



# TOWN OF HUDSON

## Zoning Board of Adjustment



Tristan Dion, Chairman

Dillon Dumont, Selectmen Liaison

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### MEETING MINUTES – AUGUST 28, 2025-Approved

#### I. CALL TO ORDER

Mr. Dion called the meeting to order at 7:00 PM.

#### II. PLEDGE OF ALLEGIANCE

Mr. Dion invited all to participate in the Pledge of Allegiance and read through the Chairperson's introduction/order of business and cited housekeeping items.

#### III. ROLL CALL-ATTENDANCE

Mr. Dion asked the Clerk to call for attendance. Full members present were: Tristan Dion (Chair), Dean Sakati, Tim Lanphear, Timothy Lyko and Todd Boyer. Alternate members present were: Zachary McDonough-(Clerk) and Brendon Sullivan. Others present were: Dillon Dumont-Selectman Liaison and Ben Witham-Gradert-Town Liaison.

#### IV. OTHER (DEFERRED) BUSINESS:

Election of Zoning Board of Adjustment Officers per ZBA Bylaws, §143-5.2 Vacancy and succession of officers

**Mr. Dion was voted as Chairman:**

**Motion by:** Mr. Lanphear **Second:** Mr. Sakati **Motion Carried:** 5-0

**Mr. Lyko was voted as Vice-Chairman:**

**Motion by:** Mr. Boyer **Second:** Mr. Lanphear **Motion Carried:** 5-0

**Mr. McDonough was voted as Clerk:**

**Motion by:** Mr. Lyko **Second:** Mr. Lanphear **Motion Carried:** 5-0

**V. SEATING OF ALTERNATES:** No alternates were seated as a full quorum of all Board members were present.

#### VI. UNFINISHED BUSINESS:

**Case 165-049 (06-27-24): 36 Campbello St., Hudson, NH:** This case was remanded back to the ZBA per Court's Order in *Sousa Realty & Development, Corp. v. Town of Hudson*, Docket No. 226-2024-CV-00497, dated July 20, 2025 (Clerk's Notice dated July 21, 2025).

Mr. Witham-Gradert read the case per the agenda.

Mr. Dion acknowledged the Court issued decision and read the Motion as follows:

**MOTION:**

I make a motion to grant the variance in accordance with Court's Order in Sousa Realty & Development, Corp. v. Town of Hudson, Docket No. 226-2024-CV-00497, dated July 20, 2025 (Clerk's Notice dated July 21, 2025). The variance is narrowly granted as to the frontage requirement only, to allow a private road rather than a Class V or better highway, which approval should not be understood as any approval of any other element of the overall development plan, which shall otherwise be fully zoning complaint.

The private road shall be designed and constructed in full conformity with the Town's engineering standards for public roads, and a homeowner's association shall be established to be responsible for maintenance of the private road.

In accordance with RSA § 674:41, the Town of Hudson neither assumes responsibility for maintenance of the private road, nor liability for any damages resulting from the use of the private road. Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the Hillsborough County Registry of Deeds for any lot on the private road for which a building permit is sought.

**Motion by:** Mr. Dion **Second:** Mr. Lyko **Motion Carried:** 5-0

**VII. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:  
DEFERRED/CONTINUED HEARING:**

1. **Case 240-013-001 (08-28-25)(Continued from 07-24-25)**: Felipe Figueiredo, 23 Mammoth Rd., Londonderry, NH, by & through his counsel, Gottesman & Hollis, PA and authorized representative, Keach-Nordstrom Associates, Inc., requests three (3) variances (A, B, and C) for **33 River Rd., Hudson, NH**. [Map 240, Lot 013, Sublot-001; Split Zoned: Residential-One (R-1), Residential-Two (R-2) and General-One (G-1)] The applicant is seeking relief from the Hudson Zoning Ordinance (HZO), Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses for a proposed mixed-use commercial development comprised of three (3): 9,000 SF, 5-unit buildings and one (1): 9,600 SF building, all located within the R-2 Zoning District on the property where these uses are not allowed as shown below:

A. Variance for proposed Industrial Uses –

- Drop Ship Use (Distribution facility of 100,000 square feet or less) (E8)
- ~~Welding Shop Use (E3)~~
- Machine Shop Use (E4)

B. Variance for proposed Industrial Use –

- Contractor's yard & Landscape Business Use (E15)

C. Variance for proposed Commercial Uses –

- Medical and Wellness Office (Business or professional office) (D17)
- Cross Fit Gym (Indoor commercial recreation) (D20)
- Florist (Retail sale of agriculture horticulture, floriculture and viticulture products) (D30)

Mr. Witham-Gradert read the case into the record. Mr. Dion invited the Applicant to present their case.

Not Official until reviewed, approved and signed.

Approved 09/25/2025

**Transcription-Variance A: Proposed Industrial Uses – Drop Ship Use (E8); ~~Welding Shop Use (E3)~~ ; Machine Shop Use (E4) – Building 3**

**Applicant Testimony:** Elizabeth Hartigan of Gottesman and Hollis and Paul Chisolm from Keach-Nordstrom presented on behalf of the Applicant. **Variance A:**

**Ms. Hartigan:** We are back from last month. We took into consideration the comments and sort of confusion that happened with the Notice being labeled A,B, C and then our buildings also being labeled A, B, C. However, based on comments from the Board, we decided OK that's fine. We will take that A, B and C and allocate the specific uses to specific buildings on the property as opposed to carte blanche all of these uses and all of the buildings, which was submitted in a letter from Keach-Nordstrom on August 8, 2025. I assume the Board has received that information and the updated plan. If not, we can provide that.

I thought the best way to start this was to just sort of briefly go over each point (criteria) unless the Board was adamantly against that. The only difference since we've been here is allocating the uses to the individual buildings.

We are requesting three variances. Largely, the variances are based on the uses within the table provided in the ordinance. Building 1 will have the Medical Office, CrossFit Gym and Florist use. Buildings 2 and 4 will be the Contractor's yard and Landscaping Business uses with a note and caveat that they'll be no outside storage for any of those. Building 3 will be for the industrial types uses which would be the Drop Ship, the Welding Shop and the Machine Shop.

This is a large parcel. There's 10.7 acres. It is split zoned. We have the G-1, R-1, and R-2 zones. The majority of it is R-2, which is why it is described as being zoned R-2 .

**1. Granting this variance will not be contrary to the public interest:**

The public interest is to not have conflicting uses in a neighborhood, prevent overcrowding and congestion in the streets. In this case, directly across the street is all G-1. Three hundred (300) feet away is where G-1 starts. All of the uses that we are requesting are permitted in the G-1 zone. So, we are not conflicting uses in the neighborhood. Simply putting this across the street, everything we're asking for would be permitted. We wouldn't be here at all. The area is not fully developed. Granting this variance will not alter the character of the neighborhood as they'll be sufficient buffers between the proposed use and the neighboring residential uses nearby. Specifically, the applicant is going to provide a natural buffer of planting trees along those buffers for the abutters so that there will be no major visual impact. There will be no threat to public health, safety or welfare. In this case. This lot is interesting because it has public water, but it does not have public sewer, which is why these industrial uses are better suited than residential, which would fit there.

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

There is sufficient space behind the proposed use, specifically for the neighborhood in the back. There's nothing going to be developed in the back of the parcel, partially because there's

wetlands but also trying to provide as much of a buffer as we can to the neighborhood to the back. It is not uncommon to see commercial industrial uses on River Road. These requested uses are all permitted in G-1, which is partially on this property. The proposed use of multi tenant, mixed commercial and industrial uses will not alter the essential character of the neighborhood and will not threaten health, public safety and welfare.

**3. Substantial justice would be done to the property owner by granting this variance:**

There's a long list of things that can be permitted in the R-2 zone. However, none of them specifically work in this lot. I know that in prior years, someone had proposed bringing a religious building to the property and there was significant issues with that. I'm not sure exactly what happened at Planning Board with that. But, I know it did not work due to parking...(sidebar with Mr. Chisolm asking about involvement) I talked to Chris Sullivan about it and he said it wasn't a use that was going to work on that lot. The wetlands also make it so that the development area is a bit smaller than what you would normally see on a ten (10) acre parcel. It's also split zoned where we have competing interest that could be there. There's a lack of sewer but there is adequate space for sewage and septic on the lot for industrial commercial uses. Denial will impose substantial harm to the applicant that is not outweighed by the harm from public. This is also a consistent use within the area. There's other commercial industrial uses along River Road not too far away.

**4. The proposed use will not diminish the value surrounding properties:**

Granting variance will not cause real change to the neighborhood. They'll be sufficient buffers to the abutters. The values of the surrounding properties will not be diminished cause the use proposed is substantially similar to what already exists in the area.

**5. Unnecessary Hardship:**

The special conditions of this property are that it's the largest R-2 lot in the area, in the zone. It's split zoned, surrounded by residential and vacant land on River Road. It's not fully developed. If everything else had already been developed, no one would really be thinking about it, I don't think because G-1 is all across the street. It just happens to not be developed at this time. Not allowing the multi-tenant and commercial industrial uses has no fair and substantial relationship to the purpose of the zoning ordinance, which is to keep uses together. Where G-1 is so close to this, we're not proposing something wildly outlandish. There's no sewer on the property. Ms. Hartigan asked if there were any questions...

**Board Questions to Applicant Representatives- Variance A**

**Mr. Lanphear:** So, you have four (4) buildings you're putting in?

**Ms. Hartigan:** Correct.

**Mr. Lanphear:** Some of this might be part of planning, but I'm just thinking about what we talked about last time when you were here. You have how many parking spaces for these 4 buildings?

**Ms. Hartigan:** Sixty-seven (67).

**Mr. Lanphear:** Is that the required, say maybe a couple extra ?

**Ms. Hartigan:** There are 76 and required, 61. We're over the required.

**Mr. Lanphear:** If one of your other buildings, these two other buildings on the other side becomes like these big 10 foot bays. You're going to lose two spots. Two spots could be 4 or 5 here or 4 or 5 spots there. Then all of a sudden, you're under the required amount.

**Ms. Hartigan:** I don't think anything is going to be lost based on the size of these buildings. I'm not sure I understand your question...

**Mr. Lanphear:** In the front where you have all the parking at, if you have a bay door there, you shouldn't ... They're going to be putting stuff inside of a bay, the way he was explaining last month to us... that there's going to be no steel stored outside because it doesn't look like there's any back room to store that stuff. It has to go in. These big trucks are going to have to come in. They're going to come with their forklifts or whatever and bring them in. They can't have two parking spots in front of a garage door. The guy's never going to get his stuff into the lot if somebody's coming to visit someone else.

**Ms. Hartigan:** Well, I think: 1) parking is a Planning Board issue but also these would be reserved in an internal covenant saying: "These parking spaces are reserved for this use". So, if I wanted to park my truck in front of my unit, I could move it. I don't think there's really an issue there.

**Mr. Lanphear:** Oh no, I understand that. I'm just looking at the general safety of all this lot freely which now you're talking to zoning to how it works. It's not maybe public safety wise because now there's not enough parking, someone could park in the wrong spot or get hit by a truck... We don't want the worst thing to happen.

**Mr. Chisolm:** I think one way that we typically combat something along those lines is if you... I would expect that probably not all these units, although they would be set up to have that garage bay door, maybe not all these uses would want that. They'd have windows in a different type of a **sod?** or whatever. But, for the ones that do, it usually would be about a space or two. That typically flags like an employee space or something along those lines; someone who's there and is going to be parked there for a long period of time. It's not necessarily the general public that's going to be going in and out of those spaces.

**Mr. Lanphear:** Well, except for the retail building that you said might be a florist or medical center in which then there would be wheel chairs and stuff like that.

**Mr. Chisolm:** Correct, but those spaces wouldn't necessarily have that garage bay door...

**Mr. Lanphear:** I know they wouldn't but you're affecting over here too. Then you said, there's a drop shipment, he's going to be doing multiple cars? You must have a tenant in mind or whatever?

**Ms. Hartigan:** We don't have a tenant in mind specifically, but I've worked with other drop shippers and typically those are all online mailings. There's not even a lot of back-and-forth to getting a shipment in and then just mailing.

**Mr. Lanphear:** Fed-Ex just brings in 2-3 trucks and they're backing up to bays and they're just off loading. I get that part of it. OK.

**Mr. Chisolm:** The other thing I would add to that is I would actually expect a little bit more space between those spaces. These aisles are a little bit bigger, particularly in front of Building 1, for example. There is a little bit extra pavement. We gave kind of enough room there where if we had to take out some of these to put in an entry entryway or something like that, we have 15 spaces to lose effectively. We felt comfortable with a little bit extra room in some places and how we can tie that all in at the end of the day. I think really, even when we get to Planning Board, that's going to be a little bit of an issue. Obviously, because I think each specific user that

goes in there could want something a little bit different. It's really got to be somewhat customized also.

**Mr. Lanphear:** You said something about G-1, that is 300 feet away or it's on this property in the corner ?

**Ms. Hartigan:** It's both. What's interesting, I was just looking from the corner of our property, where does the full G-1 start on this side of River Road? Just from a quick Google Map on the west side of River Rd. On the east side is all G-1. G-1 starts 300 feet basically a lot and a half to the north.

**Mr. Lanphear:** So, it doesn't count this lot at all?

**Ms. Hartigan:** No, it does. The entire back corner of the lot is G-1. But I was also making the point on River Rd., G-1 starts...

**Mr. Chisolm:** That abutting lot 13 to the north is mostly G-1. It's that abutting lot to the north, which is lot 12 which is in that R-2 zone almost exclusively...

**Mr. Lanphear:** Now I see that, what you're talking about. OK...Thank you.

**Mr. Sakati:** The property across the street referenced as G-1, do you know that's owned by?

**Mr. Chisolm:** It says Gerald and Lorette Lebouf...

**Mr. Sakati:** I think that's power lines. I think that's where the power lines run through that. It's all power lines. I don't know this but it looks like it's all power lines.

**Ms. Hartigan:** It's 42 acres though...maybe it is all power lines.

**Mr. Sakati:** I don't know this but it looks like it's all one contiguous piece of property.

**Ms. Hartigan:** It's a big property but, that entire side of the road is all G-1. I was just making the point that it's not like we're just plopping this in the middle of a neighborhood per se.

**Mr. Dion:** Any other questions from the Board?

**Mr. Boyer:** Yes. Can you explain a little bit deeper why no sewer being down there makes it not ideal for residential development? I understand that there's water but no sewer. Why is that making this property have a hardship?

**Mr. Chisolm:** Sure. When you think about sewerage especially next to environmentally sensitive areas, wetlands and things like that, obviously there's a pretty substantial complex that runs on the west side of the property here, you would expect more sewerage in a residential use in this case. People are showering. They're doing things that take more of a demand for water. Obviously, that has to go somewhere once it gets down the drain pipe. The thing with that is, if you have sewer, it collected and you don't have that issue but when it's going into a septic system, into a leach field, that's going into the ground, there's been a lot of pollution that happens in other parts of town as well as other parts of the state. When you have a lot of septic systems and a lot of septic flow, next to environmentally sensitive areas, wetlands, waterbodies, things of that nature. I think the point there is just basically that less is more. With these types of uses, there aren't people living here, this isn't like an apartment building or multiple residences or something like that. There's going to be less water use for things that are going to end up in the sewer. Therefore, it's going to be less of a risk, if you will, from contamination spread in that regard.

**Mr. Boyer:** So, the fact that the industrial uses won't have things like your dishwasher, washing machine, things of that nature, putting an extra load on the land, that's what makes the industrial use a little bit better than residential?

**Mr. Chisolm:** Yes, correct.

**Ms. Hartigan:** In addition, you can share the septic and leach fields for a commercial in this property. As opposed to, in this lot, you can have seven (7) units by right so you would have to have seven (7) separate septs and leach fields, which is not ideal? Water is not a problem.

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Approved 09/25/2025

**Mr. Chisolm:** Some of this would obviously be closer to the wetlands the others. In this case, we kind of have the ability if we can make one system or two systems split among two buildings to kind of put them in area where it's going to be least impactful.

