



# TOWN OF HUDSON

## Zoning Board of Adjustment



Tristan Dion, Chairman      Dillon Dumont, Selectmen Liaison

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

### MEETING MINUTES – FEBRUARY 26, 2026 – 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, Tim Lanphear, Dean Sakati, Todd Boyer

Alternate members present were: Zachary McDonough (Clerk), Brendon Sullivan

Others present were: Ben Witham-Gradert – Town Liaison, Dillon Dumont (Selectman Liaison)

Remote attendance: Kristan Patenaude – Recording Secretary

#### IV. SEATING OF ALTERNATES

Alternate Brendon Sullivan was appointed to vote.

Mr. Boyer stated that he owns a piece of property on Central Street. He does not stand to gain anything from the outcome of the case to be heard this evening. If other Board members feel there is a conflict of interest, he will recuse himself. He believes he can maintain a fair and honest outcome to listen to the case.

Mr. Sakati asked about the nature of the property owned by Mr. Boyer. Mr. Boyer stated that he owns the four-family apartment building south of Bluebird Storage at 194 Central Street, approximately 70-feet. He is not employed by Mr. Dumont [applicant], he does not speak to Mr. Dumont and does not have his phone number. He stands to gain nothing positively or negatively from this case. Mr. Sakati stated that Mr. Boyer was previously concerned regarding his proximity to a property, more than 500-feet away, during a case before the Board. He is concerned with consistency but stated that he trusts Mr. Boyer's judgement.

Mr. Dion asked Mr. Boyer to confirm that this is not his primary residence. Mr. Boyer agreed. This is a rental property of his.

Mr. Dillon Dumont stated that he would step down from this case, though he is not a voting member, and seat himself in the audience.

Mr. Dion stated that there does not seem to be any need or request for Mr. Boyer to recuse himself from this case.

**V. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:**

**Case 176-041 (02-26-2026):** Meadows Property, LLC and Posey Investments, LLC, 195 R Central St., Hudson, NH requests four (4) Variances for a proposed mixed-use development of commercial & multifamily containing up to the three lots of 197, 197R & 207 Central St., Hudson, NH as follows: (Map 176, Lots 044, 045, & 041. Sublots-000: Zoned Business (B) & General (G)]

**Variance 1**— to accommodate up to three (3) proposed multifamily buildings with a cumulative total of 116 units within the General (G) district, where multifamily use is not permitted in the General (G) district. This variance, if approved, shall supersede the variance granted on October 24, 2024 (Case #176-041 B). [Hudson Zoning Ordinance (HZO), Article V: Permitted Uses; §334-21. Table of Permitted Principal Uses, and Article VIII: Nonconforming Uses, Structures and Lots: §334-29 Extension or enlargement of nonconforming uses]

Mr. Witham-Gradert read the Case into the record.

**Applicant Testimony:**

Don Dumont, 18 Hilindale Drive, explained that Meadows Property, LLC, and Posey Investments, LLC, are requesting relief from Hudson Zoning Ordinance §334-14, relative to the building height; §334-10, to allow multifamily in a General Zone; §334-82.F, to allow an extension to be heard prior to the 90 day expiration of a Variance and for the extension of a mixed-use Variance for the proposed residential and mixed-use development located at 197, 197R & 207 Central St., Map 176, Lots 044, 045, & 041 in Hudson. The project includes three residential apartment buildings within the south-central portion of the property and one mixed-use building located on the northern portion along Central Street. Two driveway connections to Central Street are proposed, one for the mixed-use building and the other for the residential area. It should be noted that the project also includes two proposed food truck areas, each being at the two proposed driveway connections along Central Street.

Mr. Don Dumont stated that two previous Town Zoning Variances were granted on October 24, 2024. The variances granted allowed for a multifamily use within the (G) General District and for a mixed-use residential use on the same parcel. In going through the planning process, the architect found issues with the number of units and the building size, resulting in fewer units in the front building along Central Street, Building A, and the back building, Building C. By adding an additional building in the back, Building D, to accommodate for the lost units in Buildings A and C, the change in plans was flagged by staff, and the process was put on hold in order to come before the ZBA to ask for relief. During a conceptual review with the Planning Board and through comments from staff, concerns were brought up about the architectural style of the buildings. The goal is for these buildings to have a typical New England style look. Comments from the ZBA, Planning Board, and staff reinforced this. One main way to reflect this style is through the roof. In doing so, this would increase the building height to 45-feet, leading to the Variance relief of up to 50-feet. The height is also critical to allow for adequate use of each floor without having to expand the footprint of each building, which could lead to issues with the surrounding wetlands and wetland buffers. The requested building height is currently allowed in Zones in other parts of the Town, such as the General (G) District and the (B) District abutting

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Lowell Road/3A, the General (G) District abutting the north of the Sagamore and known locally as the Friar Project, having frontage on Friar Ave., the portion of the General G1 District located on the south of Sagamore Bridge Road, and numerous industrial zones within the Town, with the closest being up the street approximately one mile at the industrial park off Central Street. For those reasons, the relief being requested is fair and justified. This project will have a major impact on the community and solve multiple needs. The surrounding properties are commercial, except for one direct single-family home abutter off Central Street, and the owner of this property has been spoken with. The request is attempting to clean up a depressed area and produce a quality development that everyone can be happy with.

Mr. Don Dumont addressed the variance criteria for this requested relief. This would not alter the character of the neighborhood, as this is a large parcel with virtually nothing around it. This would allow for housing which the community is in need of. The proposed multifamily use is in line with the spirit of the ordinance, by adhering to established guidelines and surrounding higher density housing. This variance would allow the property to be developed in a successful manner instead of remaining vacant, as it has been for many years. Any development of this property would clean up a depressed area and improve property values for all the surrounding properties. This property is bisected by two zones, and the proposed use is already allowed on the front half of the parcel. Thus, the proposed use is a reasonable one and will allow for more harmonious, consistent development which the Town is in need of.

### **Board Questions:**

Mr. Lanphear stated that this portion of Central Street floods and he asked how this will be handled through the proposal. Mr. Don Dumont explained that the existing asphalt is worse than what is proposed. The existing asphalt allows the runoff to flood into the nearby wetlands and cross over to the abutting streets and properties. There are beaver dams in this area which also are a problem for the flooding.

Mr. Lanphear asked about the two variances originally granted in 2024 and why changes were made from those approved plans. Mr. Don Dumont explained that he did not understand that he would be tied to a unit count. He believed the variance received was only for the proposed use. After working with the architect and staff, it seemed more transparent to come forward with the revised plans, as well as to make sure that all of the variances run concurrently, as the original variances are set to expire this year.

Mr. Lanphear asked if the proposed driveway will cross the wetlands. Mr. Don Dumont stated that there is one small wetland crossing at the back of the site.

Mr. Lanphear noted that this was an asbestos dumping area at one point which has been capped. Mr. Don Dumont stated that the State regulates work over an asbestos site and will be on site to monitor this. The best cap for asbestos is asphalt. The existing cap is sand and gravel. Some of this area will be made into a parking lot, which is a good cap. Mr. Lanphear noted that this could be good for water penetration in the area, though that penetration has been ongoing for years. Some of the asbestos may already have leached into the surrounding area. He expressed concern regarding asbestos spores which may be in the area, as this will be a multifamily use.

Mr. Witham-Gradert stated that asbestos regulation is not done in any capacity by the Town. This is handled entirely by DES. Most applications that go before DES have a work plan which explained what will be done and how it will be done related to any asbestos work. As part of that plan, DES will check the work on the site. He noted that even old wells are lined with asbestos. Ultimately, the Town has no say in this process. It is carried out by DES. Mr. Lanphear stated that it is the Board's job to ensure the safety of the public and he was seeking to gain more information on this topic.

