



TOWN OF HUDSON

Zoning Board of Adjustment

Tristan Dion, Chairman Dillon Dumont, Selectmen Liaison

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

MEETING MINUTES – FEBRUARY 26, 2026 – DRAFT

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 184 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.

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

48 **Case 176-041 (02-26-2026):** Meadows Property, LLC and Posey Investments, LLC, 195
49 R Central St., Hudson, NH requests four (4) Variances for a proposed mixed-use
50 development of commercial & multifamily containing up to the three lots of 197, 197R &
51 207 Central St., Hudson, NH as follows: (Map 176, Lots 044, 045, & 041. Sublots-000:
52 Zoned Business (B) & General (G)]
53

54 **Variance 1**— to accommodate up to three (3) proposed multifamily buildings with a
55 cumulative total of 116 units within the General (G) district, where multifamily use is not
56 permitted in the General (G) district. This variance, if approved, shall supersede the
57 variance granted on October 24, 2024 (Case #176-041 B). [Hudson Zoning Ordinance
58 (HZO), Article V: Permitted Uses; §334-21. Table of Permitted Principal Uses, and
59 Article VIII: Nonconforming Uses, Structures and Lots: §334-29 Extension or
60 enlargement of nonconforming uses]
61

62 Mr. Witham-Gradert read the Case into the record.
63

64 **Applicant Testimony:**

65 Don Dumont, 18 Hilindale Drive, explained that Meadows Property, LLC, and Posey
66 Investments, LLC, are requesting relief from Hudson Zoning Ordinance §334-14, relative to the
67 building height; §334-10, to allow multifamily in a General Zone; §334-82.F, to allow an
68 extension to be heard prior to the 90 day expiration of a Variance and for the extension of a
69 mixed-use Variance for the proposed residential and mixed-use development located at 197,
70 197R & 207 Central St., Map 176, Lots 044, 045, & 041 in Hudson. The project includes three
71 residential apartment buildings within the south central portion of the property and one mixed-
72 use building located on the northern portion along Central Street. Two driveway connections to
73 Central Street are proposed, one for the mixed-use building and the other for the residential area.
74 It should be noted that the project also includes two proposed food truck areas, each being at the
75 two proposed driveway connections along Central Street.
76

77 Mr. Don Dumont stated that two previous Town Zoning Variances were granted on October 24,
78 2024. The variances granted allowed for a multifamily use within the G General District and for
79 a mixed-use residential use on the same parcel. In going through the planning process, the
80 architect found issues with the number of units and the building size, resulting in fewer units in
81 the front building along Central Street, Building A, and the back building, Building C. By adding
82 an additional building in the back, Building D, to accommodate for the lost units in Buildings A
83 and C, the change in plans was flagged by staff, and the process was put on hold in order to come
84 before the ZBA to ask for relief. During a conceptual review with the Planning Board and
85 through comments from staff, concerns were brought up about the architectural style of the
86 buildings. The goal is for these buildings to have a typical New England style look. Comments
87 from the ZBA, Planning Board, and staff reinforced this. One main way to reflect this style is
88 through the roof. In doing so, this would increase the building height to 45-feet, leading to the
89 Variance relief of up to 50-feet. The height is also critical to allow for adequate use of each floor
90 without having to expand the footprint of each building, which could lead to issues with the
91 surrounding wetlands and wetland buffers. The requested building height is currently allowed in
92 Zones in other parts of Town, such as the General G District and the B District abutting Lowell
93 Road/3A, the General G District abutting the north of the Sagamore, a portion of the General G1
94 District located on the south of Sagamore Bridge Road, and numerous industrial zones within the
95 Town, with the closest being up the street approximately one mile at the industrial park off

96 Central Street. For those reasons, the relief being requested is fair and justified. This project will
97 have a major impact on the community and solve multiple needs. The surrounding properties are
98 commercial, except for one direct single-family home abutter off Central Street, and the owner of
99 this property has been spoken with. The request is attempting to clean up a depressed area and
100 produce a quality development that everyone can be happy with.

101
102 Mr. Don Dumont addressed the variance criteria for this requested relief. This would not alter the
103 character of the neighborhood, as this is a large parcel with virtually nothing around it. This
104 would allow for housing which the community is in need of. The proposed multifamily use is in
105 line with the spirit of the ordinance, by adhering to established guidelines and surrounding higher
106 density housing. This variance would allow the property to be developed in a successful manner
107 instead of remaining vacant, as it has been for many years. Any development of this property
108 would clean up a depressed area and improve property values for all the surrounding properties.
109 This property is bisected by two zones, and the proposed use is already allowed on the front half
110 of the parcel. Thus, the proposed use is a reasonable one and will allow for more harmonious,
111 consistent development which the Town is in need of.

112
113 **Board Questions:**

114
115 Mr. Lanphear stated that this portion of Central Street floods and he asked how this will be
116 handled through the proposal. Mr. Don Dumont explained that the existing asphalt is worse than
117 what is proposed. The existing asphalt allows the runoff to flood into the nearby wetlands and
118 cross over to the abutting streets and properties. There are beaver dams in this area which also
119 are a problem for the flooding.

120
121 Mr. Lanphear asked about the two variances originally granted in 2024 and why changes were
122 made from those approved plans. Mr. Don Dumont explained that he did not understand that he
123 would be tied to a unit count. He believed the variance received was only for the proposed use.
124 After working with the architect and staff, it seemed more transparent to come forward with the
125 revised plans, as well as to make sure that all of the variances run concurrently, as the original
126 variances are set to expire this year.

127
128 Mr. Lanphear asked if the proposed driveway will cross the wetlands. Mr. Don Dumont stated
129 that there is one small wetland crossing at the back of the site.

