November and is basically shut down in the winter with the exception of some indoor floors and ice arenas for laser grading. It is a seasonal business with no onsite revenue generated at 5 Homestead Lane. Mr. Russell stated that he does not offer plowing, that he does have a plow for his own driveway and the street with his neighbor who operates a similar business for the neighbors, that he does have a bobcat golf cart with a sander that is used to treat his driveway in the winter.

Mr. Russell stated that he does have one employee and has no intent on ever having more than one after selling his landscape operation in 2017. Mr. Russell stated that he keeps personal hand-tools and leaf-blowers, lawn mower and miscellaneous household items like the pool cover, Christmas lights, tables and chairs for barbeques, a party tent and other golf carts and toys like power wheels

Mr. Russell next addressed the Variance criteria and the information shared included

(1) *not contrary to public interest*

- Granting this request will not be contrary to public interest because I am using the property to store trailers and equipment that I not in use
- Typically, all equipment moves from job to job all summer long but does need to be stored on the property in the offseason, December through March
- Various bobcat attachments remain at the shop and do get switched out on an intermittent basis
- No customers ever come to the shop, no business is done at the shop, it is simply storage for not-in-use equipment
- I don't sell any materials at the shop and am not a landscaping business – I am an equipment operating contractor with a single employee who takes his

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company truck home to Townsend MA every night and typically goes directly to the job every day

(2) *will observe the spirit of the Ordinance*

- The proposed use will observe the Ordinance and I am not a contractor and use my yard as storage for my business equipment
- Mr. company is very simple, very small with 5 small pieces of equipment and 5 trailers with 1 employee and 2 trucks total in the company
- The trucks are both pick-up trucks with the highest GVW (Gross Vehicle Weight) of 12,400 lbs. GMC 3500 quad cab and regular cab diesels
- There are 3 equipment trailers with GVW's of 14,000 and 2 trailers with GVW's of 7,000 lbs.

(3) *substantial justice done*

- Substantial justice would be provided to me by approving this use as I am no disturbance to any of my neighbors, operate at regular hours with respect and am no different than common traffic on any road in Hudson

(4) *not diminish surrounding property values*

- The proposed use will not affect property values of any surrounding properties as I cannot be seen or heard by anyone other than my direct abutting neighbor who is already approved for the same uses

(5) *hardship*

- The special conditions of the property (% Homestead Lane) located in the G-1 Zone off a private road (Homestead Lane) at the end of a dead end road (Trigate Road) provide the property with seclusion and privacy to not affect the neighboring properties and reasonably does not need to be restricted to "residential use"
- I'm simply a homeowner with enough space to privately store property that is use on jobsites and does not produce revenue at the restricted location
- Using the property to store equipment not in use is reasonable because it does not affect any other properties other than a similar abutting property who has already been approved for the same uses.

Public testimony opened at 8:49 PM. Alan Simoneau, 4 Homestead Lane stated that he was before the Board in November for the same two Variances that were granted and added that there are no issues or concerns with the granting of the same to his neighbor. Being no one else to address the Board, public testimony closed at 8:50 PM.

Mr. Dion made the motion to grant the variance to allow the continued mixed principal uses. Mr. Lanphear seconded the motion. Mr. Dion spoke to his motion and stated that the property is very secluded, that the direct neighbor is in support, that the public would not be harmed by storage, that the direct abutter has no issues and is functioning as effectively the same business, there is no general public going through the area, the proposed use will not diminish the values of surrounding properties as the proposed use is similar to the neighboring properties, that the zoning is the hardship and the seclusion of the property is unique to the area and the proposed use is reasonable. Mr. Lanphear spoke to his second stating that it is not contrary and the next property was given the same variance, it does not conflict with the purpose of the Ordinance, the site is secluded, there will be no diminution of surrounding properties considering the next door neighbor is engaged in the same use and that the zoning of the property in G-1 is the hardship.

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Mr. Nicolas voted to grant the variance and stated that the variance does not conflict with the explicit purpose of the ordinance, that it is not contrary to public interest, that the essential character of the neighborhood will not be altered, that there was no evidence of harm to the general public, that surrounding property values will not be diminished and that the zoning of the property (G-1) presents the hardship.