Mr. Sakati asked if anything has happened on the site since the original variance approvals in 2024. Mr. Don Dumont explained that the architect worked through plans and discussed this with staff. The existing variances could be used but it seems a better idea to stay aligned with staff, Board, and his own needs.

Mr. Sakati asked about any changes from the original request for 70 rental apartment units. Mr. Don Dumont stated that there are fewer units proposed on the front now. There is a difference of approximately four units, but these have been swapped around through the buildings due to staircases and architectural.

Mr. Sakati asked if the original variance was for 70 apartments in one building and 30 in another, for a total of 100 units. He asked if the applicant is now seeking 116 units in total. Mr. Don Dumont stated that the total was originally approximately 112-113 units. An additional four are now being sought. Building D is a newly proposed building.

Mr. Boyer asked for more information regarding the changes made to the buildings, necessitating the additional units. Mr. Don Dumont stated that the architect was not accurate in the original totals due to using square footages. The number of units needed to be maintained, but some changes were made as the total was better determined. The number of buildings has been changed to accommodate all of the units.

Mr. Dion asked about public access for a proposed trail connection shown on the plan. Mr. Don Dumont stated that this would be open to the residents of the buildings. Mr. Dion asked if this would be considered for an easement to get into Bensons. Mr. Don Dumont stated that this does not connect directly to Bensons, though someone could use it to access that area, if they wanted to. A trail easement would be up to the Planning Board. Mr. Dion asked if the road would be public or private. Mr. Don Dumont stated that it would be private.

Mr. Dillon Dumont, 195 R Central Street, stated that this was originally a request from the Planning Board as part of the conceptual review. It does not have to remain on the plan but was included as a request. Mr. Dion stated that an easement for Town use of the trails would be nice. Mr. Dillon Dumont explained that the intention was to create uses that are friendly to everyone in the Town. The proposed food trucks are a nice add for the area.

Mr. Dillon Dumont stated that the original proposal included an engineered plan. An architect was used to obtain final plans and determined that 34 units would be lost from one of the buildings. There is a net gain of four units for the entire project and the addition of one building in order to make up for the losses to Buildings A and C. Ultimately, the use and intent are the same as when discussed in 2024.

The Board noted that two of the proposed variances are to synchronize the original variances with the newly requested ones and move them out two years. Mr. Dillon Dumont explained that the original mixed-use variance is still valid and has not changed. The multifamily variance was flagged during the planning stage due to changes on the plan. The discussion in the minutes from that time does not reflect the number of buildings, and it felt proper to bring this back in front of the Board. Variance 2 is a new request regarding the building height. Variance 3A is requesting relief for the Board to hear the case as it is earlier than the 90 days typically allowed for an extension. Variance 3B is for the extension itself, if 3A is granted.

Mr. Dion stated that a variance was previously granted and so the applicant has a right to build this project, even if per the original approval. The major change proposed is to add four additional units and split the large unit into two. Mr. Dillon Dumont explained the existing site is problematic. There is a large parking lot with a foundation still in the wetland buffer. In order to remediate that, there has to be something to offset the cost for infrastructure and fix those problems. This is where the additional unit count came from. Losing approximately 40 was not feasible and so the fourth building was proposed, allowing the applicant to fix the issues, remediate the problems, and still make it a viable project.

Mr. McDonough asked if the applicant is proposing to remove some of the foundations within the wetland areas and return it to wetland. Mr. Dillon Dumont explained that there is some sloped pavement directly into the wetland and an existing foundation in that area. This will be improved. There will be work within the front wetland buffer due to drainage infrastructure to deal with existing runoff issues. Without this drainage work, there is a constant flow of salt, runoff, and materials from cars going into the wetland.

Mr. Dion asked if the applicant has taken into account traffic accessing the site. Mr. Dillon Dumont explained that a complete traffic study was conducted and provided. The goal is to create a development that does not cause any issues in the area. The goal is to improve an extremely depressed existing area.

Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at 7:40 PM.

**Public Comments in Favor:**

Mr. Witham-Gradert read into the record the names and addresses, when available, for those public comments received in favor of the plan. All of the comments were provided to the Board prior to the meeting via e-mail. These are also available as part of the case record online and in Town Hall. All of the comments were received by Monday of this week. The package deadline is the week prior to the meeting, and these comments are in response to the packet. The comments were from those people as follows: Christine StLaurent, 8 Breakneck Road; Abby Plante, 134 Wason Road; Brian Dubowik, 223 Derry Street; Devin Plante, 134 Wason Road; Daniel Dubowik, 2 Old Derry Road; Paul Lukitsch, 19 Hilindale Drive; Angela Schilling, 35 River Road; Pamela Dyer, 13 Winnhaven Drive; Patricia Johnson, 42 Riverside Avenue. In addition, there were four comments for which no address was provided: Those are Tina Lukitsch; Lucas Croteau; Evelyn Scott; and Tom Page.

Edward Thompson, 22 Burns Hill Road, asked about the variances approved in 2024 and the differences between those approvals and the current request. Mr. Dion stated that the original

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proposal was for two multifamily buildings sitting wholly within the G District. The current proposal is for three buildings, fully within the G Zone. Instead of one massive 70 unit building, the current proposal shows this split into two, with Building B at 24 units and the front, multiuse building with eight units. The multiuse building is not part of the current variance requests. Mr. Thompson asked if the applicant will be given an approval up-to a certain number of units, such as 116, and not allowed to go above this. Mr. Witham-Gradert stated that the request is for a cumulative total of up-to 116 units within the General Zone. The applicant could shift those units within the buildings, if approved.

Mr. Thompson asked about access to Benson Park from this property. He would like this access to be under lock and key to prevent future vandalism.

Adam Garside, 19 Burnham Road, stated that he would like to see something on this dilapidated site. He cuts through this property when walking his dog and access to Benson(Park) would be nice.

Mr. Sakati presented key themes from the public comments submitted in favor, such as revitalization of the site in terms of adding additional housing, and financial benefit to the Town through additional children enrolled in schools. Some of the challenges mentioned were around height, concerns about the wetlands and the environment, potentially disturbing of the asbestos, financial concerns such as a drain on Town resources, and potential diminution of nearby property values. Some comments also expressed concern regarding conflicts of interest on the Board, as the Board's liaison is also the applicant. Mr. Sakati noted that the last point does not obstruct his view or objectivity on the application.

**Public Comments Neutral or Opposed:**

Mr. Witham-Gradert read into the record the names and addresses, when available, for those public comments received in neutrality and opposition of the plan. The comments were from those people as follows: Nancy Sudsbury, 18 Windham Road (neutral). In opposition, the names include Suzanne Roark, 5 Gloria Avenue; Don Melanson, 4 Stoney Lane; Lisza Elliott, 6 Alvirne Drive; and Susan Bailey, 33 Oliver Drive. With no address provided, in the neutral category, there was Michael LaBonte, and in opposition there was Pam (no last name), Amanda Morrill, Meaghan Barcelos, Leonard Bowden, Andrea Rooney, and Karen Tucker.

Mr. Witham-Gradert stated that the neutral comments included questions. From Nancy Sudsbury:

1. The building in the middle of wetlands which directly abut Central Street which are known to overflow into Central Street without help from a new construction in the middle of them. What is the planned mitigation to prevent this from getting worse, flooding Benson's or other?
2. Asbestos, I'm assuming EPA will be involved and approve all plans. True?
3. 200+ additional vehicles to be parked and then enter onto Central Street directly between 2 existing traffic lights. I'm thinking this will definitely cause an issue. Five O'clock traffic in that area is already a problem. Wondering how many light cycles commuters will sit thru with the additional traffic. Is there a plan to modify 111 (Central Street) in that area to deal with all the entering and exiting to the development.