130
131 Mr. Lanphear noted that this was an asbestos dumping area at one point which has been capped.
132 Mr. Don Dumont stated that the State regulates work over an asbestos site and will be on site to
133 monitor this. The best cap for asbestos is asphalt. The existing cap is sand and gravel. Some of
134 this area will be made into a parking lot, which is a good cap. Mr. Lanphear noted that this could
135 be good for water penetration in the area, though that penetration has been ongoing for years.
136 Some of the asbestos may already have leached into the surrounding area. He expressed concern
137 regarding asbestos spores which may be in the area, as this will be a multifamily use.

138
139 Mr. Witham-Gradert stated that asbestos regulation is not done in any capacity by the Town.
140 This is handled entirely by DES. Most applications that go before DES have a work plan which
141 explained what will be done and how it will be done related to any asbestos work. As part of that
142 plan, DES will check the work on the site. He noted that even old wells are lined with asbestos.
143 Ultimately, the Town has no say in this process. It is carried out by DES. Mr. Lanphear stated

144 that it is the Board's job to ensure the safety of the public and he was seeking to gain more
145 information on this topic.

146
147 Mr. Sakati asked if anything has happened on the site since the original variance approvals in
148 2024. Mr. Don Dumont explained that the architect worked through plans and discussed this with
149 staff. The existing variances could be used but it seems a better idea to stay aligned with staff,
150 Board, and his own needs.

151
152 Mr. Sakati asked about any changes from the original request for 70 rental apartment units. Mr.
153 Don Dumont stated that there are fewer units proposed on the front now. There is a difference of
154 approximately four units, but these have been swapped around through the buildings due to
155 staircases and architectural.

156
157 Mr. Sakati asked if the original variance was for 70 apartments in one building and 30 in another,
158 for a total of 100 units. He asked if the applicant is now seeking 116 units in total. Mr. Don
159 Dumont stated that the total was originally approximately 112-113 units. An additional four are
160 now being sought. Building D is a newly proposed building.

161
162 Mr. Boyer asked for more information regarding the changes made to the buildings, necessitating
163 the additional units. Mr. Don Dumont stated that the architect was not accurate in the original
164 totals due to using square footages. The number of units needed to be maintained, but some
165 changes were made as the total was better determined. The number of buildings has been
166 changed to accommodate all of the units.

167
168 Mr. Dion asked about public access for a proposed trail connection shown on the plan. Mr. Don
169 Dumont stated that this would be open to the residents of the buildings. Mr. Dion asked if this
170 would be considered for an easement to get into Bensons. Mr. Don Dumont stated that this does
171 not connect directly to Bensons, though someone could use it to access that area, if they wanted
172 to. A trail easement would be up to the Planning Board. Mr. Dion asked if the road would be
173 public or private. Mr. Don Dumont stated that it would be private.

174
175 Mr. Dillon Dumont, 195 R Central Street, stated that this was originally a request from the
176 Planning Board as part of the conceptual review. It does not have to remain on the plan but was
177 included as a request. Mr. Dion stated that an easement for Town use of the trails would be nice.
178 Mr. Dillon Dumont explained that the intention was to create uses that are friendly to everyone
179 in the Town. The proposed food trucks are a nice add for the area.

180
181 Mr. Dillion Dumont stated that the original proposal included an engineered plan. An architect
182 was used to obtain final plans and determined that 34 units would be lost from one of the
183 buildings. There is a net gain of four units for the entire project and the addition of one building
184 in order to make up for the losses to Buildings A and C. Ultimately, the use and intent are the
185 same as when discussed in 2024.

186
187 The Board noted that two of the proposed variances are to synchronize the original variances
188 with the newly requested ones and move them out two years. Mr. Dillon Dumont explained that
189 the original mixed-use variance is still valid and has not changed. The multifamily variance was
190 flagged during the planning stage due to changes on the plan. The discussion in the minutes from
191 that time does not reflect the number of buildings, and it felt proper to bring this back in front of
192 the Board. Variance 2 is a new request regarding the building height. Variance 3A is requesting

193 relief for the Board to hear the case as it is earlier than the 90 days typically allowed for an
194 extension. Variance 3B is for the extension itself, if 3A is granted.

195
196 Mr. Dion stated that a variance was previously granted and so the applicant has a right to build
197 this project, even if per the original approval. The major change proposed is to add four
198 additional units and split the large unit into two. Mr. Dillon Dumont explained the existing site is
199 problematic. There is a large parking lot with a foundation still in the wetland buffer. In order to
200 remediate that, there has to be something to offset the cost for infrastructure and fix those
201 problems. This is where the additional unit count came from. Losing approximately 40 was not
202 feasible and so the fourth building was proposed, allowing the applicant to fix the issues,
203 remediate the problems, and still make it a viable project.

204
205 Mr. McDonough asked if the applicant is proposing to remove some of the foundations within
206 the wetland areas and return it to wetland. Mr. Dillon Dumont explained that there is some
207 sloped pavement directly into the wetland and an existing foundation in that area. This will be
208 improved. There will be work within the front wetland buffer due to drainage infrastructure to
209 deal with existing runoff issues. Without this drainage work, there is a constant flow of salt,
210 runoff, and materials from cars going into the wetland.

211
212 Mr. Dion asked if the applicant has taken into account traffic accessing the site. Mr. Dillon
213 Dumont explained that a complete traffic study was conducted and provided. The goal is to
214 create a development that does not cause any issues in the area. The goal is to improve an
215 extremely depressed existing area.

216
217 Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at
218 7:40 PM.

219
220 **Public Comments in Favor:**

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

232
233 Edward Thompson, 22 Burns Hill Road, asked about the variances approved in 2024 and the
234 differences between those approvals and the current request. Mr. Dion stated that the original
235 proposal was for two multifamily buildings sitting wholly within the G District. The current
236 proposal is for three buildings, fully within the G Zone. Instead of one massive 70 unit building,
237 the current proposal shows this split into two, with Building B at 24 units and the front, multiuse
238 building with eight units. The multiuse building is not part of the current variance requests. Mr.
239 Thompson asked if the applicant will be given an approval up-to a certain number of units, such
240 as 116, and not allowed to go above this. Mr. Witham-Gradert stated that the request is for a

241 cumulative total of up-to 116 units within the General Zone. The applicant could shift those units
242 within the buildings, if approved.