**Mr. Dion:** Any other questions?

**Mr. Lyko:** Do you have an estimate on where the septic tank would be for this?

**Mr. Chisolm:** No. We haven't gotten that far quite frankly to be honest with you. But, I think what we would try to do is obviously to keep it away from the side lot lines due to the buffers that exist there with residential properties nearby. Obviously, we would want to try to keep it away from the wetlands as far as possible. They can be under parking lots, although that's not always the greatest place to put them because when they need to be replaced, it would be a little bit more of a headache to do that. We haven't gotten that far...

**Mr. Lyko:** Do you feel you could fit one without a problem?

**Mr. Chisolm:** Yes, absolutely.

**Mr. Boyer:** It's been mentioned a couple of times, no outside storage for the contractor's yard. Is there going to be no outside storage period for all of the uses and all of the buildings? Can that be put as a stipulation Ben (Mr. Witham-Gradert) on any sort of approval?

**Mr. Witham-Gradert:** Generally speaking, that is a stipulation you'd more frequently see on something like a Planning Board approval as part of their site plan approval.

**Mr. Boyer:** But, if we grant the use, and they tell us that there's not going to be any outside storage and that is something that convinces us that the use is warranted and fair, how can we enforce that?

**Mr. Witham-Gradert:** The Zoning Board is permitted to include conditions or stipulations as part of their approvals. As to how far those can go, that is a bit of an undefined question but it is something that the Board is allowed to do if they so choose.

**Mr. Chisolm:** Mr. Chairman, if I can provide some clarity on that. We'd be happy with a condition on this. We would volunteer it. That is certainly the intent. We are not trying to get away from that in any way. We would be more than happy with that as a condition. We wouldn't fight that at all.

**Mr. Dion:** Any other questions from the board?

**Mr. Lyko:** So for like the landscaping yard and contract yard, I picture like big piles of loom and gravel. What do you picture that this would be?

**Ms. Hartigan:** Unfortunately, this is actually the nature of the ordinance. It's just a very large encompassing term, landscaper's yard. If we want to have any sort of some landscaper who's running a landscaping business and they just bring their truck or their lawn mowers and they have them inside, that's considered a landscaper's yard in the building. That's just the term of the ordinance. That's what we anticipate, is someone sort of having their trucks or whatever they may be inside. Maybe it's like a pickup truck running their business out of there and parked in the parking lot but not your typical landscaper's yard where you have the gravel and the loom and the rocks and that kind of thing. It's just a fix their equipment. It's just a term within the ordinance that we have to sort of work with.

**Mr. Chisolm:** Yeah, and what I would say to that too is obviously, seeing this type of language on a plan or an approval or something might attract that type of person to this but they're going to quickly realize that really, they just can't do what they want to do here. It's going to be self-limiting from a business end, impactful to the applicant more than anyone.

**Mr. Sakati:** How would you characterize the character of the neighborhood? You kind of referred to you spotted or that there's not much residential there. When I drove by, there seemed very like there's house after house after house. How would you?

**Ms. Hartigan:** The character of the neighborhood is the general location. In this case, there's houses on either side but there's also larger vacant areas of land. There are the power lines up not too far up on the left is the bigger industrial commercial space. It's all generally there as opposed to a residential subdivision.

**Mr. Dion:** Any other questions from the board as this is looming.

**Mr. Lyko:** I drove by the property and there's a good amount of already cleared land. Do you know if you're going to be having to chop down more trees or is it mostly going to be in the already cleared area?

**Mr. Chisolm:** Yeah, a lot of it, in that you can see really the cleared area when you're looking at that is really the front part where we're putting a lot of these buildings. You can see the side lot line, especially on the south, that's kind of carved out about that residence. That tree line is not going to change. That big group of trees there in the middle will get cut back a little bit to support this, but by no means would it be all of it. I don't know exactly how much of that would get cut back at this point in time, but there would be a good healthy chunk of that basically wooded buffer left at the end of the day.

**Mr. Lyko:** Yeah, so next to that bottom property, you'd keep most of it and then you said you could always add more screening. Correct, yeah, exactly. Whatever you have to do to block it.

**Mr. Chisolm:** Yeah, and if you look at the plan, we have a little bit darker of a tree line that kind of starts around kind of the back side between to the west of buildings 2 and 4, right where all three of those zone lines meet, and then that's kind of cutting back sort of, I would imagine, about roughly through the middle of that kind of, the thick tree part, if you will. Then it kind of cuts around to the side, almost to the corner of Lot 11 there on the southeast.

**Mr. Lyko:** Because obviously if you could hide this property from the road or the residents as much as possible, it would definitely help with the character.

**Mr. Chisolm:** Oh, absolutely.

**Mr. Lyko:** It would get appealing to people driving by. I mean, at the end of the day, power lines are eyesores, and nobody wants to drive by and see just a metal warehouse with a bunch of bay doors.

**Mr. Chisolm:** Sure.

**Ms. Hartigan:** The way that it's already structured, you're only going to see sort of those two sides, the smaller sides of the building. It's sort of set into the property to begin with for that reason. It just blooms out of it, and then it has the existing tree line around it.

**Mr. Chisolm:** I was really just talking about the existing trees as well. Obviously, there's going to be a proposed landscape plan, a screen plan, and all those things.

**Mr. Lyko:** Maybe some fence in or something with plenty of boards you'll talk to. Exactly.

**Mr. Chisolm:** So, however that needs to happen.

**Mr. Lyko:** Yeah, you're getting some screening along the road or something. Exactly. All right. Thank you.

**Ms. Hartigan:** Yeah, there's a 35-foot green space buffer that needs to be maintained as well along the road.

**Mr. Lyko:** And that could grow up over time.

**Mr. Sakati:** You just talked about the screening for the front. How do you envision the back? It looks like there's a cul-de-sac right there, and that clump of trees, I think what you said, most of it would be removed to be able to fit?



**Ms. Hartigan:** All of that would stay.

**Mr. Chisolm:** Yeah, a lot of that would stay. You know, again, I'm guessing at this point, probably about half of that, looking at my plan and looking at that picture, that's a little over 300 feet away to that back cul-de-sac. There's going to be, I mean, there's obviously you just can't really touch the wetlands. There's that 75-foot wetland buffer that would apply to this as opposed to only a 50-foot for residential. There's a lot more that really is going to stay here, I think, naturally as opposed to, potentially if you're trying to maximize out residential units there and things like that.

**Mr. Dion:** Any other comments?

**Mr. Lanphear:** This property, was it rezoned in the last year or so? Before, was it a G-1 at one point and then just got switched over to an R? Because I know they did a lot of that in the last election. In the year before, that was a lot of different, we were trying to straighten out the zoning and stuff like that.

**Mr. Chisolm:** No, that's a great question. I don't know the answer to that.

**Mr. Witham-Gradert:** This section was not affected by the last two years of rezoning efforts that were approved at town meetings in 2025 and 2024. This has remained this way for a very, very long period of time.

**Mr. Sakati:** There was one additional thing. In 2021, Mr. Buttrick rezoned. If you look at the line, the large straight line, he rezoned everything that was north of Fairway, Eagle, and then you can see the line continues. I suspect he didn't... it make sense it was an omission, right? Because that was... All that part that I just mentioned was G-1 because they draw a center line. And there's documentation, I think, that explains all that. But it's like that's all was rezoned to R-1. But you can see the line, for some reason, didn't continue. I suspect that's why you wind up with these pieces that are triple zoned because that wasn't realized.

**Mr. Lanphear:** ...Continued.

**Mr. Chisolm:** But, yeah, and truthfully, what was on the table here beforehand is religious use. There's an exemption there from a zoning standpoint. It doesn't matter what zone you're in at that point. There would have been no reason for the applicant or owner of the land to move forward. Yeah, exactly.

**Mr. Dion:** Yes, Mr. Lyko?

**Mr. Lyko:** One of the biggest concerns I have is the welding shop and the machine shop. I know a lot of them, you drive by, you see machine shop you would never even know if the sign didn't say it, they're clean... For those buildings or for those jobs, are the codes more strict for ventilation and all that stuff? Last meeting, it was mentioned (about) the hazardous waste. Are there precautions that are set up by law that they have to do or is it that the landlord wouldn't force all that stuff type deal do you know?

**Mr. Chisolm:** To be honest with you, that's a little bit outside of my area of expertise. I think that's more of a building code related thing. I think an architect would probably have a better answer than I will on that. I can tell you from a site plan perspective, there's not a lot of difference there in terms of external to it like what do I need to do differently to set this up. But in terms of inside the building, I don't have a great answer for you on that to be honest.

**Ms. Hartigan:** They're still required to follow all town ordinances and all of that so they can't you know dump anything down the drain or any of those kinds of things.

**Mr. Lyko:** If you knew if they were strict or anything to give people peace of mind or you know certain dumpsters are needed or certain pickup dates or something.

**Mr. Chisolm:** I suppose like in leases that he has and things like that there could be certain language so that will have to be looked into and adhered to.

**Mr. Lyko:** They would have to follow the agreements on the list.

**Mr. Lanphear:** I do know some of what you're talking about. I'm sure Todd even knows as well, being in the business welding stuff like that. I know one of the guys I go to here locally, in Hudson, actually has a spray booth inside of his garage.

**Mr. Lyko:** Yeah, I know. I would for my own health.

**Mr. Lanphear:** But sometimes you're spraying. But sometimes it happens. What do you do? A spray can or whatever (makes sound) and it just goes out the door. Well, these houses are in the back of this neighborhood. If it's in this building here, it could wander 100, 200 feet like nothing. You agree Todd?

**Mr. Boyer:** Absolutely.

**Mr. Lanphear:** That smell is just going to come right across that wetland. It doesn't make a difference.

**Mr. Lyko:** I know the paints. I used to live at a place...you can smell it.

**Mr. Lanphear:** You understand. You do have a little bit of odor that could come if they really pushed the welding and stuff that they seem to be looking for.

**Mr. Dion:** All right. Any other comments, questions.

**Mr. Lanphear:** I think I'm good for now.

**Mr. Boyer:** If we grant a use and then it goes to the Planning Board and it falls apart at the Planning Board due to parking or size or the 100-foot setback whatever it is, is that use now applicable for somebody else to maybe then do something different because we've now granted a variance or is that variance going to stick with just this applicant?

**Mr. Witham-Gradert:** Unless a variance is granted for specific reasons outlined in state code, variances go with the land. When you grant a variance, it is for a parcel in question, if that makes sense. In this case, if it goes to the Planning Board and it all falls apart, that variance for example, Variance C for the florist and whatnot, that variance is still there. It's just you can't do anything with it because there's no approved site plan at that point.

**Ms. Hartigan:** If I may, but it goes with the land but in this case, we're limiting it to one building. In this case, you'd have only two, one building could have it. You wouldn't be able to have five buildings with drop ship welding and industrial. The request for this variance has been limited down to only allowing one building for that. You wouldn't have 18. I guess if you have fit one building with 18 units but that just doesn't seem marketable though. (Smile)

**Mr. Boyer:** The property owner down here, I don't remember the property owner's name but it's on the plan, Shillings, they had mentioned they're concerned about the welding shop. If my paperwork is correct, Building 3 is the proposed welding shop. Is that correct?

**Mr. Chisolm:** Yes, that's correct.

**Mr. Boyer:** Is there any consideration to maybe flip a couple of uses possibly to try to be nice neighbors and stuff?

**Ms. Hartigan:** I'll be honest, I thought we were being nice neighbors. If we did it wrong, it wasn't intentional. I think the answer is yes.

**Mr. Chisolm:** I think we're okay with eliminating the welding use in the entirety.

**Mr. Boyer:** Let's eliminate the welding use.

**Mr. Chisolm:** Cut it out. None of the buildings.

**Ms. Hartigan:** That's our problem. Sure.

**Mr. Lyko:** But keep the drop ship and the machine shop?

**Ms. Hartigan:** Correct.

**Mr. Chisolm:** Yep.

**Mr. Dion:** Any other questions? Nothing else at this time from the Board? All right. Thank you to the Applicants. At this time we'd like to open it up to public comment for anybody that would like to speak in favor of the application? Seeing none, is there anyone in the public that would like to speak neutrally or against this application?

**(Public Comments Opened at 7:44 PM)**

**Public Comments (In Opposition of application): Variance A.**

**1. James Crowley- 4 Fairway Dr.: I'm James Crowley and lived at 4 Fairway Drive for over 38 years. I'd like to give a slightly different perspective than what you just heard. For this ZBA, three variance requests case, I find various criteria requirements are not met or satisfied.**

**Criteria 1: Not contrary to public interest**

**Criteria 4: Proposed use will not diminish the values of surrounding properties**

**Criteria 5: Ordinance results in unnecessary hardship**

Now, this would apply to all three variances. I might as well stand up here one time instead of three because I'd say the same thing each time.

**Criteria 1: Not be contrary to public interest**

The majority of the lot lines within R-2 and R-1 zoning districts. Both reflect the long standing public preference for a residential character. This preference has been reaffirmed through zoning map approvals in the most recent master plan survey, which states a desire to keep commercial development within existing commercial districts. This is in chapter IV, Economic Development, page 16.

Historically these zoning districts were established by public vote with express will of the public that this South Hudson area remained to be retained in a residential character. So, how can the applicant categorically state the assumption in variance request Exhibit A for fact supporting this request that public interest is to not have conflicting uses in neighborhoods. When historically by zoning map approval and recently by master plan survey and updating, the public has again established their desire to maintain predominant residential zones and their areas to be utilized for residential purposes. Public interest includes more than avoiding conflicting uses, such as preserving property values minimizing traffic noise and ensuring environmental quality. Industrial commercial uses often bring increased truck traffic noise impervious services far beyond what is acceptable and expected for any intended residential zoning use. Please question how this proposed and cumulative 36,600 square foot industrial commercial footprint of buildings project can have less impact on Hudson public interest than our current zoning allowed 10 acre residential development in the same location... If the public has repeatedly affirmed residential use for this area, how can the applicant claim that their industrial commercial proposed aligns with public interest.

**Criteria 4: The proposed use will not diminish the values of surrounding properties**

In the absence of a qualified appraisal or environmental impact study, the claim that sufficient buffers exist is just a speculative attempt to cloud the issue. The burden of proof lies with the

applicant to show through professionally qualified assessment that adjacent residential property values would not be diminished or be environmentally impacted. (Yeah, I hear welding shops of course that was shot down, sounds like). The applicant for Criteria 4 implies sufficient buffers exist. That is a subjective evaluation with no supporting expert testimony or are there any expert reports provided to the ZBA for justification. This type of information has been supplied to the

ZBA on even smaller scope and scale zoning ordinance impact projects. Without supplying any estimates or commitments for man-made barriers, additional vegetative screening or noise attenuation measures, that will be offered during the variance request testimony, the environmental and financial impact on adjacent residential properties can be severely unaddressed and underestimated. Nearby non-residential development which is currently under construction has supplied an earth berm with sound wall to facilitate what will hopefully be sufficient environmental and financial buffering for existing adjacent residential properties. If the Case 240-13-1 at 33 River Road parcel were developed as a residential for what the predominating zoning districts require, there would be no question concerning compatibility or diminishment of values of surrounding properties that are also residential.

#### **Criteria 5: Ordinance results in unnecessary hardship**

The applicant purchased the parcel in 2016. You would have to be fully aware of its residential zoning that has not been amended or altered after that time. Since then, Hudson has conducted multiple master plan updates and zoning reviews, none of which include requests to amend this parcel designated zoning district. If the applicant believed the zoning was inappropriate, why didn't they pursue a warrant article via RSA 675:4, zoning amendment procedure? The applicant wants the ZBA to consider approving the proposed development because an ordinance related hardship pleading. For a hardship to exist, there must be no reasonable alternative. There is an existing alternative, a residential use. (It) doesn't need a variance either. The applicant, while purchasing the parcel in April 27, 2016, had to know what the Hudson zoning ordinance allowed but later chose to pursue a significant future multiple variances require development risk. I wonder, is the hardship primarily based on reduced financial gain and if so how does that meet the legal standard for hardship? The hardship cannot boil down to the applicant not being allowed to maximize their profit due to current zoning ordinance. I question where is the compelling hardship argument associated with even physical attributes associated with this parcel? A 10 -acre alternative residential development is already allowed for practical reasons that can be accommodated. They worry about wetlands. Well, you can subdivide this thing, put the wetlands in the back and the residential in the front and long as you meet the land requirements, you got your residential lot.