4. MUD zoning was voted down in our last election. It's been less than a year and there is request to develop MUD. The town was pretty clear they are not for it so why is this project including MUD development.
5. What is the financial impact to our current residents? Will this new project bring in more revenue to our town than it will cost us highway, school, police, etc.?

Deborah Putnam, 59 Rangers Drive, stated that she has not heard anything about the potential impact on Benson Park. The addition of buildings adjacent to Benson Park, up to, potentially, 50-feet in height, would affect the environment, wildlife, light infiltration, and enjoyment for those in Benson Park. It is possible that the development could be a positive, but each board needs to consider the potential impact to Benson Park, including the hydrology, and wetlands. Asphaltting over the asbestos will cap it, but it will also make the ground impervious to water. Disturbing beaver dams will affect the entire hydrology and wildlife of the area. The larger picture should be examined.

### **Applicant Rebuttal:**

Mr. Dillon Dumont stated that a lighting study was completed and submitted to the Planning Board, making sure all of the lighting will be dark sky compliant, so as to not affect the neighbors in the surrounding areas and the Park. A complete hydrology report was submitted to the Town Engineer, along with a stormwater management study, including how the project will actually improve the existing problems. As for wildlife, a study will be completed through the DOT permit process, which will be discussed during the Planning Board process. As for the access through Benson Park, this was a request of the Planning Board merely for an easement or other type of access. If there is a strong opposition to it, it can be removed. Security at Benson Park is important. The applicant is not tied to this one way or the other. In terms of the number of units, there was a shift due to the architectural and intention not to widen the footprint to accommodate everything within one building. In theory, the building could be made larger to accommodate for this.

### **Board Discussion:**

Mr. Lanphear suggested shrinking the number of units a bit. The hardship of including additional units and pavement does not seem clear. There is not as much green space on this plan as there was on the original one. Mr. Dillon Dumont stated that the only difference in the current proposal is with the building of eight units, a net gain of four over the entire project. During staff review, the applicant was told to consider the entire parcel. This is a split zone, with a random line drawn through the parcel that, quite frankly, should not be there. Shrinking the site could lead to issues with fire and access because the turning movement plan shows a larger cul-de-sac and widening to create an adequate aisle for emergency service access. There may be unintended consequences of shrinking the project.

Mr. Lanphear stated that he was suggesting shrinking the back portion only, which was originally 70 units in one building and 30 in another. This proposal shows more total units. Mr. Dillon Dumont stated that there was no conversation regarding number of units during the original hearings. The discussion revolved around use. The five criteria at that time were approved and these are the same criteria in play today. Cutting a sliver off the building would not make any reasonable change to the project, though could change some things in terms of

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drainage, infrastructure improvements, and stormwater design. Mr. Don Dumont stated that the proposal pavement and parking are the same on the current proposal. Mr. Dillon Dumont stated that there is more parking shown on the site than is required. If the Planning Board determined that less parking would be required, the applicant would consider this. Moving the buildings could cramp the access to the back building. Mr. Lanphear stated that the area nearby is a wetland. The proposal will change the existing environment. Mr. Dillon Dumont stated that the stormwater design will treat all runoff. The applicant is not allowed to discharge any runoff. This was addressed in the stormwater management report. This will be flushed out through the Planning Board process. In terms of the five criteria, there is not a difference from what was originally approved.

Mr. Sakati stated that the criteria need to be reviewed again, as this is a new application. Mr. Dillon Dumont agreed.

Mr. Boyer stated that he believes it is the use that the Board provides the relief for. There can be a confusion or discrepancy when the applicant provides a plan that contains a number of units. The Planning Board will discuss if the buildings are the correct size and feasible for the location. This Board has already granted relief to use the site for multifamily units. The changes to the plan do not change the approved use. Mr. Witham-Gradert stated that the ZBA is allowed to place stipulations or restrictions on how nonconforming a use is. If the Board simply allowed a multifamily use, the assumption would be that the applicant can maximally use the property as much as they want. The ZBA is allowed to limit how nonconforming a use is. In this case, that could be done by limiting building count, square footage, or unit count. The original notice of decision for this property was uncommonly restrictive. Most of the time the decisions do not delve into specific square footages and dimensions of buildings. The current decision is framed in terms of the total non-conformance being done. The ZBA could agree to grant multifamily for as many units as the applicant wants and then leave it entirely up to the Planning Board to determine how many units are appropriate. The ZBA could work with the applicant to take the current proposed amount and add a reasonable buffer to the number in order to create some restriction or limitations. This could be added as a stipulation or part of the vote itself.

Mr. Dion asked if these will be single or multi-bedroom units. Mr. Dillon Dumont stated that there are a mix of one- and two-bedroom units proposed. Floor plans change due to codes and architectural. The goal is to create “the missing middle” style of housing, mentioned throughout the Master Plan process. Floor plans were created, though there may be changes to these. There are locker/storage areas proposed for the units. This is dependent on what space is available in the buildings, leading to the request for the buffer of units. Mr. Dion stated that he would like to consider the tax impact of the units, based on which units may bring in children. Mr. Dillon Dumont stated that it is difficult to find small family units. The intention is to help people who are just above the affordable housing line, but below the luxury housing line. These could be service members, firefighters, teachers, etc. The unit mix will be based on need and is subject to change. Mr. Don Dumont stated that staff requested some confinements and he agreed. Mr. Dillon Dumont agreed that there should be a stipulation as to what will be built on the site.

**Rebuttal Public Comments in Favor: None at this time.**

**Rebuttal Public Comments Neutral or Opposed: None at this time.**

Seeing no additional comments at this time, Mr. Dion closed the public comment period at 8:15 PM.

### **Board Discussion and Deliberation:**

Mr. Sakati asked how Board members are considering the hardship criterium. Mr. Dion stated that he is viewing this application as a clean slate. The Board could also consider that a similar variance was granted two years ago, and the similar reasons still apply today. The case may be a bit stronger today, as the plan is more fleshed out. The original hearing dealt with putting multifamily buildings in the G Zone where they do not belong. This slivers against the Business District. Originally, the applicant was proposing to purchase many lots, combine them, and use the back portion of the lot which had not previously been used. If the entire property had been moved west by some number of feet, or if the line did not split the property, this may not be before the Board at all. The applicant could build to the original plan, if nothing else. The Board needs to consider if it is comfortable with the request to split the large building into two and shuffle units across the property.

Mr. Lanphear asked if the proposal is for 116 total units in the back portion of the property, which is subject to the variance, where this area currently lists 109 on the plans. Mr. Dion stated that he believes that is correct. The intention is to include a few extra units as a buffer. The original plan showed a total of 100 units.

**Mr. Boyer moved to grant a variance from §334-21 – Table of Permitted Principle Uses: to accommodate up to three (3) proposed multi-family buildings with a cumulative total of 116 units within the General (G) district, where multifamily use is not permitted in the General (G) district. This variance shall supersede the variance labeled as #176-041B, granted on October 24, 2024, based on the written and verbal testimony of the applicant, and with the following stipulations: There shall be a cap of 116 units in the G Zone, duly seconded by Mr. Sakati.**

### **Board Speaking on Each Variance Criterion:**

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

Mr. Boyer stated that granting of the variance will not be contrary to the public interest. The majority of the public present this evening and the majority of the public comments submitted were in favor of the project. These included positive statements of the proposal cleaning up the area and providing housing for residents of Hudson.

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

Mr. Boyer stated that the proposed use will observe the spirit of the ordinance. The property is located in a residential zone and is proposed to be used for residential housing. It is located off the main road and shielded by several nature effects.

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

Mr. Boyer stated that substantial justice would be done to the property owner by granting the variance. The property owner is developing the property with a use that he believes is helpful for the residents of Hudson by providing housing.

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

Mr. Boyer stated that the proposed will not diminish values of the surrounding properties. The applicant, along with several members of the public, stated an interest in seeing the area cleaned up, which the proposal would do.