243
244 Mr. Thompson asked about access to Bensons Park from this property. He would like this access
245 to be under lock and key to prevent future vandalism.

246
247 Adam Garside, 19 Burnham Road, stated that he would like to see something on this dilapidated
248 site. He cuts through this property when talking his dog and access to Bensons would be nice.

249
250 Mr. Sakati presented key themes from the public comments submitted in favor, such as
251 revitalization of the site in terms of adding additional housing, and financial benefit to the Town
252 through additional children enrolled in schools. Some of the challenges mentioned were around
253 height, concerns about the wetlands and the environment, potentially disturbing of the asbestos,
254 financial concerns such as a drain on Town resources, and potential diminution of nearby
255 property values. Some comments also expressed concern regarding conflicts of interest on the
256 Board, as the Board's liaison is also the applicant. Mr. Sakati noted that the last point does not
257 obstruct his view or objectivity on the application.

258
259 **Public Comments Neutral or Opposed:**

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

267
268 Mr. Witham-Gradert stated that the neutral comments included questions. From Nancy
269 Sudsbury:

- 270 1. Building in the middle of wetlands which directly abut Central street which are known to
271 overflow into Central street without help from a new construction in the middle of them.
272 What is the planned mitigation to prevent this from getting worse, flooding Benson's or
273 other?
- 274 2. Asbestos, I'm assuming EPA will be involved and approve all plans. True?
- 275 3. 200+ additional vehicles to be parked and then enter onto Central street directly between
276 2 existing traffic lights. I'm thinking this will definitely cause an issue. Five O'clock
277 traffic in that area is already a problem. Wondering how many light cycles commuters
278 will sit thru with the additional traffic. Is there a plan to modify 111 (Central street) in
279 that area to deal with all the entering and existing to the development.
- 280 4. MUD zoning was voted down in our last election. It's been less than a year and there is
281 request to develop MUD. The town was pretty clear they are not for it so why is this
282 project including MUD development.
- 283 5. What is the financial impact to our current residents? Will this new project bring in more
284 revenue to our town than it will cost us highway, school, police etc. ?

285
286 Deborah Putnam, 59 Rangers Drive, stated that she has not heard anything about the potential
287 impact on Benson Park. The addition of buildings adjacent to Benson Park, up to, potentially,
288 50-feet in height, would affect the environment, wildlife, light infiltration, and enjoyment for
289 those in Benson Park. It is possible that the development could be a positive, but each board

290 needs to consider the potential impact to Benson Park, including the hydrology, and wetlands.
291 Asphaltting over the asbestos will cap it, but it will also make the ground impervious to water.
292 Disturbing beaver dams will affect the entire hydrology and wildlife of the area. The larger
293 picture should be examined.

294

295 **Applicant Rebuttal:**

296

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

309

310 **Board Discussion:**

311

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

321

322 Mr. Lanphear stated that he was suggesting shrinking the back portion only, which was
323 originally 70 units in one building and 30 in another. This proposal shows more total units. Mr.
324 Dillon Dumont stated that there was no conversation regarding number of units during the
325 original hearings. The discussion revolved around use. The five criteria at that time were
326 approved and these are the same criteria in play today. Cutting a sliver off the building would not
327 make any reasonable change to the project, though could change some things in terms of
328 drainage, infrastructure improvements, and stormwater design. Mr. Don Dumont stated that the
329 proposal pavement and parking are the same on the current proposal. Mr. Dillon Dumont stated
330 that there is more parking shown on the site than is required. If the Planning Board determined
331 that less parking would be required, the applicant would consider this. Moving the buildings
332 could cramp the access to the back building. Mr. Lanphear stated that the area nearby is a
333 wetland. The proposal will change the existing environment. Mr. Dillon Dumont stated that the
334 stormwater design will treat all runoff. The applicant is not allowed to discharge any runoff. This
335 was addressed in the stormwater management report. This will be flushed out through the
336 Planning Board process. In terms of the five criteria, there is not a difference from what was
337 originally approved.

338

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

341
342 Mr. Boyer stated that he believes it is the use that the Board provides the relief for. There can be
343 a confusion or discrepancy when the applicant provides a plan that contains a number of units.
344 The Planning Board will discuss if the buildings are the correct size and feasible for the location.
345 This Board has already granted relief to use the site for multifamily units. The changes to the
346 plan do not change the approved use. Mr. Witham-Gradert stated that the ZBA is allowed to
347 place stipulations or restrictions on how nonconforming a use is. If the Board simply allowed a
348 multifamily use, the assumption would be that the applicant can maximally use the property as
349 much as they want. The ZBA is allowed to limit how nonconforming a use is. In this case, that
350 could be done by limiting building count, square footage, or unit count. The original notice of
351 decision for this property was uncommonly restrictive. Most of the time the decisions do not
352 delve into specific square footages and dimensions of buildings. The current decision is framed
353 in terms of the total non-conformance being done. The ZBA could agree to grant multifamily for
354 as many units as the applicant wants and then leave it entirely up to the Planning Board to
355 determine how many units are appropriate. The ZBA could work with the applicant to take the
356 current proposed amount and add a reasonable buffer to the number in order to create some
357 restriction or limitations. This could be added as a stipulation or part of the vote itself.

358
359 Mr. Dion asked if these will be single or multi-bedroom units. Mr. Dillon Dumont stated that
360 there are a mix of one and two bedroom units proposed. Floor plans change due to codes and
361 architectural. The goal is to create “the missing middle” style of housing, mentioned throughout
362 the Master Plan process. Floor plans were created, though there may be changes to these. There
363 are locker/storage areas proposed for the units. This is dependent on what space is available in
364 the buildings, leading to the request for the buffer of units. Mr. Dion stated that he would like to
365 consider the tax impact of the units, based on which units may bring in children. Mr. Dillon
366 Dumont stated that it is difficult to find small family units. The intention is to help people who
367 are just above the affordable housing line, but below the luxury housing line. These could be
368 service members, firefighters, teachers, etc. The unit mix will be based on need and is subject to
369 change. Mr. Don Dumont stated that staff requested some confinements and he agreed. Mr.
370 Dillon Dumont agreed that there should be a stipulation as to what will be built on the site.