Most importantly, the applicant should justify why he has not previously placed this parcel zoning for a redistricting consideration on a March ballot for public vote as a warrant article. I respectfully ask the ZBA to question why there is a lack of using RSA 675 for zoning amendments procedure and why was it not chosen as a preferred zoning method prior to tonight's multiple variance request. Where was the applicant during recent master plan surveys and reviews after his 2016 partial purchase? How can a true hardship exist or given any validity if he has not explored existing and standard rezoning amendments procedures? Plus, there are existing current zoning compliant development alternatives. Please note, use of this rezoning procedure was not apparent on the Hudson, March 2025 ballot where multiple parcels were voted on to amend their zoning district designation. It's a standard method that you could use if you want to

do something like this, put it up the Town vote on a warrant article. The worst that could happen is it gets denied. Then, it makes sense to me if it's denied and he still feels like he has a hardship, then you approach here. The cart's before the horse here tonight. Anyway, I respectfully don't understand how the applicant can claim any hardship at this time if standard accepted zoning relief procedures in Hudson have not been utilized. In closing, thank you for the opportunity to speak tonight. I respectfully urge the Board to consider whether the applicant has met the legal burden for variances under RSA 674:33. I feel I've demonstrated that public interest, property values and environmental impacts and hardship criteria are not satisfied. The applicant, to the degree necessary, to date has not even pursued standard and available Hudson rezoning procedures. I appreciate your time and talk for consideration on this.

**Mr. Dion:** Thank you, sir. Any questions for the speaker from the Board? (Board replied, no.) Is there anyone else in the public that would like to speak neutrally or against the application?

## **2. Brenda & James Byron- 39A River Rd:**

**Brenda Byron:** (Requested for Mr. Witham-Gradert to bring up GIS Map on the screen and proceeded) The forestry that is there is going right into our land. The comment that they said that they don't have to get septic and water and stuff like that into the division, I don't understand that thought process because we're downhill from where they're building these units. The water has to go somewhere, correct, if I'm not mistaken? (turning towards Applicants) We're on septic and the FDA will have to get involved at some point, correct? If the water they have to plow the roads and the plowing goes somewhere, correct? It will seep into our land, correct? Where's the plowing and all of this, correct? (Turning towards Applicants, Chairman Dion asked abutter to please address the Board.) The winter snow goes somewhere and it seeps into the ground into our wells and all this stuff. That's a question that I would like answered. Who's responsible for that? Do we get the FDA involved if we have our water checked and the wells? We're right behind these units. We abut the property. They're going to be cutting down these trees right behind us, right into our land. We're at the corner here. (Chairman Dion asked: "just to confirm ma'am, you're south of the property?") No, we're right in the middle here, right these houses (pointing towards screen) ...where all the trees are. They're cutting down right into our property. (Chairman Dion asked "are you number 39?") We're 39, yes. I'm concerned...

**James Byron:** When they snow plow, where are they going to push it all? Into the wetlands? They say a weld shop, a landscape shop, that all puts off hazardous waste. Whether it's smoke or in the sewers, it goes somewhere.

**Brenda Byron:** If it seeps into the water source, that's there. We have the water back there. We're concerned about the water. We'll test the water now. Our well feeds many units.

**James Byron:** Our well feeds three houses on our street because the way the development was made. It affects our well. It affects two other houses besides our house.

**Brenda Byron:** I'm concerned deeply.

**James Byron:** I'm concerned too. Are they're going to have an escrow account to cover anything that occurs because of what they're doing, to cover our property values that are going to go down because of them; to cover anything that happens with our well, our water?

**Brenda Byron:** I don't think the greenery, the trees or whatever they put...

**James Byron:** In the winter time, they could put grain out. In the winter time, leaves fall so it's going to be open. We're going to see it. It don't matter what they do. (Mr. Sakati asked for his name for the record)

**James Byron:** James Byron, her husband. Sorry. (Chairman Dion asked: “are you with the same address?”)

**James and Brenda Byron:** (both respond) 39 River Road.

**James Byron:** Like she said, we about that property. Just like the Shillings, they're on the other side of that property. It affects us most.

**Mr. Lanphear:** I understand your concern with that. Is it the use? If it was houses, they were building there or something...

**James Byron:** Oh, that'd be fine... Would you want that in your backyard or on the side of your house? (abutter turns around toward Applicants) Would you want that on your... (Chairman Dion asked: “Sir, please address the board”)

**James Byron:** Sorry. I'm sorry nobody would want that on the side of their house or in their backyard. I've lived there for 30 years. It was always considered residential and farmland, not commercial. That didn't come up until Amazon and Target. I don't know when they rezoned it but it was always residential and farmland.

**Brenda Byron:** There are wetlands there so we're concerned, rightfully so.

**James Byron:** We're downhill from them. Crap rolls downhill. Sorry to be blunt but that's the truth.

**Mr. Lyko:** If this makes it to the Planning Board, a lot of that would be handled there. They would make sure that the pavement has catch basins and they would have to level things and make sure drainage was appropriate. They would have to have a designated snow dump with that. Worst case, the Planning Board might make them ship all their snow out to a designated spot.

**James Byron:** ...I've seen construction... Now, say he fails and someone else takes over?

**Mr. Lyko:** If it's a stipulation in the site plan, then whoever owns the property has to, unless they go back to the Planning Board and change...

**James Byron:** The same thing happened with my property when Francoeur built it. He didn't finish the project. It ended up giving up to property management. The project never got finished. Now, we got to deal with the problems.

**Mr. Lyko:** I'm saying, I think a lot of that is stuff, that if this gets passed, it would be dealt by the Planning Board and enforced by them.

**Mr. McDonough:** Going back to something you said. I want to be clear, is your primary concern about the property as a whole or the welding shop...?

**James Byron:** The property as whole because we're going to be looking at those buildings. In the fall, leaves fall and...

**Mr. McDonough:** I just want to be clear.

**Brenda Byron:** It's going to be noisy...it's the noise and it's right there. If they're going to come back into the land as much as this is showing, it's going to be right there at our back door.

**James Byron:** Us and the Shillings are the ones that are going to be affected the most.

**Brenda Byron:** We're going to see it right when we walk out our back door.

**James Byron:** They could almost reach out and touch the property from their house.

**Mr. Lanphear:** Since you've been there 30 something years, that big building across the street

**Brenda Byron:** What building?

**Mr. Lanphear:** There's a big...

**Brenda Byron:** Oh that.

**James Byron:** That's been quiet. We don't even hear nothing from them.

**Brenda Byron:** The only thing that bothers us is their light...the power lines are there so we have that brush that protects us from that.

**Mr. Lanphear:** And what do they do there?

**James Byron:** You don't even hear them. If you drive by, you just hardly see any cars.

**Brenda Byron:** Yeah. They're in the back. They're further back in road.

**James Byron:** You don't even see cars there.

**Unknown:** They're a board shop.

**James Byron:** You see probably a dozen cars there.

**Brenda Byron:** That's the only business that we see. It's difficult because we're on a dead-end road. We have a hard time pulling out of our road because of all the construction going on.

**James Byron:** Especially where they want to build. It's on the corner and there's always accidents there on the corner. Like I said last time, we've had to replace our mailboxes several times.

**Mr. Lanphear:** I'm sure there'll be several more.

**Brenda & James Byron:** Yes, because that road is very dangerous. Yeah, because it's going to be more people trying to get in that road.

**Brenda Byron:** That curve is pretty dangerous. There're always accidents.

**Mr. Lanphear:** Okay. Thank you.

**Brenda Byron:** That curve is pretty bad.

**Mr. Dion:** Thank you for your time. Any other questions from speakers?

**Board:** No.

**Brenda Byron:** Thank you for your time.

**Mr. Dion:** Anybody else in the audience would like to speak neutrally or against the application?

### **3. Paul and Angela Schilling: 35 River Road**

**Paul Schilling:** Thank you. What does Hudson gain from this? Not getting any jobs? Basically, more what? Property taxes coming in? You've already added Target Logistics, the strip malls where the bank is, Jersey Mikes, Starbucks and now T-Bones. What's enough money for Hudson? What's Hudson gain? Nothing. You're taking residential property and make it industrial. Where are you going to stop if you give it to him? You're going to let me build a industrial property on my property? You're going to take that field across the street and do the same thing? Where do you say no. If you say yes to one, it keeps going. (Requested for Mr. Witham Gradert to put picture of the proposed ZBA Exhibit Plan back up on the screen) If you were to plow that parking lot, where you're going to push the snow? Right out to that upper left corner and the lower left corner right into the wetlands.

**Angela Schilling:** Right and that property's right there.

**Paul Schilling:** You're pushing that contaminated snow into wetlands. Have those wetlands been surveyed? Are there any vernal pools? Does anybody know? Has anybody looked?

**Angela Schilling:** And the welding shop and what was the other one? There were three different ones, right? Landscape, medical...Our house is like right there. I'm sorry, we didn't see a picture of what the buildings look like. I had to take a ride down in Hudson to look at a building that someone told me it might look like. I know you guys don't care what it looks like because you don't live next to it but we do so that's a concern. The road is a concern. That corner, if any one of you have drove by and checked it out, the curve to that road right there, it's very dangerous. I tried walking there today just to look and cars were flying by me. They don't even care. They go in that ditch; I don't know how many times. I just think that you need to look at all of this. We've been paying our taxes for 38 years living there and now you're going to go and do

something like this? It's just not right. None of you would want it beside your house. That's it.

**Chairman Dion:** Any questions for the speakers? No. Thank you.

**Angela Schilling:** No offense.

**Chairman Dion:** Is there anyone else in the audience that would like to speak neutrally or against the application?

#### **4. Frank Potter: 41 River Rd.**

So, they get this all okayed and everything and all the buildings go up. Are you guys going to monitor what goes in these places? No. Once everything happens, nobody's going to give a shit. Somebody's going to put a welding shop there and nobody here's going to care. Nothing's going to happen to it. We've seen it before. Who's going to make sure that, okay you're going to put a flower shop there, oh you're going to put this there? Once a building goes up, they're going to rent it to whoever they can. You know that and I know that. And commercial, they're going to have to salt it. Worse for the wetlands and we're still downhill. Something else you can think about. Thank you.

**Chairman Dion:** Thank you, sir. Is there anyone else in the audience that would like to speak neutrally or against the application? Seeing none, at this time would the Applicants like to speak a rebuttal to the comments from the public.

#### **Applicant Rebuttal: Variance A.**

**Mr. Chisolm:** Yes. Sure, I can start off. Again, just to be clear, there was an acknowledgement from the Applicant that the welding shop, although trying to keep options open, he didn't have any future tenant in mind or anything like that. The welding shop is no longer proposed here. It's a use that we are going to completely strike from the record in this case. That should clear up that concern. In terms of a couple things:

**The buffering:** I know there was a lot of mention about trees lose leaves and things like that. There is a mix of evergreens that do exist out there. Obviously, with any site plan, and again we're not at that level but once you get to the Planning Board, a full landscape plan and screening plan so not just a landscaping plan but a screening plan that would help look at what abutters see and what is visually protected and screened would be compliant and part of this application. I did hear that it was somewhat subjective or it was suggested that it was subjective of what makes a good enough buffer. In this case, we held the buffers that the town has enacted by regulation along those side property lines. There's a 100-foot buffer there and that's what we've held. You'll see that parts of that buffer actually kind of clip into Building 2 and Building 4 but those aren't taken from property lines. Those are taken from the zone lines which intersect in the middle of this property. When working with Chris Sullivan to prepare this plan, we went back and forth with him on what's the appropriate way to show that and to pick that on this plan and this is where we landed with that. The idea with those buffers is obviously to give you a sense of if there's residential uses and commercial uses or whatever. They're on adjacent properties. There's some sort of distance that needs to be kept between them so that they're just not right on top of each other for obvious reasons. In this case, the areas that we are within that buffer are really again towards the west part of the property, kind of in the middle of the actual parcel. Those are some of the farthest places away from the other developed areas. If you go further back to the cul-de-sac in the rear, to the west. Like I said, it's a little over 300 feet, well above that 100-foot buffer. I think the spirit and intent of that regulation has been maintained with this but obviously that gets flushed out at the Planning Board level.



**Rezoning:** I did hear a question on why this property wasn't rezoned. I think I spoke to that earlier. The property was purchased somewhere around 2016 or whatever it was by the current owner. The current owner is not the current applicant. The current applicant has not been involved in the property until recently. Therefore, they would have had again... The previous owner had a religious use that really zoning didn't matter for what it was that they were proposing. That wasn't an issue for them. They would have no reason to change it. It would just be an added expense and headache for them to chase something of that sort. The current applicant, obviously if you're going to do that, if you were to pursue that, that's a longer period of time. In trying to purchase the property from the current owners, there's obviously, they want to make sure things are moving. They don't know necessarily want to say, "Hey we're going to get the zoning application and then we'll see in April when the town votes on it." That's why the mechanism of coming to the zoning board was selected as opposed to that but again there is a separation here between the current owner who's owned the property for almost a decade now and the current applicant who's really just coming onto the scene for this application.

**Plowing and Stormwater Management:** In regards to the plowing and stormwater management, I know there was a lot of concern about that. This plan does not show any of that. That's because a much more detailed plan set is going to be required as this project progresses. There are very strict requirements and regulations in regards to stormwater management, both locally and at the state level, which will be required for this project. This project will also require an alteration terrain permit through the state. That is the strictest storm permit that you can get in the State of New Hampshire. One of the big concerns and things that they make sure you take care of is that if you're plowing in an area, it's not allowed to be plowed into a spot that's not collected in stormwater management system. It's not allowed to be put into a spot that just drains down into a wetland directly or onto a neighboring property. That is considered dirty runoff that needs to be treated. It's salted and sanded as it typically would be but in a commercial development like this, that's more highly regulated than if it were to be residential driveways for example. None of that stuff necessarily has to be collected and put into those types of systems. There are more than adequate checks and balances there from that. I know that's not depicted nor really kind of discussed here but obviously the question was asked so just to kind of get everyone up to speed on that.

**Site Distance:** In regard to the site distance, where the driveway is located in the shape of this road, kind of being in the curvature that it is, is actually very beneficial to this property. Where the driveway is proposed gives you the maximum amount of site distance that you can possibly have in either direction as opposed to if you were on the property on the other side of the street, you'd kind of be in the worst spot because of the way that the road curves. This is a DOT regulated road, so there are stricter standards there, more so than just local standards. At one point in time, I believe the previous owner did get a driveway permit from the DOT. I would have no reason to think that the current applicant would have any issue also acquiring a similar permit.

**Noise:** I did hear concerns about noise as well. I think the key with this is, regardless of what the uses are stated, it's going to be enclosed in the building. That's really the thing, I think. That's what separates this from probably other typical developments that might be similar to this in the town. This is very distinguishing factor where really the exterior is going to be for parking and people and obviously landscaping and those other things but in terms of the actual use of the

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building, it's going to want to be contained. I think the applicant is sensitive to the fact that the surrounding properties are residential and I think that's why he's proposing it the way that it is and that we have no issue with any stipulations to that effect.

**Building Permits:** The question was brought up in regards to the building permit and once this is constructed there's no regulatory mechanism to control what goes on in there. That is not true. The building department will get an application anytime anybody moves into one of these. I can tell you; I've done a handful of change of use site plans for new tenants moving into existing buildings. It's not something you're just allowed to pick up and move your stuff in with no oversight. That is absolutely regulated at the town level through the building department.

**Ms. Hartigan:** I think you covered it. Largely, these are a lot of Planning Board issues. I understand that the neighbors are close. I will say that we did do a general calculation from the corner of the building to the corner of the Schillings property and it's 178 feet. 75 feet of that or I think 100 feet of that is going to be a buffer. I think the 78 feet is probably on their property so that's not a matter of a stone's throw. Same with the Fournier property to the north is 171 feet away from the corner of the building to their home. So, it's not a matter of being on top of each other, especially with having evergreens and buffers, landscapes, all those kinds of things. If you know there was a question, a mention of a berm and any of those kinds of things, all of that would be addressed at Planning Board. I don't think the applicant would be against whatever suggested at Planning Board for landscaping and buffering.

