



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

MEETING MINUTES – February 22, 2024 - approved

The Hudson Zoning Board of Adjustment met on Thursday, February 22, 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

Chairman Daddario called the Hudson ZBA Meeting to order at 7:03 PM.

II. PLEDGE OF ALLEGIANCE

The meeting began by all rising for the Pledge of Allegiance.

III. ATTENDANCE

Attendance was called and present Members were Mr. Sakati, Mr. Lanphear, and Chairman Daddario. Also present were Selectman Liaison Dumont, and Zoning Administrator, Sullivan. Recorder, Louise Knee was stated to be listening remotely per Mr. Sullivan. Absent Member was Mr. Nicolas. Mr. Martin arrived late.

Chairman Daddario announced housekeeping and administrative matters. He placed the meeting in recess at 7:10 PM in order to have a full Board present when starting the cases since the Board was one member short and being informed that Mr. Martin would be arriving momentarily. The Board went back in session at 7:14 PM after Mr. Martin arrived. The meeting proceeded with the cases in the order on the agenda.

IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. **Case 116-030 (02-22-24): Thomas Golembeski, Trustee, 1 Chagnon Lane, Hudson, NH [Map 116, Lot 030, Sub lot-000; Zoned Residential-One (R-1)] requests an Equitable Waiver of Dimensional Requirement to allow an approx. 280 square ft. shed to remain in the front yard location where accessory storage structures (sheds) shall be placed to the rear of the main building. [HZO Article VII: Dimensional Requirements; §334-27.1 C., General requirements.]**

Zoning Administrator, Chris Sullivan read the first case into the record as shown above. Mr. Sullivan indicated there were no in-house comments.

Chairman Daddario invited the Applicant to the front table or lectern where he stated his name and spelling as Tom Golembeski, 1 Chagnon Lane and stated he is here to justify his case. He stated the shed existed since 2008 and he replaced it four (4) years ago because the old one was rotting out and falling over. He made a correction to three (3) years ago as it was written on his application. It was the same size and stated that the size is 240 square feet or 20 ft. x 12 ft. He stated the way the house is on the lot, there's not many places to put it. In the backyard is the septic system that's probably within ten (10) feet of the property line. There is no room in the backyard. The side yard is a hill and is rocky. It looks like when the foundation was dug, the rocks were stuck there when they blasted for the

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foundation. It is uneven and has a lot of tall trees. So he placed the shed in a little gully and there are trees along the road so it is hard to see the shed as it is well hidden from the road. It is a little more visible when there are no leaves on the trees. So he would like to keep the shed there. To move it would be close to impossible. He would have to tear down a bunch of trees and make some type of path to get to the shed in the backyard. It is basically a storage shed. He stated he probably goes into it once a month. It is not something that is used frequently or a lot of traffic to it. This completed his testimony. He asked the Board if there were any questions.

Chairman responded that within what the applicant stated, he managed to address the factors from the application on attachment "A". He asked the Board if anyone had questions. Mr. Martin responded "no" but had a question for the Zoning Administrator. He said, "Equitable Waivers are obviously, dimensional requirements, why wouldn't this require a variance because we have a Zoning Ordinance 334-27.1 C that says accessory storage structures (sheds) should be placed to the rear of the main building?" Mr. Sullivan responded, "The reason why is it's been there since 2005. No one's caught it. I'm not going to make somebody try to get a variance on something that's been there forever and no one's looked into it."

There were no other questions for the Applicant. The Applicant asked if he should stick around for the vote and asked how the process works. Chairman Daddario explained the process to him. The Applicant thanked him and left the table. Chairman Daddario proceeded and asked if there was anyone else in attendance who wish to speak first 1) in favor of the application, then 2) in opposition of the application and finally 3) neutral on the application. No one replied for each question. Chairman Daddario closed the public portion of the hearing and declared the matter before the Board for discussion, deliberation, or motions.

Mr. Lanphear motioned To Grant. Mr. Sakati seconded the motion. Chairman Daddario asked each to speak their motion and reminded everyone that when calling the vote, for each Board Member to address the factors as they explained their vote.

DISCOVERED TOO LATE:

- Mr. Lanphear explained he granted because he agreed it was discovered too late and the shed has been there for years.
- Mr. Sakati stated it's been fifteen plus (15+) years.
- Mr. Martin voted to grant and echoed same comments as Mr. Sakati and Mr. Lanphear regarding this criteria.
- Chairman Daddario voted to grant and stated that he thinks it is proper everyone seems to be referring to the original shed even though it's been replaced. He thinks it is proper to look back to that original point because the testimony was that the replacement was situated in the same spot and that was because the property owner at the time thought that was an appropriate spot.

INNOCENT MISTAKE:

- Mr. Lanphear agreed it was an innocent mistake, it's done.
- Mr. Sakati stated it was an innocent mistake obviously.
- Mr. Martin echoed same comments as Mr. Sakati and Mr. Lanphear regarding this criteria.
- Chairman Daddario stated that the Applicant explained why the shed was located where it was and that satisfies him that he was making an innocent mistake and not electing in some way to violate an ordinance.

NO NUISANCE:

- Mr. Lanphear stated it is not causing a nuisance to anyone in the neighborhood as no one complained about it.
- Mr. Sakati stated it isn't a nuisance since no one has come to complain and doesn't seem like the Applicant has heard any complaints.
- Mr. Martin echoed same comments as Mr. Sakati and Mr. Lanphear regarding this criteria.
- Chairman Daddario stated that no one has complained as heard from the Zoning Administrator and there was no one present to complain and frankly, he doesn't know that a storage shed at this point and time could rise to the level of a nuisance from a legal perspective.

HIGH CORRECTION COST:

Mr. Lanphear stated the correction cost would be astronomical due to the layout of the land.

Mr. Sakati agreed with the Applicant, that the shed is in a hollow behind 50 ft. tree stands. It's very obscure. He thinks the correction cost would be expensive and impractical for the Applicant.

Mr. Martin echoed same comments as Mr. Sakati and Mr. Lanphear regarding this Equitable Waiver criteria.

Chairman Daddario stated that he believes this weighs in favor of the Applicant. He stated that moving sheds has been discussed many times in many cases and involve high cost. He continued, in this case, we can see from the photos of this particular property that if one were to try to move it to put it in accord with the ordinance behind the house, it would appear that trees would need to be taken down to create a space and that alone is also a significant expense.

The roll call vote was 4-0, To Grant the Equitable Waiver of Dimensional Requirement as requested.

Mr. Martin brought to Chairman Daddario's attention that he didn't seat anyone for Mr. Nicolas who was absent. Realizing the omission, Chairman Daddario then asked Mr. Dion to be seated for Mr. Nicolas.

Chairman Daddario informed the Applicant that his application request for relief has been granted and reminded the Applicant that if anyone is aggrieved by the decision of the Board, that they have thirty (30) days to appeal.

Due to the omission of not seating an alternate for the first case, Chairman Daddario repeated to make clear that procedurally, Mr. Dion is Alternate Member of the Board and was seated for Mr. Nicolas who was absent in order to have a full Board with five (5) voting members for the next cases.

2. **Case 166-031-001 (02-22-24): Gregory McAdams, 7 St John Street, Hudson, NH [Map 166, Lot 031 Sub lot 001; Zoned Town Residence (TR)] requests a Home Occupation Special Exception to operate a seasonal party rental home business office as permitted by special exception only with business equipment storage in the garage and outside parking of trailers within the required setbacks from the side lot line. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses and HZO Article VI: Special Exceptions; §334-24, Home Occupations.]**

Zoning Administrator, Chris Sullivan read the second case into the record as shown above. He informed that there was one comment from the Town Engineer to locate the parking spaces. He directed the Board to their application packets containing a map that shows where the Applicant is going to park his vehicles.

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Mr. Lanphear requested a GIS Map for the layout of the land with the streets in the neighborhood. Mr. Sullivan pulled up the GIS Map on the projector screen.

Chairman Daddario thanked the Applicant for coming up to the front table to present his application. The Applicant stated his name and spelling as Greg McAdams and that he lives at 7 St John St. in Hudson. He said he is the owner of UFO Party Rentals, a complete Event Rental Company and that he is looking to use one half of a two car garage to store some inflatables for his seasonal business and outside parking. He informed that he is trying to find a warehouse but it has been extremely difficult. The reason is that he has storage units in Pepperell and that's his main "thing" but the location is quite a hike so there are mornings where he has to leave very early and being able to use the storage at his house to grab and go saves him a bunch of time and get to see his kids a little bit more. He stated that he did go over where parking was allowed within the setbacks and everything looks like it will fit.