**5. Ordinance results in unnecessary hardship**

Mr. Boyer stated that the applicant established that literal enforcement of the provision of the ordinance would result in an unnecessary hardship. This is a new project. All of the same hardship criteria apply from the previous approval. The intention is to combine a group of parcels to make a development. This is the only way to make this project happen and provide benefits to it for the Town.

**Mr. Boyer – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Sakati stated that he does not see the proposal negatively affecting public health or safety.

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

Mr. Sakati stated that combining the properties and allowing a multifamily use does not conflict with the spirit of the ordinance.

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

Mr. Sakati stated that the proposal does not harm the general public and there is no proposed change from the original approval.

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

Mr. Sakati stated that he does not perceive any change to surrounding property values.

**5. Ordinance results in unnecessary hardship**

Mr. Sakati stated that the property is almost unusable and some remediation has to occur in order for a return to make it worth the applicant's time and effort. He thanked the public for all of the comments and encouraged the Planning Board to thoughtfully listen to all of the comments. This can be a constructive process.

**Mr. Sakati – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Lanphear stated that granting the variance will not be contrary to the public interest. The proposed mixed-use development will be cleaner and look much better than the existing site.

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

Mr. Lanphear stated that the proposed use will observe the spirit of the ordinance. The applicant combined many parcels to make one large usable piece of property. The proposal will not hurt the neighborhood or the public safety.

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

Mr. Lanphear stated that substantial justice would be done to the property owner in granting the variance.

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

Mr. Lanphear stated that the proposed use will not diminish any surrounding property values. It will increase these property values.

**5. Ordinance results in unnecessary hardship**

Mr. Lanphear stated that The property itself creates a lot of hardship, due to the wetlands. The applicant has come up with creative ways to cross these different barriers. Hopefully the Planning Board will continue to uphold what the public wants to see on this site. The proposed use is a reasonable one.

**Mr. Lanphear – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Brendon Sullivan stated that granting the requested variance will not be contrary to the public interest, based on the majority of the speakers and comments heard. Most people seem to be in favor of this use.

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

Mr. Brendon Sullivan stated that the spirit of the ordinance will be observed. The spirit of the ordinance does not conflict with public health, safety, or welfare. The majority of people were in favor of this proposal, and it will allow for better use of the area.

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

Mr. Brendon Sullivan stated that substantial justice would be done to the property owner. The proposal will do no harm to the general public.

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

Mr. Brendon Sullivan that the proposed use will not diminish values of the surrounding properties. Cleaning up the area, developing it, and putting it to better use, will be a good thing for the area.

**5. Ordinance results in unnecessary hardship**

Mr. Brendon Sullivan stated that this is true based on the testimony heard tonight.

**Mr. Brendon Sullivan – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Dion stated that the ordinance in the General District is meant to prevent overcrowding situations. This lot is a split zone on the Business District. The proposal use appears to be a good one, which does not necessarily clash with what the ordinance is trying to do.

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

Mr. Dion stated that the plan does not conflict with the character of the neighborhood or threatening public health, safety, or welfare. The proposal may increase the makeup of the current neighborhood in the area. It is a very depressed area. This is not currently a nice-looking site, and the applicant is proposing to revitalize the neighborhood.

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

Mr. Dion stated that substantial justice would be granted to the property owner. There will be no harm leveraged against the general public by this plan.

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

Mr. Dion stated that this proposal may actually increase the value of surrounding properties by making the site look better and making it more useful.

**5. Ordinance results in unnecessary hardship**

Mr. Dion stated that there are special conditions of this property. It is a multi-parcel and multi-zoned property, half Business and half General. There is asbestos all over the site which someone has to deal with. Mitigation comes at a high cost. There is a give and take, which is an unnecessary hardship within itself. The applicant is proposing to clean up the area, fix the existing drainage issues, and is seeking ways to fund those activities through some additional units.

**Mr. Dion – to grant**

**Vote: 5-0-0 motion carried to grant the variance.**

*The Board took a ten minute recess and resumed at 8:44pm.*

**Variance 2**— to allow the up to three (3) proposed multifamily buildings within the General (G) district to exceed 38 feet in height up to a maximum of 50 feet, where a maximum height of 38 feet would otherwise be required. [HZO Article III: General Regulations; §334-14 Building height]

Mr. Witham-Gradert read the Case into the record.

**Applicant Testimony:**

Mr. Don Dumont reviewed the variance criteria. He explained that the use will not alter the character of the neighborhood. This is a large parcel with virtually nothing around it. The use would allow for housing, which is needed in the community. The proposed multifamily use aligns with the ordinance by adhering to the established guidelines and supporting higher density housing. The proposed use will allow the property to be developed in a successful manner instead of remaining a vacant lot, as it has been for many years. Any development of the property would clean up a depressed area and improve property values for the surrounding areas. The building, if limited to current ordinance, would yield insufficient unusable interior space for the intended reasonable use, which is multifamily housing. The variance would allow for adequate ceiling heights and the modern HVAC utilities and accessibility. The proposed building height allows for adequate space without increasing the building footprint. Further increasing the building footprint would impose greater impacts for the surrounding wetland and wetland buffers. By allowing for a higher pitched roof, the building will better conform with similar

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architectural throughout the Town. The proposed building height is reasonable because similar and taller heights are allowed elsewhere in the Town in the same Zone. The property is negatively impacted by strict conformance to the ordinance. The wetland on the property increases the unique and special conditions, limiting the availability of building area. Without granting relief from this ordinance, the building footprint would increase and impose a greater impact to the wetlands and wetland buffers.

### **Board Questions:**

Mr. McDonough asked if the additional height was related to feedback from a prior meeting. Mr. Don Dumont stated that this was brought up by both the ZBA and Planning Board. The style of the building at the old Friary was mentioned and so the roof pitch was increased to allow for a greater New England feel. This leads to a building taller than 38-feet. The appearance of the building will not be appropriate if shorter than this. Mr. Dillon Dumont stated that the building height allows for adequate floor heights, modern utilities, fire suppression systems, staircases, etc. To maintain the existing commercial building feel on Central Street, with New England style roof pitches, the height must be increased. The buildings are proposed to be between 42-feet to 45-feet, but the applicant is requesting up to 50-feet to allow for a buffer.

Mr. Sakati asked what could be done with the 38-foot height, if this variance is not approved. Mr. Dillon Dumont stated that this would lead to a flat roof. It is difficult with not wanting to increase the footprint while wanting to meet certain architectural standards. Mr. Don Dumont stated that the project will not be as eye-pleasing if the variance is not approved. He believes staff, the ZBA, and Planning Board all made comments about wanting something to compliment the area. The ordinance speaks to living space and the pitch of the roof is an aesthetic part of the building, not living space.

Mr. Witham-Gradert stated that the ordinance speaks to that the only thing allowed above 38-feet is unoccupied protuberances, such as weathervanes, steeples, etc. Wholesale roof lines may not go above this height, which triggered the need for a variance. Mr. Don Dumont asked about parapet walls, as these do not involve living space. Mr. Dillon Dumont explained that the ordinance speaks to livable space but also mentions the highest roof line. This is contradictory and can be confusing. Parapets and HVAC systems are not usually included in the height.

Mr. Lanphear stated that it seems the site was well designed for handicap parking spaces. He asked if there will be elevators in the building. Mr. Dillon Dumont stated that this is currently being considered in the design of the buildings. ADA compliance changes many of the first floor living standards. Mr. Don Dumont noted that a flat roof would include very large HVAC systems on top. These would not look attractive.