Mr. Martin voted to grant the variance and stated that there are two (2) direct neighbors and only one (1) was in attendance at this meeting and expressed support on behalf, that the granting will observe the spirit of the ordinance, that substantial justice would be done in the granting of the variance, that the site is at the end of the road and has had no complaints and that it is a reasonable use.

Mr. Daddario voted to grant and stated that the area is consistent with the use, that the direct abutter testified in favor of the use, that there would be no impact to the neighborhood and no harm to the public, that based on the circumstances there is no likely impact on other properties, that the circumstances of the property are such that limiting use does not impact neighbors and under the circumstances of the property, the storage of equipment is reasonable.

Roll call vote was 5:0 to grant the Variance. The 30-day Appeal period was noted.

Board next addressed the second Variance to allow outside parking and storage of vehicles or trailers with a gross vehicle weight (GVW) of greater than 13,000 pounds.

Mr. Russell referenced his opening statements regarding his business and noted that the responses to the variance criteria are also the same for this variance for the vehicles and trailers in excess of 13,000 pounds. Mr. Russell noted that both his pickups weigh 12,400 pounds and he has three (3) equipment trailers of 14,000 pounds each and two (2) other trailers of 7,000 pounds

Public testimony opened at 9:03 PM. Alan Simoneau, 4 Homestead Lane asked the Board to please grant. Being no one else to address the Board, public testimony closed at 9:04 PM.

Discussion arose on the trailer weights and the threshold for requiring a CDL license. Mr. Dumont noted that what is transported needs to be considered. Mr. Russell stated that it is the gross combined weight that determines whether a CDL license is needed. Mr. Dion summarized and stated that there are two (2) pickup trucks and five (5) trailers for potential CDL licenses and that the bobcats are on the job sites nine (9) months of the year.

Mr. Dion made the motion to grant the variance to the garaging and parking of heavy commercial vehicles and equipment as described. Mr. Lanphear seconded the motion. Mr. Dion spoke to his motion

Mr. Dion spoke to his motion and stated that the property is similar to the neighbor, that the property is very secluded and does not impede public rights or safety, that use of the property is consistent with the neighbor, that there is no threat to public harm due to its seclusion, that the use is consistent with the neighborhood, that

zoning is the unnecessary hardship as the property is unique due to its seclusion and it is a reasonable use.

Mr. Lanphear spoke to his second stating that it is not contrary and the next property was given the same variance and they maintain the snow removal, that it has been in existence since 2006 and no harm has been reported, it will not diminish surrounding property values and that there is no fair and substantial justice due to his business being in existence since 2006 and neighbor has similar business and that the zoning of the property in G-1 is the hardship.

Mr. Nicolas voted to grant the variance and stated that the variance does not conflict with the explicit purpose of the ordinance, that it is not contrary to public interest, public health and safety, that the essential character of the neighborhood will not be altered, that justice would be done to the property owner, that the benefit to the property owner is not outweighed by harm to the public, that surrounding property values will not be diminished and that the zoning of the property (G-1) presents the hardship.

Mr. Martin voted to grant the variance and stated that his reasoning regarding this variance criteria is the same as the previous variance, that the granting will not be contrary to public interest, it will observe the spirit of the ordinance, that substantial justice will be done, that there will be no diminution to surrounding property values, that it is the zoning ordinance that has caused the hardship and that it is a reasonable use.

Mr. Daddario voted to grant and stated that his reasoning is the same as the prior ordinance, the request is consistent with the direct abutter, that there is no harm to the public, that justice would be done, that there would be no impact to the neighborhood, that the use doesn't warrant protection for neighboring property, and that the characteristics and location of the property make this use very reasonable.

Roll call vote was 5:0 to grant the Variance. The 30-day Appeal period was noted.

#### **V. REQUEST FOR REHEARING:**

No requests were received for Board consideration.

#### **VI. REVIEW OF MINUTES:** 12/14/2023 edited draft Minutes

Board reviewed the edited version and made no further changes. Mr. Martin made the motion to approve the 12/14/2023 Minutes as edited and presented. Mr. Lanphear seconded the motion. Vote was unanimous at 5:0.

**VIII. ADJOURNMENT**

Mr. Martin made the motion to adjourn the meeting. Mr. Dion seconded the motion. Vote was unanimous at 5:0. The 1/25/2024 ZBA meeting adjourned at 9:12 PM.

Respectfully submitted,  
Louise Knee, Recorder

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Gary M. Daddario, ZBA Chairman