371
372 **Rebuttal Public Comments in Favor: None at this time.**

373
374 **Rebuttal Public Comments Neutral or Opposed: None at this time.**

375
376 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 8:15
377 PM.

378
379 **Board Discussion and Deliberation:**

380
381 Mr. Sakati asked how Board members are considering the hardship criterium. Mr. Dion stated
382 that he is viewing this application as a clean slate. The Board could also consider that a similar
383 variance was granted two years ago, and the similar reasons still apply today. The case may be a
384 bit stronger today, as the plan is more fleshed out. The original hearing dealt with putting
385 multifamily buildings in the G Zone where they do not belong. This slivers against the Business
386 District. Originally, the applicant was proposing to purchase many lots, combine them, and use
387 the back portion of the lot which had not previously been used. If the entire property had been

388 moved west by some number of feet, or if the line did not split the property, this may not before
389 the Board at all. The applicant could build to the original plan, if nothing else. The Board needs
390 to consider if it is comfortable with the request to split the large building into two and shuffle
391 units across the property.

392

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

397

398 **Mr. Boyer moved to grant a variance from §334-21 – Table of Permitted Principle Uses: to**
399 **accommodate up to three (3) proposed multi-family buildings with a cumulative total of**
400 **116 units within the General (G) district, where multifamily use is not permitted in the**
401 **General (G) district. This variance shall supersede the variance labeled as #176-041B,**
402 **granted on October 24, 2024, based on the written and verbal testimony of the applicant,**
403 **and with the following stipulations: There shall be a cap of 116 units in the G Zone, duly**
404 **seconded by Mr. Sakati.**

405

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

407

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

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

413

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

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

418

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

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

423

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

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

428

429 **5. Ordinance results in unnecessary hardship**

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

435

436

437 **Mr. Boyer – to grant**

438

439 **1. Granting this variance will not be contrary to the public interest**440 Mr. Sakati stated that he does not see the proposal negatively affecting public health or
441 safety.

442

443 **2. The proposed use will observe the spirit of the ordinance**444 Mr. Sakati stated that combining the properties and allowing a multifamily use does not
445 conflict with the spirit of the ordinance.

446

447 **3. Substantial justice would be done to the property owner by granting this variance**448 Mr. Sakati stated that the proposal does not harm the general public and there is no
449 proposed change from the original approval.

450

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

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

453

454 **5. Ordinance results in unnecessary hardship**455 Mr. Sakati stated that the property is almost unusable and some remediation has to occur
456 in order for a return to make it worth the applicant's time and effort. He thanked the
457 public for all of the comments and encouraged the Planning Board to thoughtfully listen
458 to all of the comments. This can be a constructive process.

459

460 **Mr. Sakati – to grant**

461

462 **1. Granting this variance will not be contrary to the public interest**463 Mr. Lanphear stated that granting the variance will not be contrary to the public interest.
464 The proposed mixed use development will be cleaner and look much better than the
465 existing site.

466

467 **2. The proposed use will observe the spirit of the ordinance**468 Mr. Lanphear stated that the proposed use will observe the spirit of the ordinance. The
469 applicant combined many parcels to make one large usable piece of property. The
470 proposal will not hurt the neighborhood or the public safety.

471

472 **3. Substantial justice would be done to the property owner by granting this variance**473 Mr. Lanphear stated that substantial justice would be done to the property owner in
474 granting the variance.

475

476 **4. The proposed use will not diminish the value surrounding properties**477 Mr. Lanphear stated that the proposed use will not diminish any surrounding property
478 values. It will increase these property values.

479

480 **5. Ordinance results in unnecessary hardship**481 Mr. Lanphear stated that The property itself creates a lot of hardship, due to the wetlands.
482 The applicant has come up with creative ways to cross these different barriers. Hopefully
483 the Planning Board will continue to uphold what the public wants to see on this site. The
484 proposed use is a reasonable one.

485

486 **Mr. Lanphear – to grant**

487

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

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

492

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

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

497

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

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

501

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

503 Mr. Brendon Sullivan that the proposed use will not diminish values of the surrounding
504 properties. Cleaning up the area, developing it, and putting it to better use, will be a good
505 thing for the area. The direct neighbors mentioned that they have already had to install a
506 fence due to the current use, which impacts their property value.

507

508 **5. Ordinance results in unnecessary hardship**

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

510

511 **Mr. Brendon Sullivan – to grant**

512

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

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

518

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

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

524

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

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

528

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

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

532

533 **5. Ordinance results in unnecessary hardship**

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

540

541 **Mr. Dion – to grant**

542

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

544

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

546

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

551

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

553

554 **Applicant Testimony:**

555 Mr. Don Dumont reviewed the variance criteria. He explained that the use will not alter the
556 character of the neighborhood. This is a large parcel with virtually nothing around it. The use
557 would allow for housing, which is needed in the community. The proposed multifamily use
558 aligns with the ordinance by adhering to the established guidelines and supporting higher density
559 housing. The proposed use will allow the property to be developed in a successful manner
560 instead of remaining a vacant lot, as it has been for many years. Any development of the
561 property would clean up a depressed area and improve property values for the surrounding areas.
562 The building, if limited to current ordinance, would yield insufficient unusable interior space for
563 the intended reasonable use, which is multifamily housing. The variance would allow for
564 adequate ceiling heights and the modern HVAC utilities and accessibility. The proposed building
565 height allows for adequate space without increasing the building footprint. Further increasing the
566 building footprint would impose greater impacts for the surrounding wetland and wetland
567 buffers. By allowing for a higher pitched roof, the building will better conform with similar
568 architectural throughout the Town. The proposed building height is reasonable because similar
569 and taller heights are allowed elsewhere in the Town in the same Zone. The property is
570 negatively impacted by strict conformance to the ordinance. The wetland on the property
571 increases the unique and special conditions, limiting the availability of building area. Without
572 granting relief from this ordinance, the building footprint would increase and impose a greater
573 impact to the wetlands and wetland buffers.