Mr. Boyer stated that Dave Hebert, Fire & Health, had no comments about this request. If the Fire Department does not have a concern, then it appears there is not an issue. Mr. Lanphear asked about the height of the three-story buildings on Lowell Road. Mr. Witham-Gradert stated that these are 37-feet 9.5-inches tall. A variance was not needed for these. The height ordinance lists specific zones and parcels by map and lot number for properties allowed to be over 50-feet. Wholesale zones are not listed.

Mr. Dillon Dumont stated that approximately half a mile up on Central Street to the west there is an industrial park that allows for the taller height.

In response to a question from Mr. Boyer, Mr. Witham-Gradert stated that the ordinance amendment could be perceived as spot zoning, but this is not the place to comment on that.

Mr. Dion asked if there would be any residential space above the 38-foot height. Mr. Dillon Dumont stated that there would not. An elevation plan was provided to the Planning Board. Mr. Witham-Gradert stated that the space above 38-feet is listed as unused roofline area. The highest elevation shown on the plan was 37-feet. Mr. Dillon Dumont stated that the elevation plan was included in the February 11<sup>th</sup> staff report for the Planning Board meeting. Mr. Don Dumont noted that it is more expensive to create a pitched roof that is aesthetically appealing than a flat roof.

**Public Comments in Favor:**

Mr. Witham-Gradert noted that all public comments submitted also apply to this variance case.

Nancy Sudsbury, 18 Windham Road, stated that she prefers the idea of a pitched roof and agrees that it will give more of an aesthetically pleasing look than a flat roof.

**Public Comments Neutral or Opposed:**

Ed Thompson, 22 Burns Hill Road, stated that he prefers a pitched roof. He noted that the request for 116 units is what is driving the height of the buildings. Allowing this number of units drives the volume of the buildings upward. Town Code §334-14 deals with building height. Hudson has building height requirements in its Residential Districts, generally limiting occupiable structures to 38-feet, in order to promote public health, safety, and general welfare. These regulations are rooted in the zoning ordinances and aim to prevent overcrowding, ensure adequate light and air, secure fire safety, and maintain the character of residential neighborhoods. He expressed concern with the applicant requesting a 50-foot allowance when 38-feet is allowed in the residential zone. The developer and his partner/son, who has served on the Board of Selectmen, knew about the zoning laws in this Town for many years. Yet they went to the Planning Board with a plan showing 50-foot buildings, knowing they were over the 38-feet to begin with. He asked why the applicant did not propose two story buildings with a beautiful roof line. He asked if there will be a stipulation that there be no living space allowed over 38-feet if the variance is approved. Granting this variance could set a precedence for another developer to request the same thing. While each case is different, the Board could be opening the Town up for workforce housing to pop up everywhere. He suggested a stipulation that there be no livable space above 38-feet in the buildings.

In response to a question from Mr. Sakati, Mr. Witham-Gradert explained that the floor heights would be approximately 8-feet 11 <sup>3</sup>/<sub>4</sub>-inch.

Seeing no additional comments at this time, Mr. Dion closed the public comment period at 9:15 PM.

**Applicant Rebuttal:**

Mr. Dillon Dumont explained that there was initially a bit of a discrepancy internally as to where the applicant was in terms of zoning compliance. A week prior to the Planning Board meeting, the applicant was told to come back to the ZBA. In reading through the zoning ordinance with staff, it became clear that occupiable space is to the highest point of the roof lines. There are unique conditions of this parcel which are not seen everywhere else. The buildable area for the 26 acres is minimal which is an inherent hardship and gives the Board the authority to find relief to be necessary. Every case is different and each applicant has to meet the criteria. If the unit count is set at 116, it would not allow the addition of another floor. The heights of the floors may change through the planning and grading process and so the request for relief up to 50-feet is reasonable, with the understanding that there are a set unit count and three floors approved within the building. Mr. Don Dumont stated that the grades of the building are yet unclear. The intention is to stay within certain bounds without having to come back before the Board for additional relief as the process moves forward.

**Board Discussion:**

In response to a question from Mr. Sakati, Mr. Dillon Dumont stated that there will be duct work and sprinkle system utilities on the third floor likely. There is nothing proposed beyond the height of the buildings shown.

Mr. Lanphear asked if the applicant would be okay with a maximum height of 50-feet and a maximum livable height of 38-feet. Mr. Dillon Dumont stated that he would mostly be fine with this, but it is a bit concerning with potential grades on the site. The intention is to stay as close to the maximum heights as possible, but some of this will be further determined through the Planning Board and Conservation Commission processes. Mr. Lanphear stated that he is concerned that allowing for a 50-foot height could mean that the applicant chooses to put on a flat roof and a fourth floor. Mr. Don Dumont stated that the minutes will include the reasoning and intention for what is being sought. Mr. Dillon Dumont stated that he would not agree with the proposed stipulation. The trusses for the roof line have not yet been planned out. There is no goal for a fourth floor.

Mr. Dion suggested a stipulation regarding the roof line height to the top of the foundation. This should be a hard figure. Mr. Don Dumont stated that the weight loads for the floors are not yet known. Mr. Dion suggested a 38-foot height from the top of the foundation to the top of the living space. Mr. McDonough suggested a stipulation of three livable floors. Mr. Dillon Dumont stated that he would prefer that stipulation than one with a specific footage. He noted that the Board moved to approve the three buildings on the site and 116 units. Adding another floor to the building is not possible with the eight additional units being requested. His reservations with the specific footage come from the building not being fully designed yet.

Mr. Sakati stated that the buildings that are 50-feet in Town are huge. He asked about the look of the building from Benson Park when there are no leaves on the trees. It could be very imposing to residents.

Mr. Boyer suggested a way to interpret the zoning ordinance to be pleasing to the applicant and help the Board. He asked about if the 38-feet is measured from the front entrance to the livable floor height of the building. Mr. Don Dumont suggested maintaining three levels of living.

Mr. Witham-Gradert stated that, ultimately, height is wholly regulated on the zoning side. When an application goes before the Planning Board, it first goes out for comment from Town departments. This was not flagged at that time. During the planning review, the problem was caught, which is why it is now before the ZBA. If the Board wanted to do something in line with what Mr. McDonough recommended, related to no more than three stories of livable space, it should consider how that would be written in order for the Planning Board to understand it and take it into account. The applicant could then technically create comically tall rooms, but this is something that Planning could then regulate to a greater extent as part of the site plan review. Mr. Dion asked about limiting it to a maximum of three floors with the expectation that there is a pitched roof.

Mr. Lanphear suggested 38-feet from the foundation to the height of the top floor ceiling. This would allow a certain amount of floor height for each floor. Mr. McDonough expressed concern with creating a hardship by defining the maximum floor height without there being structural plans available. This could create structural implications and limit the amount of usable floor space for the units previously approved. Mr. Dillon Dumont stated that there is a 5-foot difference in the tallest building from 45-feet to 50-feet. There is no intent to move away from the current architectural plan, but he is concerned with a specific requirement for the floor height for many reasons.

Mr. Witham-Gradert stated that, with a sloped roof, there is a minimum slope required. The exact percent grade or angle of this roof is not yet known. The requirement for a sloped roof would, by definition, take up a certain amount of height which may resolve the issue entirely. Mr. Dillon Dumont noted that reducing this could lead to some structural issues that would probably cause an abnormal size and width. The roof section cannot be made shorter within the rules of code and compliance.

Mr. Boyer stated that the Board could impose a hardship on the applicant by making construction constraints on the applicant. Three floors of living space may be a more reasonable stipulation. Mr. Dion stated that he would like to somehow tie in the pitched roof requirement.

Mr. Sakati expressed concern regarding the variance running with the land and a future owner doing something very different than the currently proposed project. 50-feet is imposing and he would have liked to see the proposed sight line from Bensons. He also expressed concern regarding setting precedent for allowing variances for 50-foot buildings, where these requests previously came through Warrant Articles. He would have rather seen this voted on through a Warrant Article. This could open the flood gates for the Town.