Chairman Daddario asked the Applicant to speak on the factors (on pg. 6) in his Home Occupation Special Exception Application. He explained that the Board has to find each of these factors in order to grant relief. The applicant spoke on the factors as shown in the application as follows:

Please explain, in detail, the nature of your home business:

The Applicant stated he has a Bounce House Business. It is a seasonal business that runs May through October. The only thing that would be at the house on the off season would be a food truck which needs to stay plugged in for the refrigeration.

Is the home occupation secondary to the principal use of the home as the business owners' residence? Please explain.

The Applicant stated the business is secondary.

Will the home occupation business be carried on within the residence and or within a structure accessory to the residence? Please explain.

The Applicant stated yes, he would be using one-half of his two-car garage so that would be within the structure.

Other than the sign(s) permitted under Article XII, will there be exterior display or other exterior indications of the home occupation? Will there be any variation from the primarily residential character of the principal or accessory building? Please explain.

The Applicant stated no signs.

Will there be exterior storage and will it be screened from neighboring views by a solid fence or by evergreens of adequate height and bulk at the time of planting to effectively screen the area? In situations where a combination of existing foliage and or long distances to neighboring views provide screening, the fencing requirements may be waived at the discretion of the Board. Please explain how you will comply.

The Applicant stated he did write "no exterior storage" on the application meaning no exterior storage of the bounce houses which he assumes is different from the parking.

Will there be noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare produced? Please explain, and if there will be electrical disturbances, describe the frequency.

The Applicant stated there is no noise and nothing is going on besides the trucks, the trailers.

Will the traffic generated by the home occupation activity be substantially greater in volume that would normally be expected in the neighborhood? Please explain the expected traffic to your business.

The Applicant stated “no traffic”, we don’t allow customer pickup at all. There’s never clients or customers at the house to pick up anything.

Where will customer/client parking for the home occupation be located? Please explain.

The Applicant did not answer as the application shows “N/A”

Who will be conducting the home occupation? Please explain.

The Applicant stated that he is the owner and will be conducting the entire business.

Will there be a vehicle(s) for the home occupation? Please explain the type and number of vehicle(s).

The Applicant stated he has a Dodge 1500 with a trailer that stays attached the entire season and a food truck which needs to be plugged in which is the main reason he needs it there.

Chairman Daddario thanked the Applicant for going through the factors and asked the Board members for questions for the Applicant.

Mr. Martin asked the Applicant, referring to the plan, what was being parked on the side that appears to be the two-car garage? The Applicant responded the food truck and sometimes there is enough space to pull his truck and trailer which never leaves the back of the truck, which he considers as one vehicle. Mr. Martin continued that the criteria for this home occupation is that parking provided for the home occupation shall be off-street located outside of the setback areas. He further added that to him, it looks like it may be in the setback area. He asked Mr. Sullivan if he was wrong. Mr. Sullivan responded that was close but it that the Applicant drew a rectangle and he can get everything within that space. In addition, he thinks it was just a corner that could be moved a little bit and redrawn but it should be fine. Mr. Sakati added that there was a jog in the property line.

Mr. Sakati asked the Applicant how many pieces of rental equipment does he have in the one bay of the garage. The Applicant responded that he has three (3) storage units in Pepperell (he corrected to four (4) now) and continued that altogether he has about 80 pieces. He stated that what he does is his most popular ones that he knows will be going out so eight (8) to ten (10) at the most and these would easily fit into the one bay of the garage. He joked about his wife not letting him...(laughter).

Mr. Martin asked the Applicant an additional question about the piece in Pepperell (which has no bearing on this case) is that across from Lomar Park in the area of (Rte.) 111? The Applicant responded that it’s State line so it’s Lomar Park coming back towards Nashua and confirmed location on the turnout road.

Mr. Lanphear asked the Applicant if the food truck is on the side of the garage on the property now? The Applicant responded, yes. Mr. Lanphear asked for the length of the trailer. The Applicant responded that it is a twelve (12) foot enclosed trailer used for the business.

Mr. Sakati asked the Applicant about the noise profile of the food truck being plugged in overnight? The Applicant responded, zero (0) that it is one refrigerator and a freezer, same as in your house and confirmed not like a generator.

Mr. Sakati also asked the Applicant if his neighbors ever mentioned any concerns and the nature of their concern. The Applicant responded, yes and that's why he's here and they were concerned he was conducting a business at the house. Mr. Sakati further queried the Applicant, "...and previously was the vehicle parked in the same location, as what you are proposing here (pointing to the plan on the screen) ? The Applicant responded, "That's where he parks the trailer and the food truck he got not too long ago." Mr. Sullivan added that there were times he was parked in the street. Mr. Sakati continued that this presumably is what was considered a concern by the neighbors.

Chairman Daddario thanked the Applicant then proceeded and asked if there was anyone else in attendance who wish to speak in favor of the application. There were none to speak in favor.

Chairman Daddario asked if there was anyone else in attendance who wished to speak in opposition to the application. Andrew Cloutier, 6 Grigas St., came to the lectern and testified that over the past year, 2023, Mr. McAdams has increased operations at his house. This consisted of one (1) truck and one (1) trailer. Then, over the year, it became two (2) trucks, two (2) trailers, and 3 employees. One of these employees drives the fully deep cab silver truck and trailer. Mr. McAdams drives the black truck and trailer at his residence. The black trailer and truck had a little small decal saying "UFO" on the tailgate. The other two (2) employees are about high school age. These employees, while at his house, will set up the bouncy houses, wash, clean, inspect them, break them down, and then store them. They were storing them in the driveway. Hence, the reason why Mr. McAdams was parking in the street is because his driveway was being used for storage. None of these employees live at this house. They also end up parking on the street. This has caused increased activity in the neighborhood with these two (2) trucks and trailers coming and going multiple times a day.

Mr. Cloutier continued, that towards the latter half of the year, Mr. McAdams started to park his truck and trailer on the street right in front of his (Mr. Cloutier's) house. And when looking out of his bay window, all he sees is his (Mr. McAdam's) truck. And not the quiet neighborhood, he (Mr. Cloutier) paid to live in. He stated the reason why he's parking on the street as mentioned before is because he's using his driveway as storage and also he has acquired a third trailer, his food trailer. It's basically a Fair Style food concession stand. This truck say's "Frankie's Concession" on the side of it. Now, there's three (3) trailers, two trucks (2) and a possible third commercial grade truck coming and going out of a residential zone.

Mr. Cloutier further stated that he believes that Mr. McAdams is asking for an exemption not just to have an office and store equipment but to run a business as he has described. He opposed the need for another business ran in a TR Zone just like what has happened on Highland St. with the landscaping company. He concluded his statement "because once you give someone an inch, they'll take a mile." Mr. Cloutier provided pictures for the Board (circulated and viewed by each member).

The next person to speak in opposition to the application was Sue Cloutier, 25 George St. She stated she is here as a witness but also that she can attest to being a caretaker of her in-laws family home and has known the neighborhood for a long time. She stated what the maps don't show is how tight everything is. She mentioned about that corner (lot), and there's been a whole thing about why they didn't want a house in there, etc. and resolved to saying "it's tight". She stated when he (Mr. McAdams) has his equipment out there, it's hard for people to go around, a bus. She questioned whether if there was a safety issue when he had it (equipment) parked on the road having emergency vehicles come through. She can attest to the character of the neighborhood for the last fifty (50) years and when you have a TR1 zone and neighborhood, she's hoping that the zone is there to protect the neighbors that want it to stay comfortable.

Ms. Cloutier stated she has no problems with home businesses but it's not like the old days where like a hairdresser where it was in the home. You're not doing equipment and adding more equipment on the exterior part of the home and parking further out into the street. She stated that he has no footage on his front yard and feels bad for him and it's not the Applicant's fault. But, the rest of the neighborhood, there's a lot of kids in the neighborhood. She feels that it is not necessarily a smart thing to do.