574

575 **Board Questions:**

576

577 Mr. McDonough asked if the additional height was related to feedback from a prior meeting. Mr.
578 Don Dumont stated that this was brought up by both the ZBA and Planning Board. The style of
579 the building at the old Friary was mentioned and so the roof pitch was increased to allow for a
580 greater New England feel. This leads to a building taller than 38-feet. The appearance of the
581 building will not be appropriate if shorter than this. Mr. Dillon Dumont stated that the building
582 height allows for adequate floor heights, modern utilities, fire suppression systems, staircases,

583 etc. To maintain the existing commercial building feel on Central Street, with New England style
584 roof pitches, the height must be increased. The buildings are proposed to be between 42-feet to
585 45-feet, but the applicant is requesting up to 50-feet to allow for a buffer.
586

587 Mr. Sakati asked what could be done with the 38-foot height, if this variance is not approved.
588 Mr. Dillon Dumont stated that this would lead to a flat roof. It is difficult with not wanting to
589 increase the footprint while wanting to meet certain architectural standards. Mr. Don Dumont
590 stated that the project will not be as eye-pleasing if the variance is not approved. He believes
591 staff, the ZBA, and Planning Board all made comments about wanting something to compliment
592 the area. The ordinance speaks to living space and the pitch of the roof is an aesthetic part of the
593 building, not living space.
594

595 Mr. Witham-Gradert stated that the ordinance speaks to that the only thing allowed above 38-feet
596 is unoccupied protuberances, such as weathervanes, steeples, etc. Wholesale roof lines may not
597 go above this height, which triggered the need for a variance. Mr. Don Dumont asked about
598 parapet walls, as these do not involve living space. Mr. Dillon Dumont explained that the
599 ordinance speaks to livable space but also mentions the highest roof line. This is contradictory
600 and can be confusing. Parapets and HVAC systems are not usually included in the height.
601

602 Mr. Lanphear stated that it seems the site was well designed for handicap parking spaces. He
603 asked if there will be elevators in the building. Mr. Dillon Dumont stated that this is currently
604 being considered in the design of the buildings. ADA compliance changes many of the first floor
605 living standards. Mr. Don Dumont noted that a flat roof would include very large HVAC systems
606 on top. These would not look attractive.
607

608 Mr. Boyer stated that Dave Hebert, Fire & Health, had no comments about this request. If the
609 Fire Department does not have a concern, then it appears there is not an issue. Mr. Lanphear
610 asked about the height of the three story buildings on Lowell Road. Mr. Witham-Gradert stated
611 that these are 37-feet 9.5-inches tall. A variance was not needed for these. The height ordinance
612 lists specific zones and parcels by map and lot number for properties allowed to be over 50-feet.
613 Wholesale zones are not listed.
614

615 Mr. Dillon Dumont stated that approximately half a mile up on Central Street to the west there is
616 an industrial park that allows for the taller height.
617

618 In response to a question from Mr. Boyer, Mr. Witham-Gradert stated that the ordinance
619 amendment could be perceived as spot zoning, but this is not the place to comment on that.
620

621 Mr. Dion asked if there would be any residential space above the 38-foot height. Mr. Dillon
622 Dumont stated that there would not. An elevation plan was provided to the Planning Board. Mr.
623 Witham-Gradert stated that the space above 38-feet is listed as unused roofline area. The highest
624 elevation shown on the plan was 37-feet. Mr. Dillon Dumont stated that the elevation plan was
625 included in the February 11th staff report for the Planning Board meeting. Mr. Don Dumont
626 noted that it is more expensive to create a pitched roof that is aesthetically appealing than a flat
627 roof.
628

629 **Public Comments in Favor:**

630 Mr. Witham-Gradert noted that all public comments submitted also apply to this variance case.
631

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

634

635 **Public Comments Neutral or Opposed:**

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

653

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

656

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

659

660 **Applicant Rebuttal:**

661

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

675

676 **Board Discussion:**

677

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

681
682 Mr. Lanphear asked if the applicant would be okay with a maximum height of 50-feet and a
683 maximum livable height of 38-feet. Mr. Dillon Dumont stated that he would mostly be fine with
684 this, but it a bit concerned with potential grades on the site. The intention is to stay as close to the
685 maximum heights as possible, but some of this will be further determined through the Planning
686 Board and Conservation Commission processes. Mr. Lanphear stated that he is concerned that
687 allowing for a 50-foot height could mean that the applicant chooses to put on a flat roof and a
688 fourth floor. Mr. Don Dumont stated that the minutes will include the reasoning and intention for
689 what is being sought. Mr. Dillon Dumont stated that he would not agree with the proposed
690 stipulation. The trusses for the roof line have not yet been planned out. There is no goal for a
691 fourth floor.

692
693 Mr. Dion suggested a stipulation regarding the roof line height to the top of the foundation. This
694 should be a hard figure. Mr. Don Dumont stated that the weight loads for the floors are not yet
695 known. Mr. Dion suggested a 38-foot height from the top of the foundation to the top of the
696 living space. Mr. McDonough suggested a stipulation of three livable floors. Mr. Dillon Dumont
697 stated that he would prefer that stipulation than one with a specific footage. He noted that the
698 Board moved to approve the three buildings on the site and 116 units. Adding another floor to
699 the building is not possible with the eight additional units being requested. His reservations with
700 the specific footage come from the building not being fully designed yet.