Mr. Dillon Dumont stated that the ZBA exists for this purpose. The Supreme Court has found that creating Warrant Articles for each parcel is not the proper procedure. That process would be significantly longer. The purpose of the ZBA is to allow applicants to seek relief for unique parcels. This path seems to be more appropriate than the applicant seeking a Warrant Article to change the height for a single parcel. Mr. Dion stated that this is a bizarre property. There cannot

be full use of it. Mr. Sakati asked if there is a hardship for the 50-foot request. He likes the proposed roof more than a flat roof, but it is unclear if the Board has this authority.

Mr. Don Dumont suggested limiting the project to the three-story livable area without placing requirements on the actual roof line space. Mr. Sakati agreed that this would also help with including requirements for future owners. This still does not solve the problem of the sight line from Bensons.

Mr. Lanphear stated that the roof line is an 18-foot height to the peak. Adding 36-feet to 18-feet leads to 54-feet, not counting the drop of the ground height. This pushes the building to almost 60-feet high. Mr. Witham-Gradert stated that the variance requested would cap the height at 50-feet, between the three stories and the roof. The variance request, as listed, does not include any specific parameter or ratio between those. The Zoning Ordinance regulates the height total, not the height of individual stories. Mr. Dillon Dumont stated that the reasonable approach is for a stipulation of three stories of living space with a pitched roof. There are too many variables that have not been fleshed out yet on the plans. The hardship is the uniqueness of the property, including the wetlands and other constraints, and the usable acreage. Other properties in Town could not likely meet the same hardship. The view from Bensons would likely be better as a New England style building and not a flat, "chicken coop" roof.

Mr. Dillon Dumont suggested a straw poll of the Board regarding Mr. McDonough's suggested stipulation.

Mr. McDonough reiterated his proposed stipulation for the variance request of assuming a 50-foot maximum overall, limiting the building to three livable floors plus a pitched roof. Mr. Sakati stated that he would like to discuss this further in deliberations.

Mr. Witham-Gradert stated that request for the height is for the three proposed multifamily buildings, specifically for the use listed. For example, if the property was sold, a future owner could not make this a mall with three stories, as it would not fall within the stipulations.

Mr. Sakati asked the applicant for anything else to allay his concerns about the Bensons property. Mr. Dillon Dumont stated that the applicant heard concerns from the Board and staff during the conceptual review. He would not want to construct a distasteful building. Mr. Sakati stated that the applicant clearly takes pride in what he is proposing to build.

In terms of sight lines, Mr. McDonough stated that it appears there may be approximately 360-feet from Bensons property line to Building D. Mr. Dillon Dumont stated that this may be slightly larger. Also, there is existing vegetation between the two. Mr. Sakati asked if there are wetlands between the two. Mr. Dillon Dumont stated that there are and he would have to ask the Conservation Commission if plantings could be installed in this area. Mr. Boyer stated that this area abuts an abandoned road into Bensons. That section of Bensons is not utilized other than existing trails which have a lot of vegetation surrounding them.

Mr. Don Dumont stated that the elevation at Bensons tends to go up and so the view would be at the buildings, instead of looking up at them.

Mr. Witham-Gradert noted that planting requirements are generally handled by the Planning Board. Mr. Dillon Dumont noted that a full landscape and lighting plan was submitted to meet the green requirements.

Mr. Boyer asked if the applicant accepts Mr. McDonough's stipulation as stated. Mr. Dillon Dumont stated that the stipulation is the goal of the project and can be agreed to. Anything beyond that stipulation would lead to the applicant coming back before the Board anyway.

**Rebuttal Public Comments in Favor:**

Deborah Putnam, 59 Rangers Drive, stated that she is in support of the discussions taking place and is encouraged by what was stated by the applicant and Board. Precedence setting is an important consideration. Stipulating three livable floors and 116 units seems to solve the concerns of many.

**Rebuttal Public Comments Neutral or Opposed:** None at this time.

**Board Discussion and Deliberation:**

Mr. Dion stated that this will ultimately be a request before the Planning Board to allow for a pitched roof. This is a hardship thrust upon the applicant to make the building look better by the Planning Board. The applicant could make a flat roof for much cheaper.

**Mr. Lanphear moved to grant a variance from §334-14 – Building Height to allow the up to three (3) proposed multi- family buildings within the General (G) district to exceed 38 feet in height, where a maximum height of 38 feet would otherwise be required, based on the written and verbal testimony of the applicant, and the stipulations that there be a maximum building height of 50-feet, with three livable floors, and a pitched roof, duly seconded by Mr. Boyer.**

**Board Speaking on Each Variance Criterion:**

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

Mr. Lanphear stated that granting this variance to the 50-foot max height will not change the neighborhood and not threaten the public's health or safety in any way.

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

Mr. Lanphear stated that the proposed use will observe the spirit of the ordinance. The discussions between the applicant and Board led to a good compromise for everyone and the public.

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

Mr. Lanphear stated that substantial justice would be done to the property owner by granting this variance. A large portion of the design of this property is the roof. The proposal will not harm the public.

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

Mr. Lanphear stated that the proposal will not diminish the value of surrounding properties.

**5. Ordinance results in unnecessary hardship**

Mr. Lanphear stated that the applicant established that literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The proposal will help with the overall look of the design and architectural for the development. The proposed use is a reasonable one.

**Mr. Lanphear – to grant**

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

Mr. Boyer stated that the requested variance will not be contrary to public interest because there will not be any living space above three floors and the Fire Department had no comments.

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

Mr. Boyer stated that the spirit of the ordinance will be observed because the interpretation of the ordinance is in question and was discussed for this case.

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

Mr. Boyer stated that substantial justice would be done because the property owner will be able to build what he and the public would like to see on the property.

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

Mr. Boyer stated that it will not diminish the values per public comment.

**5. Ordinance results in unnecessary hardship**

Mr. Boyer stated that literal enforcement would create an unnecessary hardship because the design that is desired by the public and the property owner needs relief from the ordinance.

**Mr. Boyer – to grant**

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

Mr. Sakati stated that the proposal is not contrary to the public interest and does not conflict with the explicit purpose of the ordinance. He appreciates that the applicant is trying to go above and beyond and make this look like a classy development that is good for the Town.

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

Mr. Sakati stated that the proposal does not threaten the public safety in any form or fashion.

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

Mr. Sakati stated that justice will be done to the property owner and there will be no harm to the public.

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

Mr. Sakati stated that he does not see any diminution of values of surrounding properties.

**5. Ordinance results in unnecessary hardship**

Mr. Sakati stated that the hardship in this case is that the applicant is trying to satisfy the Planning Board's guidance and the proposed use is reasonable. He thanked all of the residents who attended the meeting and submitted comments regarding this case. This creates better outcomes. He encouraged the Board of Selectmen Chair to work with the Planning Board to try to encourage similar dialogue from the public to lead to better outcomes.

**Mr. Sakati – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Brendon Sullivan stated that the proposal is not contrary to the public interest. He has seen many people change their feelings on this project tonight, including himself.

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

Mr. Brendon Sullivan stated that the proposal will observe the spirit of the ordinance as it does not interfere with the public health, safety, welfare, or public rights.

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

Mr. Brendon Sullivan stated that substantial justice will be done to the property owner by granting this variance. This is a good compromise between the builder and the public interest.

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

Mr. Brendon Sullivan stated that the proposed use will not diminish values of surrounding properties.

**5. Ordinance results in unnecessary hardship**

Mr. Brendon Sullivan stated that the proposal meets all the proper requirements.