Ms. Cloutier stated that she does not wish any bad will towards the Applicant but feels there may be retribution to deal with afterward. She explained, that's what happens when it's neighbor to neighbor. It's what happened to her with the landscaping thing, that she saw what happened and experienced it. She stated it is still going on and the Town should know. She said, in that situation, there were weapons involved and threats.

Ms. Cloutier testified that she was verbally threatened by this gentleman (she pointed in the audience) thinking that she caused a parking issue and that she complained but it wasn't her. She stated that it was somebody who holds an office in the Town was the one that gossiped so she filed a complaint. She needs the Board to know the whole scope of what is going on. She said she is afraid to be out in the yard and to have issues. She stated that she would love to get along with neighbors even though that is not her property, she states she has taken care of it for a long time and has a connection to it but she's also witnessed what's happened and she just thinks that putting a business with all those vehicles is just like the landscaping company. It started with, "just to park" a couple of vehicles on his property. Then it progressed into pickup trucks that went into commercial sized vehicles, trailers, a commercial garage in the backyard. It just escalated and the Town people kept telling her, "sorry there's nothing we can do and that we've already granted it to him." It went into all kinds of legal issues. She is afraid that if the Board allows this, with issues that have happened, you give an inch, they'll take a mile and that you (Board) will say sorry but we've already granted it. Then, it's neighbors next to each other and she doesn't want that for Andrew (Cloutier) and Mr. McAdams at all and she is concerned about that. She concluded and thanked the Board.

Chairman Daddario thanked Sue Cloutier for her testimony and stated for the record that some of what she said obviously falls outside the purview of this Board concerns about anybody being threatened or feeling in danger. (Ms. Cloutier stated out loud while the Chairman was speaking "Yes, I know.") He continued, although the Board doesn't investigate those things, they have no way to take a position on the veracity of those statements. (Ms. Cloutier again stated out loud while the Chairman was speaking that "she was just speaking for herself") Chairman Daddario responded, "right, but we would just say that for situations where police or other legal involvement is appropriate or where that's necessary for anybody's safety, that's the avenue that folks should pursue. Just so that we're all clear, those just are not things that we are able to address as a Zoning Board.

Chairman Daddario thanked Ms. Cloutier again for speaking. There were no others to speak in opposition to the application. He then asked if there was anyone else in attendance that have neutral commentary on the application? There were none to offer neutral comments.

The Applicant was invited to return to the front table for further questions and allowed to make a statement to address the testimonies heard and answer any remaining Board questions. The Applicant stated that when he moved in December, he had a warehouse lined up (the place behind Shattuck Rug). The roof had a big hole in it and they said they were going to fix it. Then the season started in May and they ghosted him so he had no place to go. He didn't realize that cleaning would be an issue. He said he shouldn't have assumed but he was always under the assumption that if you didn't have clients coming to your house, or people picking up, that it wasn't an issue and it was an honest mistake. He stated that he spoke to Chris (Sullivan) extensively. As far as parking on the street, same thing, that he

talks to the bus driver every day and not once did he mention it was an issue getting by. If a neighbor had come over and simply said to him, “hey, parking is causing an issue” then he never would have done it. There was no information to him that it was an issue.

The Applicant testified that the black trailer is a personal trailer that stays in Pepperell the whole time and is not parked at the house. The black truck is a personal vehicle parked at the house. There are no other vehicles that he parks near the street at this point. Once Chris (Sullivan) told him that it was an issue. The only time that he would park on the street is if he had to shuffle a vehicle around, a two-minute action.

He testified that he has spoken to his neighbor, Jeff many times (the one with pictures taken from his deck) and has informed him that he has no issue with anything. He states he constantly asks him when cleaning up property, etc. if there are any issues and he has not mentioned a word about any issues.

The Applicant addressed the comment about “...once you give someone an inch, they’ll take a mile” he states he understands the parameters, about what is and isn’t okay to do such as stuff staying in the garage, stuff next to it, within the setback and that’s the way it would stay. He stated he is constantly looking for a warehouse but it is insanely hard to find at the moment within affordable pricing. He stated he is not making a million dollars and that he is just trying to feed the family and having to shell out another 3-4 thousand dollars for a warehouse is tough. So he is just trying to use this to get by and make life a bit easier for him. He repeated that he has the four storage units that’s his main thing and has parking there and this (request) helps during the busy season to avoid having to drive back and forth to Pepperell all day.

The Applicant testified that he reviewed everything with Chris (Sullivan) and no employees will be at the house anymore. He didn’t realize that was an issue either. He states he wasn’t trying to skirt around anything but that it was an honest mistake.

Mr. Martin approached the Applicant to share and ask questions about some of the pictures the Board received at the meeting. The Applicant identified a trackless train (in one picture) brought to his house two days ago to change out the wheels of the three carts on the back. He informed that it will go back into storage. Mr. Martin stated that the picture shows that it is in the setback.

The Applicant answered questions about the weight of the food trailer stating it is about six thousand pounds but didn’t have the exact weight. Mr. Martin’s concern is that he would like to know the true weight of the trailer to confirm that it is not more than thirteen thousand pounds because there is a (zoning) ordinance that says no vehicle storage of thirteen thousand lbs. vehicles or more. The Applicant replied that the trailer is definitely not thirteen thousand lbs. or more.

Mr. Martin also had questions regarding the storage and advertising and asked if the Applicant will screen the advertising from his existing neighbor? Because without having that screen, it is advertising. Someone is going to drive the street and say “oh... Mr. Martin read the Zoning Ordinance Section 334-24. I (Home Occupations) affected by this as shown below:

Exterior storage may be permitted only by special exception, granted by the Zoning Board of Adjustment, and must be screened from neighboring views by a solid fence or by evergreens of adequate height and bulk at the time of planting to effectively screen the area. In situations where a combination of existing foliage and/or long distances to neighboring views provide screening, the fencing requirements may be waived at the discretion of the Board.

Mr. Martin stated he has an issue with the on-site storage of the food trailer, and different sized bounce houses inside his garage. He asked will any trickle out. The Applicant replied no. Mr. Martin asked about cleaning. The Applicant replied, it is on-site now and clarified the cleaning is on-site at the customer's home. He cleans them and puts them away clean. He uses autobahn and vacuums. He uses very little water, which takes too long to dry.

Mr. Martin stated that if he were to give his approval, he would like to see a written, notarized assurance from the Applicant, not just testimony, stating that he is not going to have any outside storage nor cleaning of the bounce houses on-site. Otherwise, this is not a proper home occupation... (he gave some of his examples of a home occupation). He thinks this type of business belongs in a warehouse which the Applicants is having a hard time finding. He would like to see some kind of promise to the Town that everything is going to be stored inside and no outside washing of these (bounce houses) on the property at 7 St John St.

Mr. Daddario stated he understands that to be the Applicant's testimony. The Applicant confirmed, yes to his testimony. Mr. Daddario continued that this particular form of relief, Home Occupation Special Exception doesn't have stipulations on it. He takes that to mean it's a decision that we (Board) don't get to do stipulations on. He pointed out that regardless of the Applicant's testimony, if it's granted, it's granted on the factors and to the extent that the Applicant then did something outside of this whether it was the parking, the storing of stuff, cleaning, whatever the case may be, that becomes an enforcement. Mr. Sullivan agreed and said yes. Mr. Dumont disagreed and stated that stipulations can be added. (Mr. Sullivan agreed stating, yes.) Mr. Dumont continued, that he believes that with the testimony, that would solidify some of the abutter concerns as well as Mr. Martin's and obviously that (Decision with stipulations) is signed, dated and recorded. He stated that there's a lot of issues that have happened/took place and this seems to be rectifying those issues in his opinion.

Mr. Sakati stated that he generally has the same concern, that he (Applicant) had great testimony of trying to do all the right things and then he hears from? (Inaudible background noise) that it hasn't happened historically. Mr. Sakati asked the Applicant when he started having conversations with Mr. Sullivan. The Applicant responded, he thinks he got the letter October 3rd. Mr. Sakati asked when the pictures were taken? The Applicant replied, the one with the train must have been within the past few days. The other ones he has no idea. Mr. Sakati asked, when think about getting an exemption here, do you think you are complying or not complying with the ordinance? The Applicant replied, the only thing at his house right now would be the food truck, his truck and trailer (he just had an event today) and he just backed the train (doing the tires and it's going right back). He feels he is (in compliance). The garage is empty, no bounce houses, none of that at the house at the moment. He feels from talking with Chris, that he has been following... He states he has had many talks with Chris.