**Alternatives:** There was a comment made that there are alternatives. That is not the standard for hardship. That was a standard a long time ago, like pre-2007, I believe was the standard. If you could do something else, you can't get a variance. That's not the standard for a variance. It's whether or not the property itself has distinguishing characteristics and in this case, it does. It's a large parcel that does not have sewer, that has wetlands to the rear, has wetlands to the side of it, as we've gone over. I just wanted to point out that just because you could do something else and I've also gone through the list based on what the sewer access and what's on this property, the other uses aren't necessarily viable at this juncture for such a large piece of property in Hudson.

**Mr. Chisolm:** The other thing I'd add to that is, it's really when you look at the zoomed-out version of the zoning map, I think we obviously all saw it earlier, this is the only property where you have three different districts all colliding kind of in the middle of a very large piece. That creates a little bit of a conundrum. That is definitely a unique feature of this as opposed to a lot of these other properties that exist in the area. Just to piggyback on what Elizabeth was saying.

**Ms. Hartigan:** I think we hit everything.

**Mr. Chisolm:** If we missed anything or if you have any further questions, please (we'd) be happy to address those.

**Chairman Dion:** Any questions for the applicants from the board?

**Mr. Lanphear:** Your setback for the 100 feet is for a G-1, not an R-2? Because in R-2, looks like it's... I don't know if it's right. In here, it might be a little bit... looks like it's 50 feet on the side?

**Mr. Chisolm:** Yeah correct... technically, the way that regulation reads is, it's from a property line or a zoning line. In this case, when we were dealing with Mr. Sullivan and plan preparation to make sure we showed the correct thing, the application is from the zone line. The intent of that regulation, as you could see on the zoning map, a lot of times zoning lines are along property lines. They're synonymous, right. This is a situation which I don't think it was meant the intent of that regulation wasn't meant to apply in the way that it does here. Here it creates a situation

where it's not a 100-foot buffer like the regulation contemplates. It's 300 feet because of where that zone line is in the middle of this property. Whereas, if you look at the property lines to the north and the south, you know obviously those are an easier thing to read. They're just 100 feet off of that. I think that's why I say, we were following the spirit and intent of that and again, that's something for the Planning Board to judge us on ultimately. In our opinion and the applicant's opinion, the intent of that is to separate land uses so that there's certain buffering requirements between them. In this case, we're being punished because of just where that zone line happens to fall in the middle of the property.

**Mr. Lanphear:** So, no matter what you build on that zone line, you have a 100-foot setback. If you were building residential houses...

**Mr. Chisolm:** If you had a residential house because it's adjacent to residences, you don't have that.

**Mr. Lanphear:** Correct, so you would only be here, say you were building residential in all this property, you'd only be here maybe for a variance for a building in the G-1 zone. Correct, if you had a building back there on a corner? If everything else was two code zoning rules, you'd only be here for that one little section up there in the G-1, if you're trying to put a residential in.

**Mr. Chisolm:** I think housing is allowed in the G-1.

**Mr. Lanphear:** So, they would need any special condition, or no?

**Mr. Chisolm:** No and this buffer is really because of the adjacent uses. The fact that this is commercial against residential. There's really no need to buffer residential from residential or commercial from commercial.

**Mr. Lanphear:** Right. It's commercial to residential.

**Mr. Chisolm:** Correct. That's really the spirit of what that ordinance is.

**Mr. Lanphear:** This is like grabbing a lot on one property. You say it's big. Target's property is big and they did everything correctly and that's how they got it through quick and fast where Amazon didn't want to do it. They wanted everyone worried about this... that's a whole other thing. Anyway, this is like a mix of hogwash that people are like the neighbors are really concerned at what's going to go in here because they really don't have a clue and they're concerned for their neighborhood to what's it's going to smell, what's noise... The people across the street that have lived there 30 years in this big, looks like a big building that would be some whether it's a machine shop or whatever don't hear nothing. Is that going to be the same here? Well for you, you may say yes but that's this developer that's here. Then he says, you know what, in five years I'm dumping it. Gives it to someone else and all of a sudden, it all changes and now the residents are all uproar. So, this is where we've got to come to that address and say, does this zoning fit in this environment? Is what you're asking us for.

**Ms. Hartigan:** I would agree. I would say that, I think that we have sufficiently answered all of the sort of concerns. It's not so close. We're not building the buildings on the lot lines. We're not on top of it. I think this is a reasonable use for this property.

**Mr. Lanphear:** It's a change of use to what it was entitled for. It's residential.

**Ms. Hartigan:** Yes, well what's interesting is, it's not just residential. We could have an elderly housing. We could have an assisted living facility there, a church, a municipal building, a school

**Mr. Lanphear:** R-2 has tons of uses. I agree with you.

**Ms. Hartigan:** But none of them work on this property. I guess you could have a seasonal farm stand but it seems unrealistic to have a seasonal farm stand for 10 acres. Or, you could have a pump station which will probably have more noise. I don't know what the pump station necessarily entails but those are the only uses that you can have here. Someone had said you know you could subdivide it and you could do this and that but there's not enough frontage for

that. That would be another issue if you wanted to put in a residential subdivision here. It wouldn't necessarily work based on the wetlands and the buffers that would be required either.

**Mr. Lanphear:** Well, the individual houses may not work but apartments like they're building in Nashua with the garages underground. They're building two, three stories above, probably couldn't do it in this area because it's not allowed because too many connections. I get it.

**Ms. Hartigan:** An apartment building wouldn't be permitted.

**Mr. Lanphear:** They allow duplexes in R-2.

**Mr. Chisolm:** Interestingly, I would say that the way that DOT regulates driveways is kind of interesting. They look at properties back to I believe it's 1972. They look at how much frontage the property had at that point in time. So, obviously, a lot of things have been subdivided out since 1972. This property, even though it has quite a bit of frontage, only has one driveway access point that's allowed per DOT rules because dating back to 1972 was part of a bigger tract. Other pieces have been chopped off. Other drivers have been added on. All those other drivers are accounted for. That's one thing that is a little bit unique about this. What I would say about the zoning that's also interesting is there's a good portion, obviously the largest portion of this property is in that R-2 zoning district but there is a good chunk of the property that's in that G-1 zone where a lot of things are allowed.

**Ms. Hartigan:** Everything we're asking for is permitted in G-1. That's 29.2 percent of the property.

**Mr. Chisolm:** Now, we don't want to put it there because, number 1, there's wetlands that covers a good percentage of that. That's also kind of right up against a couple property lines and things like that.

**Mr. Lanphear:** Minus wetland setbacks, what's the percentage of G-1 that's left?

**Ms. Hartigan:** I knew you were going to ask that. (laugh)

**Mr. Lanphear:** It's not much. Now it's a little bit smaller up there. Well, it's setback. It's rules are rules. R-2 is the same thing. You couldn't use this little notched out area because of the wetlands over here gets you out of there. You can't build in that little corner over there. I get that part of it.

**Ms. Hartigan:** A large portion of this...the character of this property is in the R-2 along river road but the way it can get configured, without having sewer there isn't really conducive to residential either.

**Mr. Lanphear:** How far is sewer?

**Mr. Chisolm:** I don't know but not close enough.

**Mr. Lanphear:** Is it like miles?

**Mr. Boyer:** It's all the way up at...Pete's Gun & Tackle

**Mr. Witham-Gradert:** Mercury Systems is the end of the sewer line. That would be all the way up here at the top.

**Mr. Lanphear:** Yeah, it'd be going the wrong direction because if you're going downhill...

**Mr. Witham-Gradert:**...going approximately down the roadway, we're talking north of 4,000 feet.

**Ms. Hartigan:** So, like a few million dollars.

**Mr. Lanphear:** ...it was a bigger thing (unclear)

**Mr. Witham-Gradert:**...that's outside the sewer district...

**Ms. Hartigan:** Plus ripping up, I don't think dot would really appreciate if you wanted to bring sewer down for that.

**Mr. Lanphear:** That's the whole road. I get it.

**Mr. Boyer:** To clarify, if this was directly across the road, you wouldn't even be here right now?

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**Ms. Hartigan:** Correct.

**Mr. Boyer:** If it was 200 feet to the north, you probably wouldn't be here right now?

**Ms. Hartigan:** 300 feet, we would not be here.

**Mr. Boyer:** You have these permitted uses within this piece of property right now. It just doesn't encompass the whole entire thing.

**Ms. Hartigan:** Correct.

**Chairman Dion:** Any other questions from the Board? Nothing? Thank you to the Applicants.

**Ms. Hartigan:** Thank you.

**Mr. Chisolm:** Thank you.

**Chairman Dion:** At this time, is there anyone in the audience that would like to speak favorably for the rebuttal? (None observed). Is there anyone who would like to speak neutrally or against the rebuttal?

### **Public Comments in opposition of Applicant Rebuttal**

#### **1. James Crowley- 4 Fairway Dr.:**

- Why not rezoned was brought up because the applicant is not the owner but it would be a longer time route to go that route. Well, what is the right route to go? This has been there and owned since 2016. First deal was religious, which would have avoided a lot of this stuff but that fell apart for whatever reasons. Hardship was said can't be a reason because there's another alternative, like on development, but it's a self-imposed hardship. They can eliminate it. They can go to the town, get it voted on. There's been a lot of property this last go around on the ballot that was rezoned. Convince the public this is the way to go. Up until this date, with a master plan and various rezoning, it's been silent. Alright. So, the owner didn't know. We got a developer now, Applicant, that does know this kind of stuff. Why don't they pursue it?
- Second is noise. Where I live, G-1 district could just about allows everything but pig farms. To tell you the truth, that's an overstatement. (In) G-1, you can do about anything there. It was set up way back when, let the economy, let development decide what's going to go there. That's the way that is. Well, here we got R-1, R-2 people specifically want this type of development and in the south end of Hudson. Here, you're being asked tonight to override that public vote. Why not let the public weigh in again on a public vote. Do they want this type of commercial development in the south end on this parcel? Yay or nay. If it goes nay, the next step is come back to the ZBA and make your case.
- Next point I think was noise. I heard mentioned it's going to be an enclosed building. I live on 4 Fairway Drive. We got a big 20, 30 foot well. I don't know, 25 foot, let's split the difference, earth buffer with a sound fence on top. I can hear backup alarms. I'm hard of hearing. Tonight, I didn't wear my earphones that they usually lend me because I got new hearing aids. The thing is, you're going to have box truck deliveries in here all the time. They're going to be backing up. There's going to be noise. You think a bunch of trees is going to stop that? Where I live, I could still hear stuff with a earth buffer. Please, here again, I know it's a zoning board. I've seen other cases on Fairway Drive where they even went ahead and did a major study on no impact to economic values and stuff like that. I don't see anything like that on this project and this is head and shoulders and even more than that above what I saw in my neighborhood.
- Driveway, one spot granted is on the right side of the curve doesn't help. But, again, (with?) hardship, I'm not allowed to say, "well gee they can do residential. That's a great spot for a right-of- way too to a cul-de-sac for residential." Hardship, gee all these wetlands in the back (unclear statement). A residential can work with those wetlands and that just as well.

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How come an industrial could work with it and a residential can't? Like I say, you can make the back side of those lots into each residential lot into that wetlands area, things like that. You can meet the criteria for lots. I just really wonder about on hardship. I guess everybody's afraid to say economics, but to me there's a big aspect of that in this if it goes industrial as opposed to residential. I guess that's kind of my rebuttal at the moment. Thank you for your time.

**Chairman Dion:** Thank you, sir. Is there anyone else in the audience that would like to speak neutrally or against?

**2. Angela Schilling: 35 River Road:**

I just want to know where the building and from the property line is it going to be from my house.

**Chairman Dion:** Which one is it? 35 River Road?

**Angela Schilling:** Yes.

**Mr. Witham-Gradert:** Clarify your question.

**Chairman Dion:** You're asking distance?

**Angela Schilling:** Yeah. I'm just wondering like yeah from my house; like the tree line along the property; like how close will the tree lines be? I mean the building.

**Chairman Dion:** I think the applicant previous stated; I think it was 178 feet was from Building 4 to your property.

**Mr. Sakati:** Was it to their house or to their property? I think it was clarified.

**Mr. Chisolm:** That was roughly building to building. The proposed building to the property line is about 100 feet, pretty close to that point.

**Angela Schilling:** I have that stream that goes down beside my house. So it goes, 100 feet would be off the stream?

**Chairman Dion:** It's to the property line I believe, which looks like about the stream. Yeah.

**Mr. Lyko:** It looks like your property line's right around the stream which is about 100 feet to the nearest side of the building.

**Angela Schilling:** The stream is on our property. I'll be able to see this building and everything during the Fall. I'll be able to look at this nice metal building. I don't know.

**Chairman Dion:** Okay. Thank you, ma'am. Is there anyone else in the audience that would like to speak neutrally or against the rebuttal? Sir, could you please speak into the microphone your name and address?

**3. Arthur Reuben: 41A River Road:**

Okay. I'm Arthur Reuben and I'm a newcomer to the town. I've been living over in that area for almost four years now. I've been watching and watching these people pay their taxes. They don't get anything for the taxes. They have to go up and plow their own road. They have to do all their own repairs. They get absolutely nothing for a lot of money. I'm listening to these people and they've been living there for 30 years, 35 years, 40 years and now you're going to put this next to them. It's a lot to be said for another town.

**Chairman Dion:** Is there anyone else in the public that would like to speak neutrally or against? I'm not seeing anybody else. At this point I'd like to close the public comments and bring the matter before the board for discussion.

**(Public comments closed at 8:37 PM)**

**Board Discussion and Deliberation- Variance A**

**Mr. Boyer:** Because we're in a public setting, there has been many mentions about what the town has done and paying property taxes and such. As long as everybody in the public understands that the Board of Selectmen meet every other Tuesday in this building at 7 pm and you are free to go at the beginning of every meeting. There is public input. You can express your concerns and your desires and your needs that the Board of Selectmen can maybe take into consideration to fulfill some of those wants.

**Chairman Dion:** Any other comments, any points of discussion that we want to make about the case.

**Mr. Sakati:** There's a lot to talk about, I think.

**Chairman Dion:** All right, the floor is yours Mr. Sakati.

**Mr. Sakati:** One, just to the address Mr. Boyer's point, I think the Board of Selectmen is a great venue for people to get up and voice their general concerns. They're all really valid. We really appreciate. This board welcomes feedback. We appreciate you being here tonight. I know it's difficult.

I have a lot of thoughts; 1) I probably most overarching, I feel like we are...I don't feel like this even belongs here. I think we are talking about rezoning and I believe that this is, as it was said earlier, this goes with the property. It's like we are changing zoning by de facto with the decision that if this is approved. I don't think that's what this Board should be doing. I think that belongs to the Planning Board with the broader plan or an amendment. I heard the idea of an amendment. I think that's more appropriate. I'll just start there.

**Chairman Dion:** Okay.

**Mr. Boyer:** I did go back and forth quite a bit. I spent quite a bit of time on the computer looking at different things. One of the things that I came up with is that if you start on River Road, right at the boundary of New Hampshire, right at the boundary of Hudson and you start traveling up, it is all business and commercial and industrial uses. Then, all of a sudden, whack, you have a house and then you have a couple more businesses and buildings, metal buildings, storage buildings, industrial buildings and then boom, a house. That whole section of Southern Hudson, in my eyes, is a very big mixed-use area. One of the problems that I see is that the use is allowed on this property. It may not be the whole entire property but it is allowed on this property. To the applicant's point, if it was directly across the street, they wouldn't even be here. The neighbors would be looking directly across the street at these buildings as some of them are with the larger building further to the south. So, with the property owner's rights in mind and the fact that the use is allowed on the property, I'm leaning towards allowing the use to be used because it can be.

**Mr. Sakati:** The way I look at it is, there was a determination that was made by Mr. Buttrick, which was looking... because I was researching this too... because I just couldn't get my head around how you can zone something in three different ways. It occurred to me as I was looking at it... (Can we go back to this? Pointing to zoning layer) We have three different pieces of zoning on that property. If you look at those residentials that are over to the left of that line, you can see a road that runs adjacent to the line. If you can actually just, if you don't mind, just pointing to Eagle and then Fairway. All those properties is everything north of that up until 2020 was G-1. You can look at if everything's north of that's G-1, that line continues through that cul-de-sac, all the way over to River Road. I believe, right, is that that's...(incomplete) and what happens is Mr. Buttrick took a look at this and said, "no, that's incorrect". What he did was, he made a proposal to the Planning Board to change it because what they did in... 2004, is they used the center line of a road where you have like abutting, like a G-1 as it abuts residential.