**Mr. Brendon Sullivan – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Dion stated that he would vote to grant with the stipulations of three livable floors and a pitched roof at a maximum of 50-feet. In terms of the implicit or explicit purposes of the ordinance, height limits mostly have to do with trying to maintain the feel of the Town and make sure that people are not building skyscrapers. The proposal allows the applicant to build a bit higher doesn't box us into a situation where we're at Friar's Court, where it's been stated, we have a "chicken coop" building. The proposal better fits the aesthetic of the Town. Allowing a bit extra height room, is better in keeping with the purpose of the ordinance.

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

Mr. Dion stated that this building being a bit taller will not threaten the public health or safety.

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

Mr. Dion stated that the proposal will not bring harm to the general public. There was some concern regarding sight lines to the property. Through discussions had, it appears that the distance to Benson (Park) will be fairly far with a lot of trees in the way.

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

Mr. Dion stated that a building will exist on the site no matter what, as variances have already been granted. The building being slightly taller will not affect the value of surrounding properties.

**5. Ordinance results in unnecessary hardship**

Mr. Dion stated that this is a bizarre property. It crosses over two different zones and contains a lot of wetlands. The applicant is limited on how much they can actually build on the property. The applicant could build this within the height limits, creating a two-story building with a pitched roof, but this would likely cover a lot more of the property. The applicant is trying to meet some aesthetic and design choices from the Planning Board and public, which is also a hardship.

**Mr. Dion – to grant**

**Vote: 5-0-0 motion carried to grant the variance with the stipulations that there are three livable floors, with a pitched roof and a maximum height of 50 feet.**

**The proposed two variance requests are combined and required as shown below:**

**Variance 3a**— to allow an extension of the mixed-use variance granted on October 24, 2024 (Case #176-041 A) earlier than 90 days in advance, and to align with the expiration date of variances 1 and 2 noted above. [HZO Article XV: Enforcement and Miscellaneous Provisions; §334-82. F, Time Limit]

**Variance 3b**— to extend the variance granted October 24, 2024 to allow a proposed mixed principal use development with commercial uses and multifamily use on the same lot. [HZO Article III: General Regulations; §334-10, Mixed or dual use on a lot]

Mr. Witham-Gradert read the Cases into the record. He explained that, while these are still two separate variances being granted with two public hearings, they are interdependent and can be discussed concurrently, if the Board so chooses.

**Applicant Testimony:**

Mr. Don Dumont addressed the variance criteria. He stated that hearing the application two months earlier than permitted is not contrary to the public interest. By hearing the extension now, the spirit of the ordinance is preserved by managing the timeline for all the required variances. The public is also benefited by hearing the full scope of the project all at once. Granting the extension early does not affect property values. The development requires multiple variances, most of which have already been granted by the ZBA. Due to a change made in the architectural plans, the proposed uses need to be reviewed by the ZBA again. It would be reasonable to grant

the variance to allow all of the requested variances to be on the same timeline as the project moves forward.

**Board Questions:**

There were no questions or comments from the Board at this time.

Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at 10:13 PM.

**Public Comments in Favor:** None at this time.

**Public Comments Neutral or Opposed:** None at this time.

Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:14 PM.

**Board Discussion and Deliberation:**

**Mr. Lanphear moved to grant a variance from §334-82.F – Time Limit: – to allow an extension of the mixed-use variance granted on October 24, 2024 (Case #176-041 A) earlier than 90 days in advance, and to align with the expiration date of variances 1 and 2 noted above, based on the written and verbal testimony of the applicant, duly seconded by Mr. Boyer.**

**Board Speaking on Each Variance Criterion:**

- 1. Granting this variance will not be contrary to the public interest**  
Mr. Lanphear stated that this proposal for extension is to align all of the variances, including those just voted on. This will help the project to be on the same timeline.
- 2. The proposed use will observe the spirit of the ordinance**  
Mr. Lanphear stated that the proposed extension will not hurt any person, health or safety.
- 3. Substantial justice would be done to the property owner by granting this variance**  
Mr. Lanphear stated it will continue the development to continue moving forward.
- 4. The proposed use will not diminish the value surrounding properties**  
Mr. Lanphear stated that the proposed use will not diminish property values in the area.
- 5. Ordinance results in unnecessary hardship**  
Mr. Lanphear stated that not granting this variance would create a hardship because you couldn't hear the next part (the extension). To continue to move forward, all of the variances for this project should line up on the same timeline.

**Mr. Lanphear – to grant**

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

Mr. Boyer stated that granting the variance will not be contrary to the public interest because it will allow the Board to hear another case regarding variances previously approved.

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

Mr. Boyer stated the proposed variance is in the spirit of the ordinance. The ordinance is observed by allowing the variances to expire together.

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

Mr. Boyer stated that substantial justice is done because the property owner will not have to come back to the Zoning Board for any extensions.

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

Mr. Boyer stated that this variance has nothing to do with property values.

**5. Ordinance results in unnecessary hardship**

Mr. Boyer stated that literal enforcement would create an unnecessary hardship because it is completely unnecessary.

**Mr. Boyer – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Sakati stated that this variance does not conflict with the explicit or implicit purpose of the ordinance.

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

Mr. Sakati stated that this variance will observe the spirit of the ordinance. This has already been approved.

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

Mr. Sakati stated that justice is done. Re-approving the variance will not cause any harm to the public.

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

Mr. Sakati stated that surrounding property values will not be diminished.

**5. Ordinance results in unnecessary hardship**

Mr. Sakati stated that literal enforcement results in a hardship which is not necessary.

**Mr. Sakti – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Brendon Sullivan stated that granting the variance will not threaten the public health, safety, or welfare.

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

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Mr. Brendon Sullivan stated that the proposed use will not alter any parts of the neighborhood or public health, safety, or welfare.

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

Mr. Brendon Sullivan stated that substantial justice would be done to the property owner by granting the variance in keeping the process moving along.

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

Mr. Brendon Sullivan stated this is not applicable, that this variance does not alter the values of surrounding properties.

**5. Ordinance results in unnecessary hardship**

Mr. Brendon Sullivan stated that granting the variance will allow the applicant's process to move along at a faster speed and there is no need to impose an unnecessary hardship.

**Mr. Brendon Sullivan – to grant**

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

Mr. Dion stated that granting the variance is not contrary to the ordinance.

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

Mr. Dion stated that granting the variance will not threaten public health, in allowing the request to be heard 90 days earlier.

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

Mr. Dion stated that substantial justice would be granted to the property owner as the proposal will not harm the general public.

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

Mr. Dion stated that this is not applicable in this case.

**5. Ordinance results in unnecessary hardship**

Mr. Dion stated that enforcing the ordinance strictly would require the applicant to unnecessarily coming back 90 days later when we would rather deal with the case now in a feasible, reasonable manner.

**Mr. Dion – to grant**

**Vote: 5-0-0 motion carried to grant the variance.**

**Variance 3b**— to extend the variance granted October 24, 2024 to allow a proposed mixed principal use development with commercial uses and multifamily use on the same lot. [HZO Article III: General Regulations; §334-10, Mixed or dual use on a lot]

Mr. Witham-Gradert explained that this variance was granted at a prior hearing. The request is to extend the already granted variance to match the timeline with the variances granted this evening.

**Applicant Testimony:**

Mr. Don Dumont addressed the variance criteria. The proposed use would not alter the character of the neighborhood. This is a large parcel with virtually nothing around it. The use would allow for housing which the community is in need of. The proposed multifamily use aligns with the spirit of the ordinance by adhering to the established guidelines and supporting higher density housing. The proposal would allow the property to be developed in an accessible manner instead of remaining vacant as it has for many years. Any development on this property would clean up a depressed area and improve property values of surrounding properties. This property is bisected by two zones, and the use is permitted on the front parcel. The proposed use is reasonable and allows for a more harmonious, consistent development which the Town is in need of.

Mr. Dillon Dumont explained that mixed use is allowed in the Business District today. This is one large site plan, and mixed use is proposed where allowed on the property, but the property happens to be bisected by different zones.