Mr. Dumont followed up and asked the Zoning Administrator, Mr. Sullivan if that (Applicant's testimony) was his view of it? Mr. Dumont re-iterated to the Applicant bluntly so he understands that what everyone is looking for is nothing to be stored outside. That the Board understands the Applicant is talking about the food truck, his 1500 (truck) with the trailer on it but other than that, the Board is not looking to see anything out in the yard, in the driveway or on the street. The Applicant replied that he understands and nothing will be on the street. Mr. Sullivan chimed in and informed that the train needs to go in the garage. The Applicant replied that the train is going back to the storage unit tomorrow. Mr. Dumont continued that typically short-term stuff in the garage is preferred.

Mr. Sakati stated part of the reasons for his question is he pulled up the property location on Google Maps on his iPad. He shared with the Applicant and Board that it showed the cleaning of a bounce house. Someone (unknown voice) stated that's how they found out the Applicant had employees. He said it looks like it has been a very frequent mixed use; using it as a space to clean, a place to store.

The Applicant replied, yes it was up until he found out...that when he lived in Nashua, there was no issue. He said he should have called the Town. He repeated that he had warehouses lined up but fell through and that once May hits, he is on the road from 6-10 every day until October and trying to get all things done at the same time. He repeated that if any neighbor had come over and mention it to him, he would have completely changed the whole dynamic of it. He stated he didn't know it was bothering anybody.

Mr. Sakati stated that he thinks it is very important and believes that we are a community and we all have to respect each other and we all have to give some, we have to take some, we have to listen and that's really important. The Applicant replied, "100%" and again repeated if someone had mention to him, that he had no idea the truck and trailer was causing any issue because he does talk to the bus driver, that he puts his kids on the bus every day and (no-one)never said a word...

Mr. Sakati stated that he can see the challenging situation because he (Applicant) is on the corner and that puts him very close to his neighbors. Mr. Dumont pointed out about the frontage also. Mr. Sakati added that the frontage is narrow. Mr. Sullivan added a comment about an easement out front. Mr. Sakati continued that it gets complicated... (complimented that the house and lawn look beautiful).

Mr. Lanphear asked the Applicant if he has kids and are they younger/older. The Applicant replied that his daughter is 9 and his son is 7. Mr. Lanphear commented that he read something about only two (2) vehicles are allowed to be parked outside. He continued, years later they're going to get vehicles, they're going to want to drive to school, etc. He jokingly went on that he (Applicant) would probably have his own warehouse by then...

Mr. Dion asked how many vehicles do you have personally that's being operated for the business itself. The Applicant replied that he has a Dodge Ram 1500. Mr. Dion continued, so you have just one (1) vehicle you are utilizing for the business that's registered? The Applicant stated that once in a while, he will have to take his personal vehicle if he just has too many but it's not a regular thing. In addition, he has a personal trailer that's in the Pepperell storage unit. Mr. Dion asked how many employees he has working for him? The Applicant stated, none, it's just him, that last summer he had two (2) people cleaning. He stated he doesn't normally have employees. Mr. Dion commented that he is just trying to make sure that it's not a common occurrence. You figure if you have two (2) people/employees showing up on site, now you have three (3) vehicles on the site that are tied to the business where you can only have two (2). The Applicant testified again, there are no employees now at the house and he spoke about it with Chris. He admitted, that last summer when he didn't know about it, that there were employees.

Chairman Daddario asked the Board for any other questions. While the Applicant was still at the table, Chairman Daddario asked the Zoning Administrator a question so that the Board are completely clear. He continued, we've had cases where there's a variance issue for purposes of being able to park a specific type of vehicle. Setting aside for the moment, the issue of the business, the vehicles that we're talking about here including the food truck, if it's below thirteen thousand lbs., those are vehicles that can be parked there legally? Mr. Sullivan responded that it is like a trailer, if anybody has a personal trailer. Mr. Dumont chimed in that if it's registered to the road, you've already paid your fees and you obviously can't run a business but you can park. Mr. Sullivan said if they're over thirteen thousand lbs., that's when you really get questioning. Chairman Daddario replied that was his understanding and wanted to confirm that so that everybody is clear. We're not talking about parking issues in terms of whether or not it's legal for those vehicles to be at that property.

Mr. Martin said to keep in mind the very last criteria says limited to no more than thirteen thousand lbs. with adequate screening in the B, G and I Zone shall occur for commercial vehicles. So, he can't

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park heavy commercial vehicles there. Mr. Daddario responded that the Applicant's testimony is that he doesn't have any. Mr. Martin responded OK. Chairman Daddario asked for any other questions for the Applicant from the Board. There were none. The Applicant left the table.

The Chairman stated we're in the second round now and there's a request for another opportunity to speak (from abutter). Mr. Cloutier came to the lectern and stated in one of the photos he gave, the one with the trailer and the train on it, if you look in the background of that, his black truck is actually hooked up to a trailer right in that picture. So, the fact that how is he going to be able to drive his truck and the silver truck at the same time if an employee doesn't come to the house to pick up the truck? That's the problem. Like I said, once you give them an inch, they're going to take a mile because he can't drive two trucks at the same time. So how is someone going to come to the house and not park a vehicle that they drove there to drive his silver truck? He's still going to have employees. The fact that I come down my street to turn down my driveway and all I see is equipment and trailers. Nothing is screened. And when he is also juggling his trailers around, where is parking them? He's parking them on the street, on the corner. This is the problem that we are having in the neighborhood. There's a lot of activity that doesn't need to be there on the corner.

Next, Ms. Cloutier came to the lectern and stated because he (Applicant) brought it up, I want to clarify he said if we had only said something to him about the parking, I will paint picture of what happened. I do the landscaping over there. I'm watering, he verbally a costed, came and approached me aggressively and kept saying "If you had a problem with me parking, bah bah bah, you could have said something." I'm watering and I said I don't know what you're talking about. I never complained. I did not complain about anything. No matter how many times I told him that, he insisted it was me. (She repeated) "Insisted!". This little act of "If they'd only told me, it would have been different..." I got a different feeling about it when I felt threatened and it was like no, I kept saying you better get your fact straight. I did not say anything. And Andrew had come up and said that he was the one who said something about a parking issue. I told him I didn't even live in the neighborhood. He's swearing and saying, "exactly". And it's like OK? Calm down. Get your facts straight. He didn't get his facts straight. So, to say that everything would have been OK if somebody had only talked to him? I just wish neighbors would just talk. But he brought me into it, into a really bad situation., that in today's society I don't know if he had a gun or whatever and where that was gonna go that day. This is what I'm afraid of. So, that was not exactly how it went down "if they had said something" cause that's not how I felt that day.

No one else spoke in opposition nor gave neutral comments in the second round.

Chairman Daddario asked if the Board had any questions of any of the speakers. Mr. Lanphear asked the owner (Applicant) the size of the food truck trailer dimensions. The Applicant answered, 20 ft. x 8 (ft.) Mr. Lanphear continued "and that's got full griddle, everything in it?" The Applicant stated it has three (3) deep fryers. How many axles? The Applicant answered two (2).

Mr. Daddario asked the Applicant the following questions for confirmation based on what the Board just heard:

Mr. Daddario: Just to confirm again, you're no longer having employees come to the residence?

Applicant: No.

Mr. Daddario: The situation that was described where there are multiple trucks and multiple trailers, is it the case that if you left in one of them, then the other one is staying there?

Applicant: So there's two trailers that are used... The truck and trailer and then the food truck. Is that what you're speaking of?

Mr. Daddario: Yeah, so if we have the food truck and another truck and trailer and another truck?

Applicant: No.

Mr. Daddario: The second truck is your personal vehicle.

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Applicant: Yeah.

Mr. Daddario: OK, so I guess what I'm getting at is the testimony was to the effect that essentially based on the vehicles you would have to have employees come to the residence. Is it your testimony that is not going to be the case?

Applicant: That's not going to be the case. We'll be leaving from the storage units in Pepperell.

Mr. Daddario: OK.

Applicant: So the plan is for me to not be doing work this summer. So the employee would meet me at the storage units.