They use the center of the road but then that makes a mistake because everything is purely residential has been made G-1. I think that line, when he made that determination, he addressed all the residents that were along those two roads. He didn't address the rest. That's my supposition to be really clear. So, I kind of look at it, Mr. Boyer, kind of to your point, a little bit the opposite. Yeah, you could have three different zonings but, in the sense, it goes to the highest common denominator which would be the residential because it sits next to residents on each side. Therefore, it's encircled by these residents. Then, when I get myself to the point of thinking about what that means, that means you're changing the character. I get the point too that along River Road, there's a hodgepodge but within this area, it seems probably a little more contiguous than most areas. I think we kind of heard that with some of the resident's testimonies because they're right next door to it. They're directly impacted.

**Chairman Dion:** Yeah, I kind of agree a little bit with some of your thoughts. I think actually the application or what was presented from the Applicants, they actually put it pretty succinctly. I think they could put it better than I would. They had stated, the lot is zoned R-1, R-2 and G-1 with the majority of the lot in R-2 which favors residential uses, not commercial and industrial. The purpose of the zoning ordinance is to keep similar uses together to protect property values and protect against adverse impacts on neighborhoods. That's what's stated from the Applicants. If we're looking at this from an overhead shot, everything essentially around it is residential. You know we've got that G-1 zone. To the north, you have the new Target facility but to the east of there, it's just an unused lot. It's essentially where we have the power lines going through. I don't know if it's set up as a trust or anything like that. The other abutting properties that are in the G-1 are residential to the north. You have that pretty large TR zone. You have a R-1 zone here to the east. You have an R-1 zone to west (and) the R-2 south. The whole thing is surrounded by residential. The bulk majority of this lot is R-2. The entirety of what they want to build in is R-2. They're not even building anything in the G-1 zone so it's hard for me to wrap my head around essentially as you're stating, Sakati, rezoning this as G-1 when everything that they want to do in a G-1 sense is in the R-2 as it currently stands. That point is ripping the R-2 zone in half. Any other questions discussions from the board?

**Mr. Lanphear:** I kind of see what Todd's talking about how southern Hudson... I mean I've lived here all my life. I'm sure as well... I left for years but when I was a kid, I grew up, it seems like south Hudson was like a dump of all different things. It had Ayottes. It used to be, wasn't it Pines Cheese Pizza? (The) pizza place was over there. That was right over the Tyngsboro. It's just always was a mishmash of different little businesses that were down there because they were capturing the Massachusetts people coming in paying no tax, coming to New Hampshire and go back. It was great but now we're looking at it like everyone want to see it nicer and prettier and they want little Tuscany Villages in Hudson. It's just you have to find the right places, in the right areas where to put these places. This is not that place. They're not trying to do that as well but it's just that's another avenue that we have to deal with whether it's with zoning or they have to redo the area of southern Hudson. To redo that area so it can be built up different, that's something that will have to be addressed up through, I don't know if it's the Selectman that do it or is it ZORC?

**Mr. Witham-Gradert:** Rezone would go through ZORC and then the Planning Board.

**Mr. Lanphear:** ...go through ZORC, then the go to the Planning Board, then it goes to the board then it goes to the people get the vote on it. Same as this, if they really wanted it, they could go to ZORC. They could go to Planning Board, Selectmen and get it so they could rezone that whole area. That yellow (looking at GIS Map) is all gone. It's just going to be all G-1 right there; maybe not theirs. It might be the next guy's house over but it's something. Most of



what they want to do is still in an R-2 district. You're asking to like redo the whole thing. Like they said, they can't build like Tristan said they can't even build it on in a G-1 because the setbacks is so big that they can't do nothing in it. I was tossing back and forth the same thing. It's kind of okay and then it's like uh... I get where you're coming from as well (pointing to Mr. Sakati).

**Mr. Sakati:** I think the situation gets worse as well if this were approved then it's like one of the gentlemen who got up and spoke; "well, why can't I do it then?" Then are we willing to variance everything which means we're essentially de facto rezoning which is what I have a problem with. I have no problem; get an amendment; go before the people; go to the Planning Board; try to get it included in the master plan. Those, to me, seem like the right forum for this but we have our criteria. It's been brought before us.

**Mr. Lanphear:** We also don't know because that curve is there, maybe the town back in 2004 or whatever and DOT talked said, "The best use for you to be right there is maybe in R-1 because of the traffic." If it was commercial, they think that curve is too dangerous, whether there has been, people say there's lots of accidents in that corner. They get mailboxes ripped out or whatever. Maybe they found the least traffic would be in R-1 and R-2. I don't know. I'm throwing out what they could have been talking about that day when they're redistricting this and why they put one lot in three one. I know when I was in ZORC, we were trying to fix a lot of these ones that had three, four different ones. We're trying to straighten out. We can only do 14 every year, I think...so many per year you could do in ZORC...

**Mr. Witham-Gradert:** You can do as many as required, however a practicality for how many can go on the ballot is heavily limited.

**Mr. Lanphear:** ...We had to address the bigger ones first and then each year they just keep going, and going, and going. They might not have gotten to this one yet for the new avenue end of it, I should say.

**Mr. Boyer:** The applicant had made note about different constraints with the R-2 zone that was hindering them from being able to use the R-2 zone or use it in the manner in which the R-2 zone has for abilities. So, with their argument of the fact that there's no sewer there so they can't get residential, you can't put an apartment building because there's not enough perk on the land in order to support the septic systems. If this application was denied, if this variance was denied and then somebody else comes forth with residential use, we already have testimony that there's not enough perk on the land to support septic systems in a residential manner that could possibly harm the water system, the river, the stream, the wetlands that are behind there. If the property is going to be developed and there is going to be less impact to the actual earth itself and the applicant is stating that the industrial use can share a septic system and there's going to be less impact to it, it's bringing me back to the fact their hardship is you can't necessarily use the R-2 zone as intended. The G-1 zone intention does work and is less impact on it. I understand that it is right next door to residential but at some point in time, there has to be what they call a transition between the residential use and an industrial or a commercial or a different use of some kind other than residential. There has to be that transition point. When I look at it, I see that the lot right above it is G-1, G-1, and it keeps on going. Everything over here is G-1. I understand that there may have been a mishap with rezoning the property but the fact is that this is what we have today. If this is what we have today and the majority around it is all G-1 and we have an Applicant that wants to utilize his property as G-1 and has stated that the uses for R-2 are in-cumbersome to him, you go back to allowing the variance and allowing the use.

**Mr. McDonough:** I think it is a bit speculative to say that all residential use on that would not work. I mean the Applicant even indicated early on that they haven't done full sewer or septic system analysis even for the commercial side. I think it's a tricky line to get into to say what could or could not be done on a residential standpoint without adequate engineering having been done. I'm not saying the residential does support it. I'm saying, it's a bit speculative to think that it couldn't be done. Nothing is stopping the Applicant from building one very large single-family home with two bedrooms which would theoretically minimize your septic system requirements. I guess what I'm getting at is I'm not sold that the R-2 isn't a suitable use.

**Mr. Sakati:** I tend to agree with that but the reason I come to it, that I agree that, I don't think there's been an adequate study. I think it was more just conjecture, like we can't do this. There're a couple other properties there and I don't know where they are on this map but if some of the folks spoke today where they have duplexes. They have like a spur that goes in. They have a few duplexes or down below just off Chalifoux, the same thing. It seems to me that other property owners have done something and have been able to use that in some capacity. Whether that could be done on this, I don't know. Again, I think this is de facto rezoning.

**Chairman Dion:** I think the Applicant had stated that there was difficulty not on putting a single house but it was seven residential houses.

**Mr. McDonough:** Yeah, and I guess at what point does the Board recognize profit as a hardship and that's something I'm not sure I have a good grasp on mentally for this argument. Money makes the world go round but I'm not sure that's the right decision-making tool for this.

**Chairman Dion:** The other thing too to note is we have that G-1 zone that's going through the North area. Those are also residential so even though it's G-1, it's also abutting all residential to the north except for that small sliver that you've got that it's touching the Target property.

**Mr. Lyko:** First thing I just want to go over is I've been to ZORC. We've talked about taking one property and trying to change it but there's a term called spot zoning and it's technically illegal. I don't think going through ZORC and going through town warrant articles to make this single lot...I don't think that's the right way. I think what they're doing is the right way. It's a 10-acre lot and to try to limit someone saying, "Well, you can build one house on this giant lot so go tough pound sand." I don't think that's good enough. It's a ten (10) acre lot. They're allowed to do what they can. It's a combination of hardships for me. It's if there were no wetlands, they could build a good amount of houses with septic systems safely and do it right or if there was sewer hooked up right there, they could easily have a bunch of residential houses safely and done. But, it's a combo of the wetlands limit, where they can put stuff and then there's no sewer for miles. It's not going to happen. We all know that. Between that and then when you look at that map, part of it, almost a third of the property is in G-1. Right to the North is all G-1. There's the little bit of residential but unfortunately as soon as you go right past those two houses, there's the golf thing. There're all those businesses right across the street. There's the business right down the street. There's commercial and residential and business that bonds everything. So, it is a goofy neighborhood to say that's keep stays within character. It's tough because it is goofy and when there's something right across the street that's industrial, ... they're here for the hardship is why they're doing this. Like I said, I'm sure if they could, they would have just built houses or if that's what they wanted but it is their property unfortunately and they want to do what they think they can mastermind. The combination of the hardships is what gets me.

**Chairman Dion:** I'm like half and half on the hardships in the sense the second half of that the "owing to the special conditions of the property that distinguish it from the other properties in the area." This is the second half of the statement and you know some of

the other houses to the South are also having to deal with the wetlands so they're kind of in the same boat when it comes to that. To me, the only thing about it is the fact that it's split zoned and it's just larger than everything else in the area.

**Mr. McDonough:** While it's split zoned, we have noted that there's more or less bordering residential properties. While across the street, given its different use but on the other sides it's residential. If we're looking at a neighborhood characteristic, we could loosely define it as business across the street, residential on my side.

**Mr. Lyko:** But it's touching business and two houses down on that street is business. It's not like you're putting it right in the middle of Eagle Drive, right in the middle of a neighborhood. It's on a pretty main, state road. That's just my thing.

**Mr. McDonough:** I'm not arguing. This is not a complex issue. I'm not trying to oversimplify it as well. I understand both sides, not personal.

**Mr. Lyko:** I'm not trying to...

**Chairman Dion:** Any other discussion, motions, thoughts?

**Decision-Variance A: Proposed Industrial Uses – Drop Ship Use (E8);  
~~Welding Shop Use (E3); Machine Shop Use (E4)~~ (rev 8/12/25 ZBA Plan -  
Building 3)**

**Motion by Mr. Sakati: To Deny**

**Seconded by Mr. Lanphear: To Deny**

**Mr. Lyko: To Grant**

**Mr. Boyer: To Grant**

**Mr. Dion: To Deny**

**Roll Call Vote: 3-2 Motion Carried: 3-2 Not Grant**

**Board Members speaking on each Variance Criteria for Variance A**

**1. Granting this variance will not be contrary to the public interest:**

**Mr. Sakati:** This adds industrial or pseudo-industrial use in the midst of residential homes to each side of the property. It changes the nature of those residents and their units that abut the property and down the street from the property, which is those condo units.

**Mr. Lanphear:** I believe that it will change the character of the neighborhood and also threaten the public health, safety, and the area being as an R-2 zone and a residential going into an industrial.

**Mr. Lyko:** Granting the request will not be contrary public interests. There are other industrial buildings close by and along the road. There's a good amount of natural screening and more can be added. Part of it is G (General) and across the street is also G (General).

**Mr. Boyer:** I believe the applicant has stated that there'll be inside storage only. The zone is on the Applicants lot so the uses are allowed. The uses are allowed on the surrounding properties around him.

**Mr. Dion:** I think the public interest for the zoning is to not having conflicting uses in the neighborhoods. The predominant usage or lot as it currently sits is R-2. And the makeup of what they want to be able to place in that space is all within the R-2 zone. None of that land, none of the land that would be utilized would be within the G-1. I think by doing this, they're effectively ripping that residential neighborhood in half. Everything around it, I would characterize as residential until you get across the street.

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

**Mr. Sakati:** The spirit of the ordinance is to retain R-1, R-2 zoning, the predominant zoning on this parcel. To change this is essentially rezoning the property to a full G-1. I'm concerned about safety, that there's a potential risk with the bend in the road. I understand the applicant's consideration that it may not be the worst side of the road to be on, but it's still a tough side of the road to be on. And so with that bend in the road and the combination of industrial-type uses, as indicated by the residents, this will be a safety issue.

**Mr. Lanphear:** I believe the spirit of the ordinance will not be observed. It does change. We're doing a major zoning change to a piece of land that is split in multiple directions, but most of the part seems to be in a zone, R-2, and then they put, it does not enhance the area and is for the public's advantage.

**Mr. Lyko:** The proposed use will observe the spirit. Just like number one, it's a split zone with more G (General) and industrial buildings close by. There'll be nothing stored or worked on outside and will not threaten the public health. No sewer makes building residential not ideal.

**Mr. Boyer:** The proposed use will observe the spirit of the ordinance. The Applicant has followed the proper channels and has come before the board and expressed his ideas and concerns and his hardships for the property. I believe that he has followed the proper channels.

**Mr. Dion:** The purpose of the ordinance is to keep similar uses together to, as the Applicant stated, "keep similar uses together to protect property values and protect against adverse impacts on the neighborhood." I think that they put it very succinctly that I think that you are just essentially destroying the neighborhood. You're cutting in half. It's not going to be all kept together.

**3. Substantial justice would be done to the property owner:**

**Mr. Sakati:** You know, in my mind, any perception of justice does not outweigh the harm to the general public or the individuals by changing the character of the area or neighborhood. And secondly, any perception of justice does not outweigh the harm to the general public or individuals by increasing potential safety issues.

**Mr. Lanphear:** I believe that it would only be for the property owner and not for the area. Like as in, it's just basically just, it only helps the owner of that property, and that's it, and the general public is basically just getting pushed on the wayside.

**Mr. Lyko:** Substantial justice will be done because the wetlands and no sewer make it hard for residential. The small park will not outweigh harm to the public.

**Mr. Boyer:** I believe allowing property owner to utilize their property in a manner in which they choose. That is allowed. It is substantial justice.

**Mr. Dion:** As far as justice being granted, I don't see any harm to the general public from granting the variance.

**4. The proposed use will not diminish the value surrounding properties:**

**Mr. Sakati:** I see changing the zoning or the use of this property would most definitely decrease values of properties that abut or nearly abut the property. I think we heard the testimony from one resident who suggested that, well, if they can do it, why can't I just turn my property into something that's more commercial?

**Mr. Lanphear:** I believe it will diminish the values doing, having the residential next to such industrial. I know they're not doing, I know everyone brought up about welding and stuff, but they did remove that off of the table of not to do welding. So I believe some of the other things

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that they're going to be doing that could still put in perspective as in landscape use, whether it's putting in motors for landscapers and gasoline and stuff like that, you're dealing with hazardous chemicals.

**Mr. Lyko:** I don't think it will diminish property values. This small park can be contained inside the buildings and will have screening. I think it would be better than a vacant overgrown lot.

**Mr. Boyer:** The proposed use won't diminish the values. The Applicant has stated that they will comply with Planning Board's landscape screening and such. They are also right at a transitional point within the property zones. I believe that it won't diminish the value.

**Mr. Dion:** As far as diminishing the surrounding property values, I know that the Applicant had said that, for point two, that you want to be able to protect those property values, but I think that's always up in the air. I think it's hard to judge whether or not things like this will affect it.

### **5. Unnecessary Hardship:**

**Mr. Sakati:** I understand the property is difficult. I'm not seeing the criteria of hardship. The desire to change the zoning is, in my mind, a choice to maximize the value rather than coming back and maybe proposing something that's more residential in nature.