**Board Questions:**

Mr. Witham-Gradert recommended a stipulation that this variance extend to the date of February 26, 2028, similar to the other variances granted this evening.

Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at 10:22 PM.

**Public Comments in Favor:** None at this time.

**Public Comments Neutral or Opposed:**

Donna Boucher, 8 Windham Road, asked about the Town vote last year regarding mixed use district and why this does not fall within that. Mr. Witham-Gradert stated that the vote last year was to establish a mixed-use district, non-defined. The vote was not that mixed-use developments were not allowed. There is specific reference to them in the zoning ordinance, and they are permitted primarily in the business zone. It was brought before the voters last year to establish larger districts which expanded these areas and provided special rules in regard to how they would be regulated. This was voted down by the voters last year. Ms. Boucher asked about the proposed building that includes both retail and residential uses, and if that goes against the vote. Mr. Witham-Gradert stated that if the singular building was subdivided and considered separately, it would be allowed within the rules of the Town as mixed-use developments are allowed within the Town business zone with specific requirements. The prior vote was for establishment of a district, including a special set of rules for a given area. This was not a vote to allow or to bar mixed-use development as a concept. If someone wanted to make a petition this upcoming year to do that, they could.

Nancy Sudsbury, 18 Windham Road, stated that she does not like mixed-use development. This feels like a city and does not look nice. More mixed use will lead to Hudson looking less like a town. This is a business zone and so likely nothing can be done to stop it.

Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:27 PM.

**Board Discussion and Deliberation:**

**Mr. Lanphear moved to grant an extension of the variance labelled #176-041A, granted on October 24, 2024 from §334-10 – Mixed Use: to allow a proposed mixed principal use development with commercial uses and multi-family use on the same lot, to date February 26, 2028, based on the written and verbal testimony of the applicant, duly seconded by Mr. Boyer.**

**Board Speaking on Each Variance Criterion:****1. Granting this variance will not be contrary to the public interest**

Mr. Lanphear stated that granting of this requested variance will keep it on the same timeline as the other variances because they will expire at the same time.

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

Mr. Lanphear stated it's irrelevant.

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

Mr. Lanphear stated that the proposed extension is to keep the variances in order so the development project can continue going on.

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

Mr. Lanphear stated that the proposed use will not diminish property values in the area.

**5. Ordinance results in unnecessary hardship**

Mr. Lanphear stated that granting this variance will line up all the variances and allow the applicant to keep the variances on the same timeline.

**Mr. Lanphear – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Boyer stated that this variance is already in place. The variance will not be contrary to the public interest because it is not being changed. Public safety and welfare are still of the same matter.

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

Mr. Boyer stated that the spirit of the ordinance is still in effect because that variance is still in effect. This is simply extending the date.

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

Mr. Boyer stated that substantial justice will be done because this will allow the previously approved substantial justice to continue.

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

Mr. Boyer stated that this variance has nothing to do with property values. This is extending a variance.

**5. Ordinance results in unnecessary hardship**

Mr. Boyer stated that literal enforcement would be a hardship in not allowing this variance to continue along with all the others.

**Mr. Boyer – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Sakati stated that this is not contrary to public interest.

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

Mr. Sakati stated that this variance does not conflict with the spirit of the ordinance.

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

Mr. Sakati stated that justice will be done to the property owner. There is no harm to the public.

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

Mr. Sakati stated that there is no diminution of value.

**5. Ordinance results in unnecessary hardship**

Mr. Sakati stated that not approving creates an unnecessary hardship.

**Mr. Sakti – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Brendon Sullivan stated that granting this would not conflict with the ordinance or cause harm to the character of the neighborhood, public health, etc.

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

Mr. Brendon Sullivan stated that the proposed use will not alter any parts of the neighborhood, threaten public health, etc.

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

Mr. Brendon Sullivan stated that substantial justice would be done to the property owner by allowing the variance to continue on a congruent timeline.

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

Mr. Brendon Sullivan that this is not applicable.

**5. Ordinance results in unnecessary hardship**

Mr. Brendon Sullivan stated that granting the variance will allow the applicant's process to be streamlined.

**Mr. Brendon Sullivan – to grant****1. Granting this variance will not be contrary to the public interest**

Mr. Dion stated this will allow the applicant to have expeditious timelines and align the dates for all of the variances.

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

Mr. Dion stated that granting the variance will not threaten public health by extending this variance to be all in alignment

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

Mr. Dion stated that substantial justice would be granted to the property owner.

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

Mr. Dion stated that this is not applicable in this case.

**5. Ordinance results in unnecessary hardship**

Mr. Dion stated that the property is unique and, due to that, the planning and design for the project may take more time. Not granting this and not allowing the variances to be in alignment would be an unnecessary hardship against the property owners considering the previous variances that were just granted by the Board have a specific timeline to them.

**Mr. Dion – to grant with the stipulations already proposed.**

**Vote: 5-0-0 motion carried to grant the variance with the stipulation of expiration date of February 26, 2028**

*Mr. Dillon Dumont retook his seat.*

**VI. REVIEW OF MINUTES:**

01/22/2026 edited draft Meeting Minutes

**Mr. Lanphear moved to approve the meeting minutes of 01/22/2026, as edited, duly seconded by Mr. Boyer.**

**Vote: 5-0-0 motion carried to approve the 01/22/2026 meeting minutes.**

**VII. OTHER BUSINESS:** Continued discussion of proposed ZBA Bylaws amendments: regarding deliberations in §143-9. Decision Process

The Board reviewed the draft language for §143-9: Decision Process. Mr. Dion explained that this language states that the Chairperson shall permit non-sitting alternates, the Select Board liaison, if present, and the Zoning Administrator or his/her designee, to ask questions and provide input, should they wish to do so.

Mr. Sakati expressed concern that the Board previously agreed that the Select Board Liaison would not be allowed to speak during deliberations. Then the Board reviewed the bylaws and decided to allow it, as discourse is important. However, when the lawyer met with the Board, he cautioned that this could opening the Board up to a lawsuit if the liaison is seen to be biasing the process.

Mr. Dumont explained that this is the last thing he would want to happen. The overall advice was to be cautious and reach out to legal counsel. He received advice from legal counsel who sits on a separate zoning board that this can be permitted per the Chair's discretion. Mr. Dion stated that

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this could be on a case-by-case basis. This would allow for leeway and leverage when needed for cases.

Mr. Dumont stated that NHMA commended Hudson on the ZBA Chair making it clear which Board members are present during meetings and their roles on cases. Mr. Dion noted that other towns allow for liaisons to be used as voting members, if need be. This could lead to concerns regarding too much leverage coming from the Board of Selectmen. He does not want to put the Board in the wrong position to not hear from those with expertise.

Mr. Dumont suggested at least allowing the Zoning Administrator to participate in discussions, even if the Board of Selectmen Liaison is removed from the language. Mr. Sakati stated that his only concern is with the liaison role. Mr. Dion stated that he believes it adds value for the liaison to be able to give some additional color from the side of the Board of Selectmen that the ZBA may not always know.

Mr. Dion stated that he watched 20-30 other NH towns to see how their ZBAs run their meetings. It is fairly common for the liaison role to at least sit and participate in discussions. Mr. Sakati stated that it seems this item has been worked through.

**Motion made by Mr. Boyer to approve §143-9. Decision Process as written, duly seconded by Mr. Lanphear.**

**Vote: 5-0-0 motion carried.**

#### **VIII. ADJOURNMENT:**

**Motion made by Mr. Boyer, duly seconded by Mr. Lanphear and unanimously voted to adjourn the 02/26/2026 ZBA Meeting at 10:42PM.**

Respectfully submitted,  
Kristan Patenaude, Recording Secretary

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Tristan Dion, ZBA Chairman