701
702 Mr. Sakati stated that the building that are 50-feet in Town are huge. He asked about the look of
703 the building from Bensons when there are no leaves on the trees. It could be very imposing to
704 residents.

705
706 Mr. Boyer suggested a way to interpret the zoning ordinance to be pleasing to the applicant and
707 help the Board. He asked about if the 38-feet is measured from the front entrance to the livable
708 floor height of the building. Mr. Don Dumont suggested maintaining three levels of living.

709
710 Mr. Witham-Gradert stated that, ultimately, height is wholly regulated on the zoning side. When
711 an application goes before the Planning Board, it first goes out for comment from Town
712 departments. This was not flagged at that time. During the planning review, the problem was
713 caught, which is why it is now before the ZBA. If the Board wanted to do something in line with
714 what Mr. McDonough recommended, related to no more than three stories of livable space, it
715 should consider how that would be written in order for the Planning Board to understand it and
716 take it into account. The applicant could then technically create comically tall rooms, but this is
717 something that Planning could then regulate to a greater extent as part of the site plan review.
718 Mr. Dion asked about limiting it to a maximum of three floors with the expectation that there is a
719 pitched roof.

720
721 Mr. Lanphear suggested 38-feet from the foundation to the height of the top floor ceiling. This
722 would allow a certain amount of floor height for each floor. Mr. McDonough expressed concern
723 with creating a hardship by defining the maximum floor height without there being structural
724 plans available. This could create structural implications and limit the amount of usable floor
725 space for the units previously approved. Mr. Dillon Dumont stated that there is a 5-foot
726 difference in the tallest building from 45-feet to 50-feet. There is no intent to move away from
727 the current architectural plan, but he is concerned with a specific requirement for the floor height
728 for many reasons.

729

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

736
737 Mr. Boyer stated that the Board could impose a hardship on the applicant by making constructure
738 constraints on the applicant. Three floors of living space may be a more reasonable stipulation.
739 Mr. Dion stated that he would like to somehow tie in the pitched roof requirement.

740
741 Mr. Sakati expressed concern regarding the variance running with the land and a future owner
742 doing something very different than the currently proposed project. 50-feet is imposing and he
743 would have liked to see the proposed sight line from Bensons. He also expressed concern
744 regarding setting precedent for allowing variances for 50-foot buildings, where these requests
745 previously came through Warrant Articles. He would have rather seen this voted on through a
746 Warrant Article. This could open the flood gates for the Town.

747
748 Mr. Dillon Dumont stated that the ZBA exists for this purpose. The Supreme Court has found
749 that creating Warrant Articles for each parcel is not the proper procedure. That process would be
750 significantly longer. The purpose of the ZBA is to allow applicants to seek relief for unique
751 parcels. This path seems to be more appropriate than the applicant seeking a Warrant Article to
752 change the height for a single parcel. Mr. Dion stated that this is a bizarre property. There cannot
753 be full use of it. Mr. Sakati asked if there is a hardship for the 50-foot request. He likes the
754 proposed roof more than a flat roof, but it is unclear if the Board has this authority.

755
756 Mr. Don Dumont suggested limiting the project to the three story livable area without placing
757 requirements on the actual roof line space. Mr. Sakati agreed that this would also help with
758 including requirements for future owners. This still does not solve the problem of the sight line
759 from Bensons.

760
761 Mr. Lanphear stated that the roof line is an 18-foot height to the peak. Adding 36-feet to 18-feet
762 leads to 54-feet, not counting the drop of the ground height. This pushes the building to almost
763 60-feet high. Mr. Witham-Gradert stated that the variance requested would cap the height at 50-
764 feet, between the three stories and the roof. The variance request, as listed, does not include any
765 specific parameter or ratio between those. The Zoning Ordinance regulates the height total, not
766 the height of individual stories. Mr. Dillon Dumont stated that the reasonable approach is for a
767 stipulation of three stories of living space with a pitched roof. There are too many variables that
768 have not been fleshed out yet on the plans. The hardship is the uniqueness of the property,
769 including the wetlands and other constraints, and the usable acreage. Other properties in Town
770 could not likely meet the same hardship. The view from Bensons would likely be better as a New
771 England style building and not a flat, "chicken coop" roof.

772
773 Mr. Dillon Dumont suggested a straw poll of the Board regarding Mr. McDonough's suggested
774 stipulation.

775
776 Mr. McDonough reiterated his proposed stipulation for the variance request of assuming a 50-
777 foot maximum overall, limiting the building to three livable floors plus a pitched roof. Mr. Sakati
778 stated that he would like to discuss this further in deliberations.

779

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

783

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

788

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

796

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

799

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

803

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

807

808 **Rebuttal Public Comments in Favor:**

809

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

814

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

816

817 **Board Discussion and Deliberation:**

818

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

822

823 **Mr. Lanphear moved to grant a variance from §334-14 – Building Height to allow the up to**
824 **three (3) proposed multi- family buildings within the General (G) district to exceed 38 feet**
825 **in height, where a maximum height of 38 feet would otherwise be required, based on the**
826 **written and verbal testimony of the applicant, and the stipulations that there be a**

827 **maximum building height of 50-feet, with three livable floors, and a pitched roof, duly**
828 **seconded by Mr. Boyer.**

829

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

831

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

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

835

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

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

840

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

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

845

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

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

849

850 **5. Ordinance results in unnecessary hardship**

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

855

856 **Mr. Lanphear – to grant**

857

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

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

862

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

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

866

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

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

870

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

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

873

874 **5. Ordinance results in unnecessary hardship**

875 Mr. Boyer stated that literal enforcement would create an unnecessary hardship because
876 the design that is desired by the public and the property owner requires relief from the
877 ordinance.
878

879 **Mr. Boyer – to grant**
880

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

882 Mr. Sakati stated that the proposal is not contrary to the public interest and does not
883 conflict with the explicit purpose of the ordinance. He appreciates that the applicant is
884 trying to go above and beyond and make this look like a classy development.
885