Mr. Daddario: OK and again just so that everything is very clear, the business vehicles are the concessions truck, and the silver truck?

Applicant: Yeah,...so the silver truck is dying so it'll be similar, same thing. Yes.

Mr. Daddario: OK, then there's another pickup truck that's your personal vehicle.

Applicant: That's my personal vehicle.

Chairman Daddario asked for other questions. Mr. Sakati apologized and said he was just trying to get straight which vehicles... Chairman Daddario said, no apologies necessary because we need to work it out because there's an Applicant looking for relief, there's a community that has concerns so we got to try... Mr. Sakati went on, so we have this space that's next to the garage. It's... 15 x 20 and I thought I heard originally that was to store one food trailer plus the truck that pulls the trailer, right? The Applicant responded the truck and the trailer. Mr. Sakati continued, the truck and the trailer joined together at the hip and they'll stay next to the house, right? Applicant replied, yes. Mr. Sakati continued, it looks like to that side of your house, it looks like there is a tree line so there's some level of screening it seems like. The Applicant stated yes, there is a tree line. Mr. Sakati asked is there a second set of business vehicles that are gonna be stored on this site too? Am I hearing, the silver truck... The Applicant clarified, the silver truck with the trailer attached, then I have the food truck. The black truck that's in the picture, that's my personal vehicle. Mr. Sakati stated then it's really three pieces of equipment and asked will they all fit in the 15 x 20 space? The Applicant replied yes because the trailer and the way the setback is, it fits in. It's kind of hard to describe. He was invited to point on the map on the screen in front but the Applicant stayed at the table and pointed toward the screen and stated it's pretty simple, it would just be right next to the house. He said the trailer itself is seven (7) feet wide and when you go back, you get more space. It's that little front corner like Chris said is right on the border.

Mr. Dumont asked if the parking area is already constructed today. The Applicant replied that it's just his backyard. Mr. Dumont continued that he didn't know if it was already gravel and you were utilizing that already or if that doesn't exist and that's just the plan for the future? The Applicant replied "no" so the food truck is there at the moment because like I said we do have to keep it plugged in. So, we are using it but it's just dirt. It's nothing...the house was just built last year and there isn't any grass. Mr. Dumont continued basically if it was grass then obviously you're not using it, that's more of the reason why you're causing to go out on the road. If it wasn't built already, with it being built, you could utilize that area so you're not shuffling out on the road. The Applicant said "right" and that depending on what happens, then a gravel pad would be...so we're not in the mud all the time. As far as anything on the road, like I said, nothing's parked on the road now. It's park, pull out the personal vehicle, and pull that vehicle back in and leave. It's not even five (5) minutes.

Mr. Dion asked the following questions:

Mr. Dion: Would there be a situation that you would be utilizing both the food trailer and the other trailer at the same site or at the same location?

The Applicant: There might be.

Mr. Dion: What is your logistics for moving those?

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The Applicant: It's usually drop one trailer off, go back and get it. I usually have to (pause) just (pause) pain in the butt to be honest with you. Yeah, it's basically that's what it is, drop something off, pick up. I have had to have a friend come and pull it sometimes just because we've got so much going on. That sort of thing. But generally, it's just all me type of thing.

Mr. Dion: With that line of questioning, you have said "friend" come over, now you're at three (3) vehicles. ...say your truck is still at the house, you have a friend come over to help move things around, now you're at three.

The Applicant: So, the only reason why he would come over is to take the food truck and drive it to the location. He wouldn't be parking or anything like that.

(Mr. Sullivan said ...the person can't really help at the house. That becomes an employee.)

The Applicant: OK

Mr. Dion: That's why I'm saying it becomes three (3) vehicles at that point.

(Mr. Dumont: added, "And an employee")

The Applicant: All right. I will figure it out and not do it that way. I'll just grab his truck or whatever I got to do I guess, keep the other truck at the storage.

Mr. Dumont asked about the vehicles again because he kept hearing two different things. Is it a food trailer or a food truck? The Applicant replied that it is a food trailer but we call it a food truck. Mr. Dion said because he just wanted to (clarify). Because one big thing too, obviously, is the food truck is going to weigh a lot more so I think that might alleviate some concerns with it being a trailer. (The Applicant stated yes, it is a trailer while Mr. Dumont was speaking). Mr. Dumont continued, obviously, it's a lot less weight for 1) and for 2) it is not a vehicle. So, he has two (2) vehicles currently and two (2) trailers. So, keep that in mind. If it is not a food truck, that eliminates that third vehicle problem now. So, that needs to be clarified. The Applicant stated that it is only one actual business vehicle. Mr. Dumont reconfirmed a business vehicle with two trailers associated to it. The Applicant said, right, exactly. I'm saying... Mr. Dumont said he just wanted to clarify that because it is a difference for how this Board is viewing it.

Chairman Daddario stated that was actually helpful. He repeated to confirm that every time we referenced "food truck" this evening, we are not talking about something that drives itself or is capable of being driven. The Applicant confirmed no engine and stated it's a trailer. My apologies, the business lingo is food truck for any type of... (Incomplete sentence). But it is a trailer. Mr. Lanphear chimed in that's why he asked the size of it. Chairman Daddario continued so the drivable vehicles are two (2) pickup trucks; one (1) that's the business and one (1) that's your personal vehicle. The Applicant said yes.

Mr. Lanphear asked is there another one in the garage as well. The Applicant said no. There were no other questions for the Applicant.

Chairman Daddario stated they are now technically on round three and just keeping track. Abutter, Mr. Cloutier wanted to speak again and came to the lectern. He stated the only reason why his (Mr. McAdam's) friend comes over is because he only has half ton pickup trucks. This food trailer is a double axle. So I'm assuming this thing is pretty close to ten thousand lbs. We need to find out what the actual GVW of that trailer is to make sure it's not thirteen (thousand) five (hundred) and he has a third vehicle which is his friend coming to tow with a heavy duty truck. (He) has to have the GVW's and his half tons don't have it. So, this is the problem that we're... (Incomplete). Once again, that's why we're here, that's why we're going over it. This is another problem. This is now a third vehicle now, coming and going out of a residential on a tight corner and it's crazy how this is going on.

Chairman Daddario asked for any further testimony or questions from the Board. Mr. Lanphear noted that he did look up some information on two axle, 8 ft. by 20 ft. trailer, food concession stand

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basically. And they can range from nine thousand, nine hundred (9,900) lbs. up to fifteen to twenty thousand (15,000-20,000) lbs. That GVW can be anywhere in that range. Mr. Dumont stated that would be a code enforcement,, because you are held within that standard and if it is to be larger than that, that would be a code enforcement and they would have to be removed immediately.

Chairman Daddario asked the Zoning Administrator; with a violation letter issued, were you at the property...?. Mr. Sullivan stated that he had driven by the property a few times just to see what was going on, to make sure that things weren't outside. They have been keeping it clean the times he had driven by. Mr. Daddario continued questioning asking did he see the food trailer. Mr. Sullivan replied that he saw the food trailer but he can't say how much it weighs. I don't know. Chairman Daddario continued questioning; the excess gross vehicle weight is not something that the Applicant was cited for? Mr. Sullivan replied, no because we didn't know about the food trailer until after the fact, until he came in to start doing the variance and we started talking more. We were figuring it was under cause I asked him a few times how much the trailer weighed and he said that it was under thirteen thousand. Chairman Daddario said OK. Mr. Dumont commented that it could be verified through registration but also some trailers that pull twenty thousand (20,000) pounds, may only weigh four thousand (4,000) lbs. There's a very large double axle trailer that holds a lot of weight. The trailer themselves are not normally that much. It's everything else that you put in there after that that normally creeps that up. Again, it should be verified but just to kind of put it in perspective, it can be deceiving.

There were no other questions for any of the speakers. Chairman Daddario closed the public hearing and declared the matter before the Board for discussion, deliberation and motions.

Board Discussion ensued:

Mr. Lanphear asked about the GVW of that trailer; if you were to go down a road that said it's only so many tons, that counts the truck and the trailer combined? Correct? Mr. Sullivan replied yes but as far as parking in a parking space, it's only the trailer. Mr. Dumont chimed in and stated yeah, the individual piece. Normally those are either done ...a bridge that can withstand so much... they're kind of posted that way. Sometimes you'll see them in neighborhoods but typically those signs are...the roads typically because they can't withhold any more weight than that...Mr. Lanphear commented; and this is not that type of road...