**Mr. Lanphear:** The applicant has really enforced the proposal to the ordinance. No fair and substantial relationship that is between the general public purposes, the ordinance provision, and the specific application of the provision of the property. And I believe that it can work both for the zoning rules for that area, but being as an R-2, it would work in that plan as well, better than being trying to be pushed into an all to a G-1 zone. The proposed use is not a reasonable one, I believe not.

**Mr. Lyko:** Literal enforcement would be a hardship because the split zones, the lack of sewer and the large wetlands prevent building residential, utilizing the whole 10 acres makes it very difficult and limited. It's a reasonable use to light industrial park with everything done inside.

**Mr. Boyer:** The hardship is the fact that there's three zones crashing right into the middle of this property. I believe the Applicant does have a hardship with the R-2 uses. Therefore, the fact that the uses for the G-1 are there and that is what he would like to use on the entire property, I believe that is his hardship.

**Mr. Dion:** As far as the unnecessary hardship goes, I do think that there is a hardship on the property in the sense of that there is, yes, a lack of septic. There is large setbacks that have to be observed from the wetlands and, you know, the overarching split zoning, which is why it's here. And, yes, I do think it's somewhat reasonable for the space as far as what they want to do. It's just the unfortunate truth is I think that it's splitting up the zoning and it's going against the spirit of the zoning ordinance as it stands.

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### **Transcription-Variance B: Proposed Industrial Use – Contractor's yard & Landscape Business Use (E15) – Buildings 2 &4**

**Chairman Dion:** Could you please read the second case or point b (Variance B).

**Mr. Witham-Gradert:** (Read case into the record for Variance B)

**Chairman Dion:** Would the applicant like to speak to Variance B?

**Applicant Testimony:** Elizabeth Hartigan of Gottesman and Hollis and Paul Chisolm from Keach-Nordstrom presented on behalf of the Applicant. **Variance B:**

**Ms. Hartigan:** Variance B is specifically for contractor's yard and landscaping businesses. I think that allowing this use, well, I don't know. I'll be honest. I'm not sure how we handle this. If we were denied one, I don't know what that building, we have to clarify which building, what will we use in that last building?

**Chairman Dion:** I believe you would clarify that each building had a particular use.

**Ms. Hartigan:** Right, and so building three is denied, essentially.

**Mr. Chisolm:** With that use.

**Ms. Hartigan:** For that use. So, I guess we can just see how the cookies crumble, if you will.

**1. Granting this variance will not be contrary to the public interest:**

The request right now is for Building 2 and 4 to allow contractor's yards, and landscape businesses. This use is keeping in the spirit of the neighborhood in that the neighborhood is not just the direct abutters of a property. Otherwise, the courts would have said, what are the abutting properties uses? So, you have to think broader than just the direct abutters as far as what the character of the neighborhood is. The character of the neighborhood being on River Road, which is a mixed use, sort of use, between residential and businesses. Contractor's yards, specifically where it's only indoor contractor's yards. We're not talking about exterior uses. Sure, there may be a landscaper having their trailers in and out of the property, but we're not talking about something that is a hard use, if you will, in the industrial type sense. So, I think that is an important note. So, allowing these uses will not alter the character of the neighborhood, as the neighborhood already has similar industrial-type uses that are not, as one of the abutters had said, "we don't even know what they do over there" with a contractor's yard where it's internal use. It's going to be a similar, we're not sure what they're doing over there, but they're there.

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

The spirit of the ordinance is G-1 is across the street. This is a permitted use. G-1 is on this property, it's permitted use. I understand that some concern is we're not building any of the actual use where the G-1 is, but that's largely due to the shape of this lot. It's not a rectangular lot. It's not small in size. There would be probably more concerns over the amount of impervious surfaces based on parking lots and driveways and everything to get back to that portion of the lot, as well as the wetlands. We are trying to maintain the best use of this property based on its characteristics of having wetlands, not having sewer, and just the general shape of it.

**3. Substantial justice would be done to the property owner by granting this variance:**

The substantial justice would be done by granting this variance, allowing the property owner to make use of its property for something that would not really impact the neighborhood. There's more than adequate space to allow for sewer and septic requirements for this type of use. Denial will impose substantial harm on the applicant, which is not outweighed by harm to the public. It's not that the public gains something. It's that there's specific harm to the public. And this use is also consistent with the uses in the area. There'll be no real change to the neighborhood. Again, it's not just to the direct of butters. It's just what is in this general area. And typically, that is seen by what road are they being accessed on. The courts, I'll be honest, haven't given great demonstration on exactly what neighborhood means. But in this case, we're talking about River Road generally, in my opinion.

**4. The proposed use will not diminish the value surrounding properties:**

They will not be diminished the values. As we said before, all of the buffers will be held. There'll be sufficient natural buffering. All the uses will be inside. So, there'll be no noise and everything will be contained inside.

**5. Unnecessary Hardship:**

There is hardship as this property is unique. It's a large parcel. There's vacant land across the street and behind it as well. There'll be sufficient buffering from the wetlands. There's no sewer on the property or reasonable access, as we've discovered. And the other uses are not reasonable. This request is reasonable.

**Chairman Dion:** Thank you. Any questions for the board or the Applicants?

**Board Questions to Applicant Representatives-Variance B**

**Chairman Dion:** A question I've got for you for this one, with it being a contractor's yard and landscape business. I don't know if we ever really figured it out. Are these going to be loading docks all the way across? And if they are, are they going to be ground level?

**Ms. Hartigan:** They're not loading docks.

**Mr. Chisolm:** Yeah, I wouldn't call them loading docks as much as potential, like, bays to drive in and out of or to get, you know, equipment in and out of that might be stored inside. But not traditional loading docks in the sense that there's an elevation difference and you're backing trucks up into it or something along those lines. In an industrial sense.

**Chairman Dion:** So, large overhead doors, essentially.

**Ms. Hartigan:** A full-size garage, if you will.

**Chairman Dion:** Okay, I was just trying to get a feel for what it was going to be with it, the stipulation being, if it's there, no outside storage.

**Ms. Hartigan:** Correct.

**Chairman Dion:** And, you know, a lot of these contractors, landscapers have very large trailers. They have heavy-duty trucks, things like that. Just making sure that they'd be able to keep all of their equipment inside.

**Ms. Hartigan:** Right, well, the trucks would be permitted parked in the parking lot, just because that's what a parking lot is for. But they would be limited based on just the uses within the, based on the number of units. If you had a fleet, you couldn't do that because marketability wouldn't allow. The applicant wouldn't be able to lease out one space to someone with a fleet. Then, they'd take up every parking space. That just doesn't feasibly work. The Planning Board wouldn't allow that either.

**Chairman Dion:** So, from that, could you just clarify a little bit what you would consider to be outside storage or no outside storage?

**Ms. Hartigan:** So, outside storage, typically, and from what I've seen in other projects in Hudson, is the gravel, piles of gravel, mulch. Say I had a plow company and I had eight plows. You can't have eight plows sitting outside, those kinds of things. If it was a machine shop, I couldn't have a pile of metal or an engine sitting outside. Those kinds of things would be, again, we're talking specifically for a landscaper's yard. That's really what it comes down to is usually the plows, a lot of the trailers, sanders, spreaders, those kinds of things that would not be stored outside.

**Chairman Dion:** Okay. So, the only thing that theoretically would be outside would be the trucks that they're driving from site to site.

**Ms. Hartigan:** Right.

**Chairman Dion:** Okay. Yes, Mr. Boyer?

**Mr. Boyer:** A contractor's yard, are you envisioning, the possibility of plumbers that would have staging inside these units and they would be able to warehouse their own supplies and stuff, show up in the morning, fill their vans (&) leave, electricians. So, simply because you have the word landscape business as well, doesn't mean that the contractor's yard, you're trying to depict cement blocks outside with peat moss and bark mulch and things like that. You're more along the lines of a similar use that is further south on River Road on the east side and also up here at the corner of Pelham Road and Lowell Road?

**Ms. Hartigan:** Correct.

**Mr. Boyer:** Okay.

**Ms. Hartigan:** Correct. That's exactly the intent. It's sort of have the electricians, the plumbers, HVAC people may have a van or two, but most of their storage, most of their things are stored inside, maybe have an office portion. And that's exactly what would be. That's the envision.

**Mr. Chisolm:** What I would add to it is don't get hung up on the specific language of use E15. That's a very broad term and that's just specifically the way that it's written there. A lot of things fall into that. For example, the table of uses doesn't contemplate an electrician or a plumber or a, this or a that, HVAC, that type of thing. This is what all of that stuff falls into. The intent for the use specifically to this development is not for some of those other things that might also fall into that because of the restrictions that we are suggesting that you put as conditions to prevent outside storage of materials and things like that. So, yeah, Todd, I think you're exactly right. It's those types of developments that are probably more likely to mimic this than some others.

**Ms. Hartigan:** Correct. Painters, those kinds of things.

**Chairman Dion:** Any other questions, discussion from the board? Nothing? Okay. Thank you, guys. At this time is there anyone in the public that would like to speak for the application? (No-one observed) Is there anyone in the public that would like to speak neutrally for the application? (No-one observed) Is there anyone that would like to speak against this application?

**(Public Comments Opened at 9:24 PM)**

**Public Comments (In Opposition of application): Variance B.**

- 1. James Crowley- 4 Fairway Dr.:** I'm James Crowley of 4 Fairway Drive. I've lived there 38 years. We're on the Variance B. Whatever I said for A, please copy that in your notes. This is contractor yard and or landscape business. I hear all inside. Well, there's definitely got to be some overnight outside parking of vehicles. The claim that the equipment and materials will be inside, but really what comes down to again, I have hearing issues, but backup alarms, you can hear them a long ways away, even if you don't have a hearing problem. And you're going to be delivering fertilizers. You're going to be delivering pesticides. These are going to be bulk storage things. You don't see bulk storage in residential areas. There's a potential here of that being spilled or whatever. If you override doing residential, then you're adding that potential to this area. I know what there could be plumbers, electricians, and they store their materials and they come and go. But again, you got to bring these supplies in. You're going to have additional traffic from trucks. You're going to have your backup alarm problems. And again, you don't normally store bulk fertilizers and pesticides and things like that. I don't know what else. Some of these other contractor yards might bring in some other type of hazardous materials. Let's say they work on electrical batteries or something like that. Maybe they work on different things. They could do processing of contractor... I used to like to go to it. There was a little salvage area that did computer stuff and that. They used to

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break it down and send it off. They'd have, of course, they had outside dumpsters, but there was in computers and TV's and different things like that. There are hazardous materials in that. I don't know. I'm just trying to give you the opposite view. I don't think it's all rosy, that everything's going to be inside, well contained and soundproof. Thank you.

**Chairman Dion:** Thanks, sir. Is there anyone else in the audience that would like to speak against the application? Seeing None. Would the Applicant like to rebuttal any comments from the public?

### **Applicants Rebuttal: Variance B**

**Ms. Hartigan: Site Plan-Note Recommended-** I'd just like to point out that if there's a note on the plan and especially if there's a note on the site plan, a condition of this use, nothing will be stored outside. I'll be quite honest with you; Chris Sullivan is really on it. I've gotten a couple of different clients based on monitoring of the town saying hey you're not in compliance with your site plan. You have stored things outside or whatever it may be. Sure, it does happen occasionally but the town is on it. You have like 10 days to figure it out. I don't think that should be something to prohibit this new development where the uses will be contained inside.

**Hazardous Waste-** As far as hazardous waste, I think that there's probably more misuse of hazardous waste in residential homes than there probably is in a commercial setting where that's what they do every day. That's probably speculative, but I do think it's important to note that there's plenty of hazardous things in any resident or any place. Where it is a place of people's point of business, it's typically taken care of. As far as keeping a pallet of fertilizer or something along the way, the point is to use it where it is supposed to be used and not in their warehouse. I don't anticipate there being overly hazardous waste issues.

**Storm Water Management-** There's also stormwater management as has said that it would be significantly more regulated than if this was a residential use. Thank you.

**Chairman Dion:** Thank you. Are there any further public comments for?

### **Public Comments on Applicant Rebuttal**

#### **1. Angela Schilling: 35 River Road**

These buildings, do they all have restrooms and sinks and everything in them where one septic is not going to cover it? Do they have to have that stuff in them? Are they going to?

**Chairman Dion:** That would all be figured out at planning. That's well outside of our purview

**Angela Schilling:** Okay. Well, that's something else to think about.

**Chairman Dion:** Thank you. Is there anyone else in the public that would like to respond to the rebuttal? Seeing none, I'll close public comments and leave matter for discussion for the Board. Any thoughts? Questions? Anything we want to discuss for point B, being the contractor's yard and landscape business use for Building 2 and 4?

**(Public Comments closed at 9:31 PM)**

**Decision-Variance B: Proposed Industrial Use – Contractor’s yard & Landscape Business Use (E15) (rev 8/12/25 ZBA Plan-Buildings 2 & 4)**

**Motion by Mr. Sakati: To Deny**

**Seconded by Mr. Lanphear: To Deny**

**Mr. Lyko: To Grant**

**Mr. Boyer: To Grant**

**Mr. Dion: To Deny**

**Roll Call Vote: 3-2 Motion Carried: 3-2 Not Grant**

**Board Members speaking to each Variance Criteria for Variance B****1. Granting this variance will not be contrary to the public interest:**

**Mr. Sakati:** It adds industrial type usage in the midst of residential homes which are R-1 and R-2 zone. This is tri-zone; therefore, I think it defaults to the R-1 and R-2. If it were approved, it would change the nature of the residential area.

**Mr. Lanphear:** I believe that the use for the landscaper’s yard in landscape business will not go with the character of the neighborhood, a residential area trying to put in an industrial zone property.

**Mr. Lyko:** Will not be contrary to public interest. Other industrial uses close by. It's a big lot where a part of it is already in the G zone for uses.

**Mr. Boyer:** Granting the requested waiver will not be contrary to the public interest due to the fact that the use is on the property right now and the use is allowed on surrounding properties.

**Mr. Dion:** With it not being contrary to public interest since it does not conflict with the explicit or implicit purpose of the ordinance, I think the public interest regarding the ordinances is not to have conflicting uses in the neighborhoods and within the zones itself. We stated it before that essentially; it's cutting that R-2 zone right in half. The predominant space of this lot is residential. It's predominantly surrounded by residential both to north south and to the west.

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

**Mr. Sakati:** In my mind, is retain R-1 and R-2 zones. It’s most of the property. This would change that. Safety is a concern, given the turn of the road as well as potential incremental traffic.

**Mr. Lanphear:** I believe it will not be essential to exploited to the neighborhood to the public's health and safety and welfare of the whole neighborhood as a whole.

**Mr. Lyko:** The street is a mixture of industrial, residential and businesses. It will not threaten safety.

**Mr. Boyer:** The proposed is in the spirit of the ordinance simply because the applicant has followed the proper channels and procedures in order to try to use the property in the manner in which they so choose.

**Mr. Dion:** I think that the purpose of the ordinance is to keep the similar uses together to protect the property values and protect against adverse impacts in the neighborhoods and I do think that this is a major shift in the makeup of the surrounding area and the surrounding neighborhoods in the sense that as it sits, like I stated earlier, everything surrounding it is all residential and it would change the character of that area.

**3. Substantial justice would be done to the property owner:**

**Mr. Sakati:** Any perception of justice does not outweigh the harm to the general public as well as the potential safety.

**Mr. Lanphear:** I believe that the owner would benefit by granting the variance but will not benefit the zone of most of the areas around him being in an R-2 zone trying to convert 70 something percent of an R-2 or R-1 and R-2 into a G-1 zone.

**Mr. Lyko:** Justice will be done because the lot is very big but limiting. It does not outweigh or harm.

**Mr. Boyer:** It would allow the property to be developed. It would allow the property owner to use it in the manner in which they want with a use that is on the property.

**Mr. Dion:** I don't think that putting this there would have any sort of harm to the general public.

**4. The proposed use will not diminish the value surrounding properties:**

**Mr. Sakati:** Changing the zoning would most definitely decrease the values of neighboring properties that are residential.

**Mr. Lanphear:** I believe it would not benefit the surrounding properties by changing the zone by granting the variance.