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

887 Mr. Sakati stated that the proposal does not threaten the public safety in any form or
888 fashion.
889

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

891 Mr. Sakati stated that justice will be done to the property owner and there will be no harm
892 to the public.
893

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

895 Mr. Sakati stated that he does not see any diminution of values of surrounding properties.
896

897 **5. Ordinance results in unnecessary hardship**

898 Mr. Sakati stated that the hardship in this case is that the applicant is trying to satisfy the
899 Planning Board's guidance and the proposed use is reasonable. He thanked all of the
900 residents who attended the meeting and submitted comments regarding this case. This
901 creates better outcomes. H encouraged the Board of Selectmen Chair to work with the
902 Planning Board to try to encourage similar dialogue from the public to lead to better
903 outcomes.
904

905 **Mr. Sakati – to grant**
906

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

908 Mr. Brendon Sullivan stated that the proposal is not contrary to the public interest. He has
909 seen many people change their feelings on this project tonight, including himself.
910

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

912 Mr. Brendon Sullivan stated that the proposal will observe the spirit of the ordinance as it
913 does not interfere with the public health, safety, or welfare.
914

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

916 Mr. Brendon Sullivan stated that substantial justice will be done to the property owner by
917 granting this variance. This is a good compromise between the builder and the public
918 interest.
919

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

921 Mr. Brendon Sullivan stated that the proposed use will not diminish values of
922 surrounding properties.
923

924 **5. Ordinance results in unnecessary hardship**
925 Mr. Brendon Sullivan stated that the proposal meets all the proper requirements.
926

927 **Mr. Brendon Sullivan – to grant**
928

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

930 Mr. Dion stated that he would vote to grant with the stipulations of three livable floors
931 and a pitched roof at a maximum of 50-feet. In terms of the implicit or explicit purposes
932 of the ordinance, height limits mostly have to do with trying to maintain the feel of the
933 Town and make sure that people are not building skyscrapers. The proposal allows the
934 applicant to build a bit higher without having to create a “chicken coop” building. The
935 proposal better fits the aesthetic of the Town. Allowing a bit extra height room, is better
936 in keeping with the purpose of the ordinance.
937

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

939 Mr. Dion stated that this building being a bit taller will not threaten the public health or
940 safety.
941

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

943 Mr. Dion stated that the proposal will not bring harm to the general public. There was
944 some concern regarding sight lines to the property. Through discussions had, it appears
945 that the distance to Bensons will be fairly far with a lot of trees in the way.
946

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

948 Mr. Dion stated that a building will exist on the site no matter what, as variances have
949 already been granted. The building being slightly taller will not affect the value of
950 surrounding properties.
951

952 **5. Ordinance results in unnecessary hardship**

953 Mr. Dion stated that this is a bizarre property. It crosses over two different zones and
954 contains a lot of wetlands. The applicant is limited on how much they can actually build
955 on the property. The applicant could build this within the height limits, creating a two
956 story building with a pitched roof, but this would likely cover a lot more of the property.
957 The applicant is trying to meet some aesthetic and design choices from the Planning
958 Board and public, which is also a hardship.
959

960 **Mr. Dion – to grant**
961

962 **Vote: 5-0-0 motion carried to grant the variance.**
963

964 **The proposed two variance requests are combined and required as shown below:**
965

966 **Variance 3a**— to allow an extension of the mixed use variance granted on October 24,
967 2024 (Case #176-041 A) earlier than 90 days in advance, and to align with the expiration
968 date of variances 1 and 2 noted above. [HZO Article XV: Enforcement and
969 Miscellaneous Provisions; §334-82.F, Time Limit]
970

971 **Variance 3b**— to extend the variance granted October 24, 2024 to allow a proposed
972 mixed principal use development with commercial uses and multifamily use on the same
973 lot. [HZO Article III: General Regulations; §334-10, Mixed or dual use on a lot]
974

975 Mr. Witham-Gradert read the Cases into the record. He explained that, while these are still two
976 separate variances being granted with two public hearings, they are interdependent and can be
977 discussed concurrently, if the Board so chooses.
978

979 **Applicant Testimony:**

980 Mr. Don Dumont addressed the variance criteria. He stated that hearing the application two
981 months earlier than permitted is not contrary to the public interest. By hearing the extension now,
982 the spirit of the ordinance is preserved by managing the timeline for all the required variances.
983 The public is also benefited by hearing the full scope of the project all at once. Granting the
984 extension early does not affect property values. The development requires multiple variances,
985 most of which have already been granted by the ZBA. Due to a change made in the architectural
986 plans, the proposed uses need to be reviewed by the ZBA again. It would be reasonable to grant
987 the variance to allow all of the requested variances to be on the same timeline as the project
988 moves forward.
989

990 **Board Questions:**

991
992 There were no questions or comments from the Board at this time.
993

994 Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at
995 10:13 PM.
996

997 **Public Comments in Favor:** None at this time.
998

999 **Public Comments Neutral or Opposed:** None at this time.
1000

1001 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:14
1002 PM.
1003

1004 **Board Discussion and Deliberation:**

1005
1006 **Mr. Lanphear moved to grant a variance from §334-82.F – Time Limit: – to allow an**
1007 **extension of the mixed use variance granted on October 24, 2024 (Case #176-041 A) earlier**
1008 **than 90 days in advance, and to align with the expiration date of variances 1 and 2 noted**
1009 **above, based on the written and verbal testimony of the applicant, duly seconded by Mr.**
1010 **Boyer.**
1011

1012 **Board Speaking on Each Variance Criterion:**

- 1013
1014 **1. Granting this variance will not be contrary to the public interest**
1015 Mr. Lanphear stated that this proposal for extension is to align all of the variances,
1016 including those just voted on. This will help the project to be on the same timeline
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1018 **2. The proposed use will observe the spirit of the ordinance**
1019 Mr. Lanphear stated that the proposed extension will observe the spirit of the ordinance.