Mr. Daddario commented, as he was looking at the Decision Sheet that we are dealing with vehicles as opposed to trailers anyway for the purposes whether or not this application can be granted. Mr. Sullivan replied yeah but right now, part of his work is the trailer. I'd like to have that added because I know the vehicle is the truck. Mr. Dumont said he thinks it would be important to note. Chairman Daddario continued so, yeah if we were, that's kind of where I'm getting at, as a standard matter we'd be looking at vehicles as opposed to trailers if the trailer is its own enforcement issue and it hinges on the weight. Then I wonder if we should defer and allow the Applicant to present detailed information about the trailer weight.

Mr. Sakati said he tends to be supportive of that but his dilemma with this is he looked through the checklist and he's (Applicant) answered all the questions, i.e. no employees; the vehicle traffic will be limited. He's answering in all the right ways which would lend you towards wanting to approve it. The dilemma that I have is... it doesn't seem like the way it historically has operated has been in accordance with that. So then, if we move forward if the behavior in fact doesn't change, and we're just leaving it to enforcement.... I'm not sure how strict our enforcement really is, resource wise, etc. Mr. Sullivan answered if it gets bad enough, it does go to Town Counsel, we discuss it and then we discuss going to court. Mr. Dumont commented that it is taken extremely seriously. Chairman Daddario commented that he assumes this property is now on the radar. There's already been a violation notice issued. It has already been brought to your (pointing toward Mr. Sullivan's) attention.

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Now the case is here. So, I assume going forward that if relief is granted, the Applicant here is going to be operating consistent with the standard or it's going to be seen and it's going to be an issue. Mr. Dumont commented there is obviously a certain process that we do have to follow to even get to that code enforcement. We cannot assume that someone is going to be negligent, just to keep that in mind. Mr. Sakati said he understands, that he is assuming positive intent...Mr. Dumont added that he just wanted to make sure we're clear on that.

Mr. Martin commented that the home is brand new, about a year old and that he was the dissenting vote on allowing the property to be split in two. He continued, this property, 8 Lindsay St. has been before us (ZBA) but now it's been subdivided and so forth. That has no bearing on what is happening right now. His next comments aren't to cast any doubt on anybody, but for a great number of years, say 10, there has been code enforcement but it's been shared by one person doing zoning administrating and code enforcement. Now it's coming back on his (pointing toward Mr. Sullivan) radar because he has support and I agree with that. But if you compare...Nashua, their code enforcement travels the city to see what's going on. And they get calls by residents of apartment buildings to check on heating units because they're not getting any heat. So, I am on the same page as Mr. Sakati that everything the Applicant is telling me, I have to believe, just like in a court of law. I have to believe that he's telling me the truth. I can't say that he is lying. However, I think this type of Home Occupation is too large in size for the property. Because you're storing a trailer with advertising on it. It's got to be sheltered from the neighbors. So he's going to have to put up some kind of screen for that trailer that's going to be on the side of the garage.

Mr. Martin continued, that while reviewing the criteria, he stated that he has three (3) items that are (marked) "yes" and all the rest are "no" on his (work) sheet. He repeated that he thinks, in his mind that this is too big for the property. We, as a Board, have to take the Applicant at his word. But as we know, things do happen. I'm not saying it's going to happen but things do happen. We already had a case on Highland St. We gave them a variance and they took 20 miles and had to go court with PSNH. Mr. Sullivan chimed in and commented that it's being taken care of. Mr. Dumont also chimed in and commented "and it's getting resolved..." Mr. Martin continued that for him to sit here and approve something, and seeing what's happening...(didn't finish) Mr. Dumont chimed in and said, so the fault of the Town now will be an Applicant? Mr. Martin replied "no" but to make a decision you have to have kind of like the burden of proof is on the Applicant. Right? There has been negative abutter testimony with pictures. Mr. Dumont asked for permission to follow up with a question to Mr. Sullivan and asked; since he (Applicant) has been Noticed and since you have been in conversation with him, has there been any negative push back from the Applicant? Mr. Sullivan answered, no. Mr. Dumont continued questioning and asked; has the Applicant complied with everything you asked him to do? Mr. Sullivan answered, yes. He's learning...(unfinished). Mr. Dumont then commented that I understand that you (Mr. Martin) may be skeptical and that is fair but, you do need to look at all of that. Mr. Martin continued discussion and stated that he has sat on this Zoning Board for God knows how many years and he takes when he signs here (pointing to his Board worksheet) that somebody's gonna do as they promised. That in his opinion, he has had too many cases with his signature that have gone awry. He confirmed that he is not saying that this (case) is going to go awry but, I think this Home Occupation is too big for the property and the neighborhood that it's in.

Chairman Daddario continued and stated that while they are still in the (Board) discussion phase, if we don't defer for more information on the weight of the trailer which I think makes sense in this case, not because the (work) sheet is looking for us (Board) to pass judgement on the trailer, but our Zoning Administrator is acknowledging that that's an integral part of the business and that he views it that way. It is expected to be there and so it has sort of become of importance. I don't think it's too big a deal to anyone involved that we defer and that the Applicant come back and be able to give us a weight. But setting that aside, whenever we get to the point that we are making a decision, the only

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thing that we can do legally is look at the factors for Home Occupation Special Exception and decide that it's either met or not. So, for purposes of making his (Mr. Martin's) point, he asked Mr. Martin to share his thoughts on the factors where he's saying, "no", that the Applicant doesn't meet the factor.

Mr. Martin shared these Home Occupation Special Exception worksheet factors which he marked "no".

The proposed use is a sales/service operation for goods produced or services provided on-site.

Mr. Martin answered no in his mind.

He stated the next three questions are "yes" for him and continued on with factors where he answered "no":

Parking provided for the home occupation activity shall be off-street, located outside of the setback areas and / or the front yard, in driveways or paved areas, and limited to no more than two vehicles at one time.

Mr. Martin read the factor but did not offer any additional comments/thoughts for this factor.

There shall not be any objectionable circumstances (such as noise, vibrations, dust smoke, electrical disturbances, odors, heat or glare) produced as the result of this proposed use.

Mr. Martin answered; I don't think there is going to produce any objectionable circumstances. It's going to produce noise because you have to load equipment and stuff onto the trailers.

The home occupation shall be conducted only by residents of the dwelling.

Mr. Martin commented that he is being told that and then we've heard that he's had employees to help somebody out... The Town doesn't have the day to day operations ability and I don't think any town would monitor these businesses as they go along.

(Mr. Dumont made a comment that, the Associate Planner, half of his job description is code enforcement and they do drive around. We have the capability.) Mr. Martin continued and said; things have changed.

Mr. Daddario commented that the other issue, in fairness, I don't think we can assume that anybody is gonna violate the...if he does, it becomes enforcement issue. Given the process and the fact that the HO-SE exists and that these are the factors, I don't think we can assume that in the future someone will engage in misconduct. He would have to do it and we would have to deal with it if that happens. In looking at the factors, I don't think we can say, "He's going to violate this".

Mr. Martin asked Mr. Sullivan, you said, we want to defer this for the weight of the trailer, is that because of the 13,000 pound limit? Mr. Sullivan replied that's the only reason I'm understanding you want to defer. Mr. Martin continued, that he agrees you can buy a trailer that weighs 2,000 lbs. but you could put 6,000 lbs. on it and then it becomes a larger trailer. Mr. Sullivan replied, he could also provide him with that information and if it is over then he has to move it if we don't defer it. Mr. Dumont added that you could also add a stipulation. Mr. Martin agreed. Mr. Daddario said stipulations is good, it keep things moving.

Mr. Dion asked Mr. Sullivan, based on interpretation of the HO-SE factor (reading criteria):

There shall not be any exterior storage, unless permitted by a special exception (if permitted, must be screened from neighboring views by a solid fence or by evergreens, etc...