**Mr. Lyko:** This should raise property values that small park with similar buildings close by.

**Mr. Boyer:** I believe that the area is a mixed-use area in town of industrial buildings, commercial buildings and houses. So, I believe it won't change it.

**Mr. Dion:** I think the value of properties; that's a neutral point. I don't think we can make any speculation because there's nothing there yet.

**5. Unnecessary Hardship:**

**Mr. Sakati:** I don't see the hardship as being sufficiently met by specifically not having adequate sewage. That's why I come to my conclusion to deny.

**Mr. Lanphear:** I don't believe that the special conditions of the property that distinguish to allow this use. By allowing it would outweigh the difference of because of sewage and other proposed things that they've concerned. The proposed use, I believe is not a reasonable one so my motion is to deny.

**Mr. Lyko:** Hardship presents a big lot with three zones, lots of wetlands and no sewer makes building in the residential very limiting. The proposed use is a reasonable one. I think the park fits and it's a good size for the lot to grant.

**Mr. Boyer:** To say that one particular zone outweighs another zone, I believe does create a hardship. I believe the fact that there are three different zones on this piece of property is in fact the hardship. So, I would move to approve.

**Mr. Dion:** I do think that there is an unnecessary hardship on the property owing to the wetland setbacks which are pretty substantial. It is a split zone property and the fact that there is no sewage on the property. I do think that what they're proposing is fairly reasonable. I just don't think that it meshes well with the current zoning. So, for that I vote not to grant.

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**Transcription-Variance C: Proposed Commercial Uses – Medical and Wellness Office (Business or professional office) (D17); Cross Fit Gym (Indoor commercial recreation) (D20); Florist (Retail sale of agriculture horticulture, floriculture and viticulture products) (D30) – Building 1**

**Chairman Dion:** Could the Zoning Administrator please read in point C (Variance C)?

**Mr. Witham-Gradert:** (Read the case for Variance C request into the record.)

**Ms. Hartigan:** The Applicant wishes to withdraw the use C.

**Mr. Dion:** Do we have to vote on that?

**Mr. Witham-Gradert:** No.

**Ms. Hartigan:** No, we're withdrawing that.

**Mr. Dion:** Thank you. Also keep in mind that you have thirty (30) days to appeal the decisions of both cases that were decided on. Thank you to everybody that came in attendance.

**VARIANCE C WAS WITHDRAWN BY THE APPLICANT**

**The Board recessed at 9:41 PM. The meeting was called back to order at 9:52 PM**

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**NEW HEARING:**

**2. Case 191-011 (08-28-2025): Selyn M. Sanville, Power of Attorney for Christine Cabral, 12 Regina Ave., Hudson, NH [Map 191, Lot 011, Sublot 000; Town Residence (TR)] requests two (2) variances as follows:**

- A.** A variance to allow a proposed approx. 1,445 sq.ft. Accessory Dwelling Unit (ADU) in the basement of the principal home structure where the size of an ADU shall not be greater than 750 square feet. [HZO Article XIII A: Accessory Dwelling Units; § 334-73.3.H., Provisions]

**Transcription-Variance A**

**Mr. Dion:** Alright; it is 9:52; calling back to order the Zoning Board of Adjustment meeting for August 28, 2025. At this time, we can the Zoning Administrator please read in next case.

**Mr. Witham-Gradert:** (Read the case for Variance A Request into the record)

**Applicant Testimony: Selyn Sanville, 12 Regina Avenue**  
**Variance A:**

**1. Granting this variance will not be contrary public interest because:**

The proposed Accessory Dwelling Unit (ADU) will provide safe, stable, and supportive housing for immediate family members in need, while maintaining character and integrity of surrounding neighborhoods. The only external modifications required will be located to the back side of the home, out of public view, and are solely intended to meet safety standards and comply with the town's ADU requirements.

We are requesting two variances: one to allow for additional square footage of 1,445 square feet which is beyond the 750 square feet currently allowed, and the other to allow for three bedrooms, where only two are currently permitted. These requests are necessary to reasonably accommodate a family of four, which includes one adult and three children. This layout is

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essential to provide proper sleeping arrangements, privacy, and safety for children, one of whom is medical and developmentally needs that require consistent care.

These modifications will be minimal and thoughtfully designed to blend with the existing structure. There will be no commercial activity or significant increase in traffic or noise. The ADU will not negatively impact abutting properties or the overall aesthetic of the neighborhood.

This variance supports the growing needs for multigenerational housing, especially for families navigating medical or financial hardships. It promotes family stability without compromising public welfare, safety, or the intent of zoning ordinances. Approving this variance serves both the needs of our family and the values of our community.

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

The intent of the ordinance is to maintain the character of the community, ensure responsible land use, and support safe, appropriate residential development. The proposed Accessory Dwelling Unit (ADU) fully embodies these principles while providing necessary housing for immediate family members, while preserving the appearance, use, and feel of a single-family home. It honors the core values of the ordinance by promoting responsible growth, family stability, and neighborhood continuity.

The ADU will be used solely for family housing, not as a rental or a commercial unit, and will remain subordinate in size and scale to the primary residence. All modifications, including those that meet the code and safety standards, are being designed with sensitivity to neighborhood aesthetics and town regulations.

This variance also allows for our family to be the backbone of support for my sister and her family, offering them a safe and stable environment during an incredible difficult time. This multigenerational living arrangement reflects the true spirit of the ordinance by encouraging family unity, compassionate care, and resilience, all while preserving the overall integrity, purpose, and intent behind the zoning regulations.

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

Granting this variance allows our family to provide safe, supportive living space for my sister and her three children—something that is urgently needed. She has been hospitalized six times this past year due to complications from Type 1 Diabetes, including life-threatening ketoacidosis. Because we live over two hours away and she has no support system in Maine, she often delays medical care until I can travel to care for her children.

These emergencies have forced me to leave my responsibilities as a caregiver to my elderly mother and aunt in our home, to care for her four-year-old who has a feeding tube and is on the autism spectrum and her two teenagers. We are unsure how much longer my sister's kidneys will be able to recover from these medical emergencies.

The ADU would allow us to provide immediate help when needed while giving her family a safe, semi-independent space.

A key principle in granting a variance is that the benefit to the applicant must not come at the expense of the general public or neighboring individuals. In this case, there is no identifiable harm to neighbors, the town, or the general public. The proposed ADU does not disrupt the character of the neighborhood, does not pose a safety concern, and does not strain community resources. Instead, it strengthens family support systems and ensures ongoing care without compromising public interest.

Denying this variance would continue to put her health and the stability of both households at risk with no corresponding public gain. Approving it is a fair, compassionate, and balanced decision that respects our property's rights and supports the well-being of our entire family.

**4. The proposed use will not diminish the value surrounding properties because:**

The proposed Accessory Dwelling Unit (ADU) will be designed and constructed with great attention to quality, aesthetics, and alignment with the character of the neighborhood. It will be located on the rear side of the home, remaining out of sight from the street and neighboring properties. The exterior will match or complement the existing home, ensuring visual consistency and preserving the neighborhood's charm.

This ADU is not being created for rental or commercial purposes. It will be occupied by close family members, and we have firsthand knowledge of the care, pride, and responsibility they bring to maintaining a household. Their presence will not bring disorder or neglect. In fact, it will strengthen the stability and upkeep of the property overall.

There will be no excessive traffic, noise, or activity associated with this use. The daily rhythm of the household will remain that of a typical family residence. Based on our experience and observation of similar multigenerational living situations, we firmly believe that this thoughtful expansion will either have no effect or a positive one on surrounding property values.

This home will continue to be occupied by family that has been part of this community for over 50 years. My husband and I moved back to my childhood home four years ago to help care for my elderly mom and my aunt. Now, my sister is also choosing to return, not only to assist in our mother and aunt's aging needs but to raise her own children in this incredible community.

She already has a strong support base here, made up of both family and old school friends. Her presence will only deepen the roots and continuity that have helped define this neighborhood for decades.

We are committed to preserving the high standards of our home and neighborhood. The proposed use is respectful, well-integrated and enhances the functionality of the property without detracting from the value or enjoyment of nearby homes.

**5A. Unnecessary Hardship:**

**Special conditions exist that literal enforcement of the ordinance results in unnecessary hardship because of the special conditions of the property in question, the restriction**

**applied to the property by the ordinance does not serve the purpose of the restriction in a fair and reasonable way because:**

Our property is a single-family home with sufficient space to reasonably accommodate an Accessory Dwelling Unit (ADU) for immediate family. Currently, my husband and I serve as the primary caregivers for my aging mother and aunt. My husband works full-time at BAE in Nashua, and I am employed as the Executive Assistant at Rage Cage NH. Balancing work and caregiving, we remain fully committed to preserving a safe, loving, and stable environment for our entire family.

Now we face an urgent and compassionate need to create a secure living space for my sister and her three children. My sister is a Type 1 Diabetic whose condition requires ongoing, diligent care. At the same time, she provides daily support for her four-year-old daughter who is on the autism spectrum and requires specialized care, including use of a feeding tube. Her two teenage children are outstanding students and remarkable young individuals. Despite their resilience, the entire family has been under immense emotional and logistical strain without nearby support.

My sister is currently navigating a difficult divorce from her husband, who has a history of emotional abuse, alcoholism, and narcissistic behavior that has had lasting effects on the entire family. As determined by the State of Maine, she must vacate the marital home by October 15th, as the property, gifted solely to her husband by his mother, is not considered a shared asset. Though the court awarded her a modest financial settlement, intended to contribute to the cost of building an ADU, it is far from sufficient enough to secure alternate housing, especially given the current real estate and rental market conditions.

Her anticipated income will come from spousal and child support. While she intends to re-enter the workforce once her family is safely resettled here, she will need help from our family to care for her youngest child, whose complex medical needs demand constant attention. These transitional supports are not optional. They are essential for ensuring her family's health, safety, and long-term stability.

The existing zoning restrictions would prevent us from using our property in a manner that directly serves our family's most urgent needs. While we respect the purpose of zoning ordinances, to prevent overdevelopment and protect neighborhood character, we believe these restrictions, in our case, impose unnecessary and unfair hardship. Our request is not to establish a rental property or change the character of our home or community, but rather to create a secure, multigenerational living arrangement that prioritizes health, stability, and family unity.

Granting this variance would allow us to continue providing critical care for our mother and aunt, while also supporting my sister through this life-altering transition. Our family has proudly been part of this community for over 50 years and we are deeply invested into its values and well-being. We respectfully request this variance as a reasonable and compassionate solution to preserve our family's ability to care for one another without causing harm to the neighborhood or the public interest.

**5B. Unnecessary Hardship: Explain how the special conditions of the property cause the proposed use to be reasonable:**

Our family's property, while zoned for single-family use, is uniquely suited to accommodate an Accessory Dwelling Unit (ADU) that would allow for more than 750 square feet and include three bedrooms without negatively impacting the neighborhood or surrounding properties. We have a 3-bedroom, 2-bath Ranch home with 1,584 square feet on the main level, and the basement offers about the same square footage without including egresses. This layout can easily accommodate a 3-bedroom, 1-bath, ADU of 1,445 sq. ft. without impacting the existing structure or neighborhood. The proposed ADU is intended solely for immediate family use and will be located in the lower level (the basement) of our home. Any exterior modifications required will be limited to the rear of the property, where an existing bulkhead will be converted to a walk-out basement entrance, and a rear-facing window will be upgraded to an egress window to meet safety requirements. These changes are not included in the request for the 1,445 sq. ft., which is slightly smaller than the current upstairs footage of 1,584 sq. ft. These changes will not alter the home's curb appeal and will maintain the integrity of the streetscape.

Due to the medical and emotional needs of our family, especially my sister and her three Children, it is critical that they have a safe and stable place to live. The special conditions surrounding their circumstances, including ongoing medical care, a recent, soon to be divorce, and necessity for multigenerational caregiving, make the proposed use not only reasonable but essential.

The current zoning limit of 750 square feet and a maximum of two bedrooms is simply not reasonable for a family of four. One adult and three children require sufficient space to ensure safe, healthy, and dignified living conditions. Granting a variance of 1,445 sq. ft. is not a luxury but a necessity in order to provide appropriate accommodation for the basic needs of this family.

This modest expansion of living space would support a multigenerational family model, allowing us to remain together and care for one another without burdening public resources or disturbing the character of the community. It allows a family already deeply rooted in this town to continue playing an active and meaningful role in the life of this community while ensuring the well-being of our most vulnerable members.

The proposed structure will comply with all required safety, health, and building standards. The additional square footage and the inclusion of three bedrooms are necessary to responsibly accommodate for the family needs.

This proposed use is a reasonable, compassionate and family-centered adaptation to a unique set of circumstances. My parents raised four children in this home and the legacy of our family has always been to keep this home within the family for generations to come. Now, with my parents' youngest granddaughter, this will allow us to continue that legacy, exactly as my parents intended, and even better, while my mom is still here to see this happen. This will carry on a safe, loving, and supportive home my parents created. Not only has the home been a place close to our hearts, but this community has also taught and



nurtured our multigenerational family, many of whom still reside here. We are very proud to be part of this community.

**Chairman Dion:** Thank you. Are there any questions for the Applicant? Seeing none...

**Mr. Sakati:** Very thorough.

**Chairman Dion:** Thank you. Alright, to make use of the time, is there anyone in the crowd that would like to speak for the application? (No-one observed) Is there anyone in the crowd that would like to speak neutrally or against? Seeing none. Yes Mr. Dumont?

**Mr. Dumont:** Just a couple of points for the Board to think about not only with this case but possibly for the future. I had a conversation with Ben about it. When you're building within the foundation that's already existing, I don't think the square footage limit is just. I think that to ask someone to say, "hey, yeah, you're not adding onto a building but cut that basement in half and that's all you can do" makes no sense to me. I think not only should this case move forward but I think the ordinance should be changed as well. The other part about the bedrooms, I know we're not there yet but I'll just say my piece real quick. If you meet septic or sewer design, I don't understand what the problem is with that. As long as you're held to those standards, I don't think it should make a difference. So, just a couple of points.

**Chairman Dion:** Any other points of discussion you want to make?

**Mr. Lanphear:** We're just on us now, right?

**Chairman Dion:** Yes.

### **Board Members speaking to each Variance Criteria for Variance A**

#### **1. Granting this variance will not be contrary to the public interest:**

**Mr. Lanphear:** I believe it will not change the character of the neighborhood or threaten the public health safety due to the new ADA laws that were just passed around. And that the medical reason, as she's asking to take care of her sister and her two kids to move in. I believe it's a very good point what they're asking for it to do.

**Mr. Boyer:** No public was present to speak in opposition of it.

**Mr. Sakati:** This is not contrary to public interest in any way.

**Mr. Lyko:** Granting will not be contrary to public interest. Allowing when the ADU is allowed. It just needs a little bit more space and it's in the basement. It will not alter anything to do with the public.

**Mr. Dion:** I don't think it's going to be contrary to public interest. They're simply just going to be utilizing the entire footprint space of the house that already exists for housing.

#### **2. The proposed use will observe the spirit of the ordinance:**

**Mr. Lanphear:** I believe it will observe the spirit of the ordinance due to the medical need that this ADU is a great needed use for the family and for the two kids that are coming as well. They need more than just, as in Mr. Dumont said, you can't just take a basement and just put it in half and say, you can only do this much. They need that extra space for the family to live in.

**Mr. Boyer:** The new current ADU laws allow this use, although they're slightly smaller. I believe the use is still in compliance.

**Mr. Sakati:** The proposal is consistent with the spirit of the ordinance. As Mr. Boyer said, it's the ADU rules permit it in general, just the size of it.

**Mr. Lyko:** It's in the spirit of the ordinance. Like I said, they're allowed the ADU. And she needs it for medical reasons and it will not threaten anyone in the public.

**Mr. Dion:** I think it observes the spirit of the ordinance because it's not conflicting against what the ordinance is trying to do. Of, you know, trying to essentially limit the size of the ADUs. But for something like this, as Selectman Dumont had stated, they're just trying to fill the space. I think it's a little absurd or asinine to limit people, you know, if the space is there and utilize it appropriately.

**3. Substantial justice would be done to the property owner by granting this variance:**

**Mr. Lanphear:** I believe, yes, it would. It would help the property owner greatly with this variance for the medical ADA condition to take care of the family and the kids to all live in one house to make it easier for them to go to the hospital, medical attention and things like that.