Mr. Dion continued so we're talking about this trailer and food trailer, with that verbiage (above), is it OK if they are seen from the street? Mr. Sullivan replied, if you can see it from the street, it's next door neighbor as far as he understands it. Mr. Dion asked does neighbor across the street also count. This is a tight neighborhood and there's parking right here (he pointed to the plan on the screen). Mr. Sullivan replied; it could. A lot of times you can't see if he puts a fence or screening alongside it, you'd only see the front and a lot of time, they don't have the logos on the front of the vehicles. Mr. Martin commented because a food trailer serves off the side. Mr. Dion continued it's not even so far as advertising and everything like that because at least that portion of it says nothing about advertising. It's just strictly says exterior storage and that's it. Mr. Sullivan replied, a lot of the times it's like ladders and other things like that. ...I mean I can have a trailer sitting in my yard, a work or snow mobile trailer, which can be used as a work trailer. Mr. Dion commented that he agrees. Mr. Dumont chimed in and commented, or if there was a storage container...those were the things that were in mind for that ordinance. Mr. Dion commented that he was just trying to figure out how far we're going with this. Mr. Sullivan said, the only thing he'd say for this is alongside it so the neighbor next door can't see.

Mr. Sakati continued along the same lines of questioning. The question (worksheet criteria) before that asks:

Other than the home occupation sign(s) permitted under Article XII, Section 334-67, there shall not be any exterior display nor other exterior indication of the home occupation,...

Mr. Sakati continued that he thinks that gets to the point that looking at Google Maps, he can see a trailer ...says "UFO" on the back and you can see it from the street view... In the spirit of these criteria, it seems like there is in fact, exterior markings. Mr. Sullivan commented, if it's backed in, you don't see that. If he's going to back it in by the food truck and he has that screening, then you shouldn't see it. Mr. Sakati agreed.

Mr. Sakati asked another question about the size of the (outdoor parking space), 15' x 20', and if that is realistically enough space because it is right up against the offset (setback)? Mr. Sullivan replied, the problem he has is that map wasn't to scale so you don't really know how much room he actually has. Mr. Sakati commented that he was wondering if there was another case to defer just to get maybe pictures of the area to see if in fact there is enough screening. Mr. Sullivan stated that is something he would have to add, some screening if it's not there.

Mr. Lanphear asked Mr. Sullivan that we're doing this on the operation of a seasonal party rental business correct? What about the food truck or trailer? Mr. Sullivan replied, yes and it's part of the seasonal party rental business. Someone added, "entertainment".

Mr. Dumont asked if all abutter notifications went out. Mr. Sullivan replied, yes they did. Mr. Dumont continued, upon those going out, have you received any comment (negative, neutral or in favor) from the neighbor that would be directly involved with that parking area? Mr. Sullivan replied, no. Mr. Sakati commented that the only thing he would add to that is what he has found, with direct experience with these things, is that when you have two (2) people speak up, ...there's a magnitude of people that want to speak but don't want to speak. It's very difficult for people to get up and speak. So, I would... Mr. Dumont continued that he understands that...an email, but we have to go on the assumption with them not showing up to speak, that they didn't have a problem with it. If they would have raised a concern, they had more than one option to speak in public. Trust me, I can appreciate it. First time sitting in front of a Board, I was very nervous. It's not easy to do. I understand that but, you do have a responsibility to speak out against things like these especially when they're in your neighborhoods. That is why the abutter notifications go out. Mr. Sakati responded, but reasonably, people don't. The discussion ensued with Mr. Dumont stating that he understands that. Mr. Sakati continued that he

would never hold that against a citizen. Mr. Dumont said, he is not holding it against them but he can't assume that they're all "no's". I could have just as much telling me that everybody else in that neighborhood is "for" him. I don't know. Mr. Sakati said, but by the same logic, they would get up and speak. You don't hear anyone here speaking "for" or in support. Mr. Sullivan commented, like in other cases, we've gotten emails. Mr. Dumont commented, that's why I don't look negative or "for it". Neutral is the way that I view it if you're not speaking. I don't know how you can look at it any other way. Mr. Daddario, said, it's a lack of testimony, there's nothing we can do with that.

Mr. Martin suggested a deferral and to have a site walk and asked if anyone else was interested in going on a site walk. Mr. Daddario said he's no opposed to it. (Someone in the audience shouted out "come on put your eyes on it. Let's see what's going on in the corner, please.") There's sort to two (2) things that can be looked at: 1) is the size of the parking area and where that falls and 2) this issue of what type of screening might be required if the relief is granted in order to comply with the standards. Mr. Sakati stated that he would be in support of taking a look especially where we've had resident concern, I think it's very important that we put as much diligence into it as possible. Mr. Daddario said that would also give the Applicant time to deal with the weight issue and so on and then instead of it being a stipulation, it can just be part of the process.

Mr. Martin moved/motioned for a site walk on March 2nd, 9:00 AM at 7 St. John St. The motion was seconded by Mr. Lanphear. The Applicant confirmed that he would be available for the site walk on this date. Roll call vote was 5-0 for the site walk. For all interested parties present, Chairman Daddario re-stated that the Board decided that they're going to visit the property in person to be able to look into some of the issues further to be able to compare the reality of the situation with the legal factors that they have to decide. He advised the Applicant that there is a question about the weight of the trailer so this affords him some time to get that information together so that hopefully, after the site walk as soon as possible we can reschedule this matter and come to a decision.

Mr. Martin moved/motioned to defer the hearing to date certain, March 28th. Mr. Sakati seconded he motion. Roll call vote was 5-0 for the deferral/continuation to the March 28th ZBA Meeting. For all interested parties present, to make clear all that has gone on, Chairman Daddario re-stated the first and second motions that passed 1) for the Board doing a site walk on March 2nd, 9 AM and 2) the continuation/deferral of the hearing to the March 28th ZBA Meeting. At that time, with the additional information of the site walk...the matter will be taken up again with the presumption that on the evening of March 28th, a final decision will be made some way or another. Chairman Daddario thanked everyone for their participation. He added that the public can be present at the site walk.

3. **Case 182-114 (02-22-24): Alexandra Mead, 15 Chase Street, Hudson, NH [Map 182, Lot 114, Sub lot-000; Zoned Town Residence (TR)] requests a Variance for the reconstruction & expansion of a previous 5 ft. x 5 ft. front stair structure to a current 3.3 ft. (D) x 9 ft. (L) dimension where a nonconforming structure may not be altered or expanded, except by variance. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-31 A., Alteration and expansion of nonconforming structures.]**

Zoning Administrator, Chris Sullivan read the third case into the record as shown above. He informed there was one comment from the Town Engineer to let the Applicant to be aware of where the sewer services come through and to avoid the deck going over the water service.

The Applicant approached the presentation table to speak on her application. She gave her name and spelling as Alexandra Mead at 15 Chase St., Hudson. She stated she had an immediate need to replace her front stairs. The railings had rotted off since she purchased the house in 2015 as a foreclosure. And she thinks the bank put on temporary railings for it to pass. She was unaware that she is a TR Zone and

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Approved As edited 03/28/2024

technically having two (2) front yards so the width was going to need a variance so that's why she's here today for the replacement of the stairs.

Chairman Daddario asked Ms. Mead to speak to the variance factors on page 7 of the application. Ms. Mead gave the following answers to the five (5) variance criteria:

1. Granting of the requested variance will not be contrary to the public interest, because:

Ms. Mead: Without changing the character of the house or neighborhood, I'm just increasing the safety of the front stairs.

2. The proposed use will observe the spirit of the ordinance, because:

Ms. Mead: I was not changing the depth at all. I was just trying to go wider with it.

3. Substantial justice would be done to the property-owner by granting the variance, because:

Ms. Mead: The wider deck stairs will allow better accessibility for my father who had a stroke. I took him in and he lives with me now so I can care for him. Just the mobility challenges we have on a daily, weekly basis with him. It would allow for the safety of that. We have had the Hudson Fire Department; unfortunately, have to come over across the street to help us. It's been challenging with the size of that because usually they have two (2) paramedics and a third firefighter helping with the transport chair. It's just a safety...it's challenging. That is really the need to go wider. We had the Fire Dept. over two weeks prior to pulling the plug and needing the immediate, "we got to get this done". We were not planning to do it during the winter but it really became a safety issue.

4. The proposed use will not diminish the values of surrounding properties, because:

Ms. Mead skipped answering this criterion.

5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship, because:

Ms. Mead stated she just touched on this with her previous answers.

Chairman Daddario thanked the Applicant and invited Board questions for the Applicant.