**Mr. Boyer:** It will allow the family to stay together, which is the home is in the family's name, and the family staying together is the most important justice that we could provide.

**Mr. Sakati:** As justice is done with its approval and no harm is done to the public.

**Mr. Lyko:** Justice is done because she needs to support her family with medical reasons. This allows her to do that.

**Mr. Dion:** I don't think there's going to be any harm to the general public.

**4. The proposed use will not diminish the value surrounding properties:**

**Mr. Lanphear:** I believe it will not.

**Mr. Boyer:** Again, there's nobody in the public to speak in opposition of property values going down, and it has been shown several times in the past that increased living space actually increases the values of homes.

**Mr. Sakati:** Will not affect surrounding property values. It will likely increase values.

**Mr. Lyko:** The ADU should increase everyone's values around.

**Mr. Dion:** I think that's up in the air. It's not really applicable.

**5. Unnecessary Hardship:**

**Mr. Lanphear:** The ADA, I believe, is for medical need and is... They needed some special conditions and the kids will be there as well. It's actually a true hardship to what they need to do to create this three bedroom ADA unit underneath their existing house. The entrance to the place is going to be in the back where it's not going to be visible as well. The proposed use, as they're trying to do, I believe it is a very reasonable one.

**Mr. Boyer:** Literal enforcement of the ordinance would be an extreme hardship for a family of four to be able to stay together and support each other in the manner in which they need to.

**\*Mr. Sakati:** Literal enforcement will result in unnecessary hardship.

**Mr. Lyko:** Little enforcement will not allow her to take care of her family that has medical issues and that's not acceptable. And the proposed use is a very reasonable one. (It) lets her use her basement to have her family live with her now and they can all be together.

**Mr. Dion:** I don't think that there's necessarily a hardship for the property, but the RSA does allow for exemptions when there are disabilities involved. So for that, it would allow it.

\*Mr Sakati commented on two thoughts. Just one, thank you for your thoughtful, I mean, this is really, like, probably the most thoughtful, well-written presentation I've seen. And Ben, I appreciate the staff work you did on this. This is really quite helpful. And this is what makes this job fun, approving this. So this is great.

**Board Discussion:**

**Mr. Witham-Gradert:** I would like to clarify, since you've heard multiple reasonings here. Are you choosing to grant it under standard findings for hardship, or are you choosing to apply the alternate finding for hardship stated in RSA 674: 33 -V?

**Mr. Dion:** I'm choosing to apply under the alternate.

**Mr. Witham-Gradert:** Okay, I just wanted to clarify, as it does come with caveats per the state RSA, so I just wanted to make sure that was fully clear, since we had kind of mixed reasoning amongst Board members.

**Mr. Dion:** Okay, because I didn't know if we had to apply the caveat.

**Mr. Witham-Gradert:** So, the Board is free to just use the standard reasoning, should they so choose, especially in the case of the first one.

**Mr. Dion:** Yes.

**Mr. Witham-Gradert:** But should they choose to apply the alternate reason for finding hardship. Staff has included a recommended stipulation, which is just, it is essentially verbatim from the state RSA, the requirements that it imposes, the purpose being so that, looking way down the line, and for anyone involved in the future, it is clear the stipulation is attached to it per the state RSA.

**Mr. Dion:** Okay.

**Mr. Witham-Gradert:** So, I feel it's important to clarify that up front. Should that standard be applied, it would be good to clarify that as part of the approval.

**Mr. Dion:** Okay

**Mr. Dumont:** You may want to go around and ask the other members.

**Mr. Dion:** Yeah. Yeah. That's, as far as the RSA is concerned, is everyone on board with how your application of the decision was made? If you want to take a second to read the note that was included as part of your packet,

**Mr. Witham-Gradert:** I would suggest that the motion maker declare whether or not it...

**Mr. Lanphear:** So, that RSA was filled with just that, filled with the property forever, or just for that person?

**Mr. Witham-Gradert:** So, for the RSA, if you choose to apply that standard, and this is also written in the supplemental letter that is in your packet, that the variance shall survive only so long as the particular person has a continuing need to use the premises. So, in this case, the variance would remain valid so long as the family continues to live there and continues to need it. However, if they sold the property in the future, or they moved, went somewhere else, the variance would no longer be considered valid.

**Mr. Lanphear:** That was the correct word I was meaning.

**Mr. Witham-Gradert:** Okay.

**Mr. Dion:** So, you were meaning it for that application.

**Mr. Lanphear:** Yep.

**Mr. Dion:** So, to make it clear, this motion was stated that it would expire upon the family moving or not occupying the space.

**Mr. Boyer:** And does the RSA explicitly state that the last surviving family member to leave the premise?

**Mr. Witham-Gradert:** No. So, the way the RSA is worded is that so long as the particular person. So, in this case, you could, for example, interpret it as the person with the medical need.

**Mr. Boyer:** So, just, for me, just stick with the basics because if for some reason the unfortunate thing happens, there are still other family members that need assistance. So, with that last bit, I would just stick with the old school way. Let's put it that way.

**Mr. Lanphear:** There's two more kids... Just stays with the property.

**Mr. Boyer:** Yes.

**Mr. Lanphear:** If you rent it out later on, then no.

**Mr. Witham-Gradert:** So, if you choose to grant it under the standard finding of hardship, that goes with the land and is a normal variance, same as always.

**Mr. Sakati:** That's choice 5A.

**Mr. Witham-Gradert:** Yeah, that would be in this case. I believe that would be under choice 5A as the kind of standard that we apply primarily.

**Mr. Lanphear:** I agree with Mr. Boyer as well. I'd go with that. I like that angle better because in case you're dealing with kids that are there in their teenage years, that could change whether, God forbid, I don't want to think about it, but I'd rather, I'd switch to that way there. If you make that motion, I'm going to say it that way.

**Mr. Dion:** Okay. So, at this point, I'd like to re -vote essentially to confirm that your motion is to vote under traditional 5A application of the unnecessary hardship. Can you please call the vote again?

**Mr. McDonough:** All right.

**Mr. Lanphear:** Sorry about that confusion. I want to get it so it's clear.

**Mr. Dion:** No, no, no...you clear it up now.

**McDonough:** Run through it....

**Mr. Dion:** Just go through it again.

**Mr. Lanphear:** To grant traditional standard way

**Mr. Sakati:** To grant

**Mr. Lyko:** To grant

**Mr. Boyer:** To grant

**Mr. Dion:** I'll be voting to grant, and I'll be doing it under the standard 5A.

**Mr. McDonough:** Do you want me to specify on the sheet no stipulations or under traditional ADU approval?

**Mr. Witham-Gradert:** If it is just written as a standard one, then the standard will apply. You only need to fill in stipulations if one was such determined by the Board.

**Mr. McDonough:** I just wanted to make sure we didn't have any ambiguity on this.

**Mr. Witham-Gradert:** And that's just why I wanted to clarify that was so that it was completely clear how it was being granted.

**Mr. Lanphear:** And as we see more of these ADUs, we're going to be getting into this more and more to become our normal standard eventually.

**Mr. Witham-Gradert:** Yeah, I do believe we'll see more ADU cases.

**Mr. Lanphear:** Definitely.

**Mr. Dion:** All right, so your first variance grants.

### **Decision-Variance A**

**Motion by Mr. Lanphear :To Grant                      Seconded by Mr. Boyer: To Grant**

**Mr. Sakati: To Grant**

**Mr. Lyko: To Grant**

**Mr. Dion: To Grant**

**Roll Call Vote: 5:0      Motion Carried Unanimously, 5:0 To Grant  
(using standard hardship finding on the property under criteria 5A)**

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**2. Case 191-011 (08-28-2025): Selyn M. Sanville, Power of Attorney for Christine Cabral, 12 Regina Ave., Hudson, NH [Map 191, Lot 011, Sublot 000; Town Residence (TR)] requests two (2) variances as follows:**

**B.** A variance to allow the proposed ADU to have three (3) bedrooms where an ADU shall not have more than two bedrooms [HZO Article XIII A: Accessory Dwelling Units; §334-73.3.L, Provisions]

### **Transcription-Variance B**

**Mr. Dion:** Please read into the record the part B.

**Mr. Witham-Gradert:** (Read the case for Variance B Request into the record)

### **Applicant Testimony: Selyn Sanville, 12 Regina Avenue Variance B:**

**Selyn Sanville:** So, I would like to submit everything I gave in the variance A.

**Mr. Sakati:** Say ditto.

**Mr. Lanphear:** I like that.

**Mr. Dion:** We can take that. Are there any questions from the Board to the Applicant?

**Selyn Sanville:** I also just want to state that my sister was actually found unconscious last week by her 13, I'm sorry, 16-year-old daughter and was rushed to the hospital. And luckily, she did survive, but that is the newest wrinkle. We've got to get her home. Thank you.

**Mr. Dion:** Thank you, ma'am. Is there anyone in the public that would like to speak for? Seeing none, does anybody would like to speak neutrally or against? Also seeing none, I'll put this matter before the Board. Are there any discussions that we want to be made? I also wanted to put into the question the RSA that we have here. Just make sure I want to clarify whether we're doing this for medical reason or the standard.

**Mr. Lanphear:** So, I'm going to make a motion to the standard way.

**Mr. Dion:** We have a motion on floor of the standard, ignoring the RSA.

**Mr. Boyer:** Second.

**Mr. Dion:** Do you have a second for Mr. Boyer? Same thing?

**Mr. Boyer:** Absolutely

**Mr. Dion:** Can you please speak to your motion, Mr. Lanphear?

### **Board Members speaking to each Variance Criteria for Variance B**

**1. Granting this variance will not be contrary to the public interest:**

**Mr. Lanphear:** Yeah, a lot of the same rules affect to the other one that I just went through with. Number one, granting it. I believe it will not conflict as if it's the family and it's helping the sister and the two kids and that the ADA is a very reasonable use, doing it as a standard variance that they request.

**Mr. Boyer:** Again, there's no public here to oppose it.

**Mr. Sakati:** Just very consistent with my previous approval, it's not contrary to the public interest in any way.

**Mr. Lyko:** It will be in the basement and not alter anything to do with the public.

**Mr. Dion:** I don't think it's going to be contrary to the public interest at all. I think it's really going against the explicit or implicit purpose of the ordinance, which is, I think, trying to make

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sure that we don't overcrowd the houses. But I think that the situation is definitely needed considering the family makeup and medical situations and want to keep family close.

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

**Mr. Lanphear:** The proposed use will observe the spirit of the ordinance. I believe it will not threaten the public's health, safety, or the public rights. The ADU is needed for the family for medical needs, and the family needs this regular standard use variance to comply with their family needs.

**Mr. Boyer:** The spirit of the ordinance is observed because the current ADU laws allow the use to be used.

**Mr. Sakati:** The proposal is consistent with the spirit of the ordinance. The ADU rules permit it.

**Mr. Lyko:** It is in the spirit of the ordinance for a family with medical reasons and is needed.

**Mr. Dion:** Not conflicting with the explicit or implicit purpose of the ordinances and altering the character of the neighborhood. I think as long as you feel that you can comfortably and safely keep all these people in your home, I don't think it's really going to change the neighborhood at all. You know, it's just more family. Yeah, that's all it is. It would be no different than if you just had a billion kids to yourself.

**3. Substantial justice would be done to the property owner by granting this variance:**

**Mr. Lanphear:** The variance will be very beneficial to the property owner to provide a safe and medical care for the sister and her two kids, and I believe doing the standard variance as well will also help it. So, God forbid if anything happens, the two kids will also have a place as well to continue going.

**Mr. Boyer:** Substantial justice will be done, again, because it will allow the family to stay together and care for each other, and that is the most important justice.

**Mr. Sakati:** Justice is done by approving, and there's no harm to the public.

**Mr. Lyko:** Justice will be done because they need a space for a whole family that needs help being taken care of, and this will give them the space.

**Mr. Dion:** There's going to be no harm to the general public. You know, just more family. Hopefully, the general public will definitely accept them and bring them into your neighborhood.

**4. The proposed use will not diminish the value surrounding properties:**

**Mr. Lanphear:** I believe it will not.

**Mr. Boyer:** The property values won't be diminished as stated before. More living space usually increases property values.

**Mr. Sakati:** Will not affect surrounding values. Probably increase the values.

**Mr. Lyko:** It will not diminish any values of properties.

**Mr. Dion:** You're not going to be diminishing value of property by having **one extra bedroom than what's allowed.**

**5. Unnecessary Hardship:**

**Mr. Lanphear:** The ADU is a necessity to benefit the sister and the two kids for medical care. The ADU meets the requirements. It's over the bedrooms, but due to the circumstances, what is needed, I believe it's to do a standard variance to allow the three bedrooms is allowed, and I believe the proposed use is definitely a reasonable one.

**Mr. Boyer:** Literally enforcing the provision of the ordinance to two bedrooms is unreasonable for a family of four with young adult or older adult children needing more space.

**\*Mr. Sakati:** Literal enforcement will do nothing but create an unnecessary hardship.

**Mr. Lyko:** Little enforcement will not allow her family to live there safely since they have medical issues. It is reasonable. It's in the basement, and it's needed for a family, and it's out of the way.

**Mr. Dion:** I definitely think that, you know, the unnecessary hardship is you need this additional bedroom based on the size of the family that's there. They're growing larger. You know, they're getting older. They're going to want their individual bedrooms. They're not going to want to stack on top of each other. So, I think it's a very reasonable ask that you have here.

**\*Mr. Sakati:** Commented to Applicant, "I sincerely wish you...during these tough times, all the best."

### **Decision-Variance B**

**Motion by Mr. Lanphear: To Grant                      Seconded by Mr. Boyer: To Grant**

**Mr. Sakati: To Grant**

**Mr. Lyko: To Grant**

**Mr. Dion: To Grant**

**Roll Call Vote: 5:0      Motion Carried Unanimously, 5:0 To Grant  
(using standard hardship finding on the property under criteria 5A)**

**Mr. Dion:** So, congratulations for both of your applications. We do caution you that there is a 30-day period for anyone that's aggrieved by the Board's decisions can put in an appeal for us. So, take care not to start doing anything for 30 days. But congratulations and good luck to your family. Good luck. Thanks.

### **VIII. REQUEST FOR REHEARING: There were none.**

### **IX. REVIEW OF MINUTES:**

03/20/2025 draft Meeting Minutes

06/26/2025 draft Meeting Minutes

07/24/2025 draft Meeting Minutes

**Mr. Dion:** Now we've got a review of minutes, and we actually have three of them.

**Mr. Lanphear:** Motioned to Approve all three draft Minutes

**Mr. Boyer:** Seconded the Motion

**Mr. Dion:** All in favor?

**Board:** Aye.

Motion carried unanimously 5:0 to Approve the draft ZBA Minutes of

03/20/2025

06/26/2025\*

07/24/2025\*

\*(Staff notes-minutes indicated were not provided in the Board packets. Approval by Board was made in error)

**Mr. Lanphear:** Can I make a motion to adjourn?

**Unknown:** Second.

**Mr. Witham-Gradert:** Can I actually put one thing in before we end?

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**Mr. Dion:** Yes.

**Mr. Witham-Gradert:** With all of the ADU changes that have been occurring at the state level, and while our current ordinance is kind of in tumult, would the board like to have a workshop, as we've done in the past, to go over these ADU changes and how they apply to our current law? Is that something the board would be interested in us working into a future agenda?

**Board:** Sounds very official.

**Mr. Witham-Gradert:** Okay. I will work with the Zoning Administrator and the Administrative Aide to prepare a future agenda to be determined.

**Board:** Okay. Sounds good. Perfect.

**Mr. Lanphear:** I make a motion to adjourn.

**Mr. Dion:** We have a motion to adjourn. Do we have a second?

**Mr. Boyer?** Second

**Mr. Dion:** We have a second. All in favor?

**Board:** Aye.

**Mr. Dion:** At **10:33 PM**, I call a close to the Zoning Board of Adjustment meeting for August 28, 2025.

## **X. ADJOURNMENT: 10:33 PM**

Transcribed by Tracy Goodwyn, Administrative Aide II

Respectfully submitted,

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Tristan Dion, ZBA Chairman