Mr. Sakati asked, you said the depth is not changing, just the width? Ms. Mead replied, so it was actually a 5' x 5'. Now it's 3...not as deep but it is wider to allow at the landing. The 5' x5' didn't allow what we needed at the landing to assist my dad.

Mr. Lanphear asked is this being constructed of wood or concrete like the original one? Ramp?

Ms. Mead replied, so the original was wood. This is composite decking. No ramp.

Mr. Dion commented that he is just trying to picture this in his mind of what this is going to look like. Is it going to have stairs across the front? Ms. Mead replied, we actually already have it built...I had all the material on hand. We were planning to address the exterior renovations of the house come Spring without having snow. Having the material there, I was able to find a contractor that could do it. When he went to pull the permit, I didn't realize being a TR Zone that basically I have two front yards so I didn't know I was going to need a variance. I worked with Chris (Mr. Sullivan) and we got it done for the safety aspect of needing a structure there.

Mr. Sullivan explained that the house is in the thirty (30) foot setback. The deck was dangerous. EMS told him, they need to fix it so we took care of it and told them to fix that. Mr. Daddario asked if it was built with a permit. Mr. Sullivan replied, yes. Mr. Dumont asked Mr. Sullivan that it was his understanding that front steps were exempt from meeting setback requirements. Mr. Sullivan

responded that the steps themselves are exempt, the deck is not. Mr. Dumont further inquired, so the landing of the deck because it's more than three steps? That's what bring it out of that exception? Mr. Sullivan replied, so the steps themselves were not. The deck is actually in the setback as well already. We just said it's a step structure to get around.. Mr. Dumont replied, OK and that he was just asking because he's seen that come up a couple times where it can be kind of a confusion. Obviously, it's something so minimal.

The Applicant had a photo of the new stair and landing structure on her phone, which she passed around for the Board to view since she did not have hard copies for the Board. Mr. Sullivan asked the Applicant to email the picture to him. Mr. Daddario asked the Applicant if the enclosed porch was changed at all? The Applicant confirmed, no. Mr. Dumont commented that since the foreclosure, since house has been purchased, it has been cleaned up quite a bit. It's looking good. The Applicant said thank you and said it's been a lot of work over the nine (9) years she's had it...

There were no other Board questions for the Applicant. There were none to speak in favor, opposition nor neutrally on the application. Chairman Daddario closed the public hearing and declared the matter before the Board for discussion, motions and decision.

Mr. Martin (jokingly) made a comment that since it sits across the street and we had a Selectman that owned that home. He was the only Selectman that was late for the meetings most of the time.

Mr. Martin motioned to grant. Mr. Sakati seconded the motion. Mr. Martin sand Mr. Sakati spoke on their Motions. Chairman Daddario then asked Mr. Dion for a roll call vote and reminded each Board Member to speak to the factors as that is how the Board is supposed to render their decisions.

1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."

Mr. Martin: Granting of the requested variance will not be contrary to the public interest. It will not injure the public/private rights of the general public. They didn't expand it going forward. They just needed to expand it for safety reasons.

Mr. Sakati: It's not contrary to the public interest.

Mr. Lanphear: I vote to grant. It's an improvement to the safety.

Mr. Dion: I vote to grant. The requested variance will not be contrary to the public interest. It's just a small stairs that have been added to the front of the house. It's not sticking out as far as it used to. I think it's a much safer aspect than it previously was and safer for the fire services that have to go in there.

Mr. Daddario: I also vote to grant. There is obviously no public harm her and certainly no change at all to the character of the neighborhood.

2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."

Mr. Martin: The proposed use will observe the spirit of the ordinance, which it does.

Mr. Sakati: It's consistent with the spirit of the ordinance.

Mr. Lanphear: It's in the spirit of the ordinance. It looks and it's a lot more safe to get into the house as well.

Mr. Dion: The proposed use does not conflict with the explicit or implicit purpose of the ordinance. It's also not going to be threatening public health or the neighborhood. It looks better than it already was.

Mr. Daddario: The spirit of the ordinance is still being respected. The widened stairs are being increased for safety. They don't actually add anything to the encroachments that was of concern here. Again, there's no harm to the public whatsoever.

3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.

Mr. Martin: It has done justice for the property owner and has provided safety for EMS personnel that are going to the home when requested.

Mr. Sakati: Justice is done and it helps her father and others in the house.

Mr. Lanphear: Substantial justice would be done to the property-owner by granting the variance for safety for themselves and for first responders and for everyone.

Mr. Dion: I definitely, fully agree with that, especially considering the fact that they have their father living in the house with them and he is disabled. It makes it lot easier for him to get in and out.

Mr. Daddario: Substantial justice would be done to the property owner by granting the variance because they're looking to make a safety improvement relative to the house and the new stairs present no harm at all to the public.

4. The proposed use will not diminish the values of surrounding properties.

Mr. Martin: No evidence has been submitted that it will diminish the values of the surrounding properties and I don't think that it will.

Mr. Sakati: There's a great looking picture. It will enhance values of the neighborhood.

Mr. Lanphear: It's actually an improvement to the front fascia of the property.

Mr. Dion: The brand new stairs would definitely increase the value of said property. They look a lot better than what was previously there.

Mr. Daddario: There has been no evidence presented regarding the possibility of any diminishment of values of surrounding properties. I agree with what I heard this evening, that it's likely that the improved appearance of this house, if anything, would have a positive effect.

5. The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area...

Mr. Martin: There are special conditions of the property being two (2) setbacks on that corner lot. I think that is hardship in itself and he proposed use is definitely a reasonable one. Therefore, I vote to grant.

Mr. Sakati: Substantial justice is done. Safety is a betterment. The proposed use is extraordinarily reasonable.

Mr. Lanphear: The Applicant has an unnecessary hardship. It actually helps first responders enter the house and the proposed use is a reasonable one.

Mr. Dion: I believe that the hardship of the property itself is the fact that it has two (2) front yards and the house itself is sitting so close to the street itself and that setback and the proposed use is a reasonable one. With that, I vote to grant.

Mr. Daddario: I also agree that, essentially the house has setbacks out of the gate with the two (2) front yard situation. In particular with respect to the proposal that's before us for a variance, for this particular item, the stairs, I would note that from what we've heard this evening, the encroachment that was an issue is actually reduced, notwithstanding that the stairs have been enlarged with respect to width and made safer. The encroachment that was once of concern, is actually reduced with the new

stairs and the proposed use is a reasonable one. It's not only reasonable, it's standard and absolutely necessary for there to be front stairs to enter this home....I also vote to grant.

The roll call vote was 5-0, To Grant the Variance as requested. Chairman Daddario informed Ms. Mead that her Variance has been granted and it was a unanimous decision. The stairs are already there but he reminded Ms. Mead that technically for thirty (30) days from this evening, someone who's aggrieved by this decision might take action on it but otherwise the variance is granted and you'd be set.

V. REQUEST FOR REHEARING:

There were no requests for rehearing.

VI. REVIEW OF MINUTES:

Mr. Martin moved to approve the 01/25/2024 edited draft Minutes. Mr. Lanphear seconded the motion. All were in favor. The motion passed to approve the 01/25/2024 edited Minutes.

VII. OTHER:

Mr. Sullivan announced that in April, they would probably be starting up the ZORC meetings again to get those rolling to see if we can get ahead of what we were last year. He asked the Board to think about who wants to do that. Mr. Martin asked what that is. Mr. Dumont explained, it is the Zoning Ordinance Review Committee and that you are tasked with making the recommendations to give to the Planning Dept. You go through as committee, either together or separate. When the committee meets, you bring those recommendations together on your own. You make a motion to put those forward to the Planning Board. The Planning Board deliberates and has their public hearings and then forwards them off to the voters. Mr. Martin commented that starting earlier is better than starting late. Mr. Dumont commented that it is a very important committee and he would suggest to get involved and take a look through that book. Mr. Dion volunteered. (Discussion continued...)

VIII. ADJOURNMENT:

Mr. Martin moved to adjourn. Mr. Sakati seconded the motion. All were in favor. The motion passed to adjourn the 2/22/2024 Hudson ZBA Meeting. The meeting adjourned at 9:14 PM.

Respectfully submitted,
Tracy Goodwyn, Zoning Administrative Aide II

Gary M. Daddario, ZBA Chairman