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

Mr. Lanphear stated that the proposed extension will not harm the public health, safety, or welfare.

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 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.

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

Mr. Boyer stated that substantial justice will be observed by allowing the variances to expire together and the property owner will not have to come back to the 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.

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

Mr. Sakati stated that justice will be done and that 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.

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5. Ordinance results in unnecessary hardship

Mr. Sakati stated that literal enforcement would result 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

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 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 deny

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, safety, or welfare 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 from now to hear the case.

Mr. Dion – to grant

1118 **Vote: 5-0-0 motion carried to grant the variance.**

1119

1120 **Variance 3b**— to extend the variance granted October 24, 2024 to allow a proposed
1121 mixed principal use development with commercial uses and multifamily use on the same
1122 lot. [HZO Article III: General Regulations; §334-10, Mixed or dual use on a lot]

1123

1124 Mr. Witham-Gradert explained that this variance was granted at a prior hearing. The request is to
1125 extend the already granted variance to match the timeline with the variances granted this
1126 evening.

1127

1128 **Applicant Testimony:**

1129 Mr. Don Dumont addressed the variance criteria. The proposed use would not alter the character
1130 of the neighborhood. This is a large parcel with virtually nothing around it. The use would allow
1131 for housing which the community is in need of. The proposed multifamily use aligns with the
1132 spirit of the ordinance by adhering to the established guidelines and supporting higher density
1133 housing. The proposal would allow the property to be developed in an accessible manner instead
1134 of remaining vacant as it has for many years. Any development on this property would clean up a
1135 depressed area and improve property values of surrounding properties. This property is bisected
1136 by two zones, and the use is permitted on the front parcel. The proposed use is reasonable and
1137 allows for a more harmonious, consistent development which the Town is in need of.

1138

1139 Mr. Dillon Dumont explained that mixed use is allowed in the Business District today. This is
1140 one large site plan, and mixed use is proposed where allowed on the property, but the property
1141 happens to be bisected by different zones.

1142

1143 **Board Questions:**

1144

1145 Mr. Witham-Gradert recommended a stipulation that this variance extend to the date of February
1146 26, 2028, similar to the other variances granted this evening.

1147

1148 Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at
1149 10:22 PM.

1150

1151 **Public Comments in Favor:** None at this time.

1152

1153 **Public Comments Neutral or Opposed:**

1154

1155 Donna Boucher, 8 Windham Road, asked about the Town vote last year regarding mixed use
1156 district and why this does not fall within that. Mr. Witham-Gradert stated that the vote last year
1157 was to establish a mixed-use district, non-defined. The vote was not that mixed-use
1158 developments were not allowed. There is specific reference to them in the zoning ordinance, and
1159 they are permitted primarily in the business zone. It was brought before the voters last year to
1160 establish larger districts which expanded these areas and provided special rules in regard to how
1161 they would be regulated. This was voted down by the voters last year. Ms. Boucher asked about
1162 the proposed building that includes both retail and residential uses, and if that goes against the
1163 vote. Mr. Witham-Gradert stated that if the singular building was subdivided and considered
1164 separately, it would be allowed within the rules of the Town as mixed-use developments are
1165 allowed within the Town business zone with specific requirements. The prior vote was for
1166 establishment of a district, including a special set of rules for a given area. This was not a vote to

1167 allow or to bar mixed-use development as a concept. If someone wanted to make a petition this
1168 upcoming year to do that, they could.

1169
1170 Nancy Sudsbury, 18 Windham Road, stated that she does not like mixed-use development. This
1171 feels like a city and does not look nice. More mixed use will lead to Hudson looking less like a
1172 town. This is a business zone and so likely nothing can be done to stop it.

1173
1174 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:27
1175 PM.

1176
1177 **Board Discussion and Deliberation:**

1178
1179 **Mr. Lanphear moved to grant an extension of the variance labelled #176-041A, granted on**
1180 **October 24, 2024 from §334-10 – Mixed Use: to allow a proposed mixed principal use**
1181 **development with commercial uses and multi-family use on the same lot, to date February**
1182 **26, 2028, based on the written and verbal testimony of the applicant, duly seconded by Mr.**
1183 **Boyer.**

1184
1185 **Board Speaking on Each Variance Criterion:**

- 1186
1187 **1. Granting this variance will not be contrary to the public interest**
1188 Mr. Lanphear stated that granting of this requested variance will keep it on the same
1189 timeline as the other variances because they will expire at the same time.
- 1190
1191 **2. The proposed use will observe the spirit of the ordinance**
1192 Mr. Lanphear stated that the proposed extension will observe the spirit of the ordinance.
- 1193
1194 **3. Substantial justice would be done to the property owner by granting this variance**
1195 Mr. Lanphear stated that the proposed extension will keep the variances on the same
1196 timeline.
- 1197
1198 **4. The proposed use will not diminish the value surrounding properties**
1199 Mr. Lanphear stated that the proposed use will not diminish property values in the area.
- 1200
1201 **5. Ordinance results in unnecessary hardship**
1202 Mr. Lanphear stated that granting this variance will allow the applicant to keep the
1203 variances on the same timeline and it would be a hardship to deny this.

1204
1205 **Mr. Lanphear – to grant**

- 1206
1207 **1. Granting this variance will not be contrary to the public interest**
1208 Mr. Boyer stated that this variance is already in place. The variance will not be contrary
1209 to the public interest because nothing about it is being changed.
- 1210
1211 **2. The proposed use will observe the spirit of the ordinance**
1212 Mr. Boyer stated that the spirit of the ordinance is still in effect because the variance is
1213 still in effect. This is simply extending the date.
- 1214
1215 **3. Substantial justice would be done to the property owner by granting this variance**

1216 Mr. Boyer stated that substantial justice will be done because this will allow the
1217 previously approved substantial justice to continue.

1218

1219 **4. The proposed use will not diminish the value surrounding properties**

1220 Mr. Boyer stated that this variance has nothing to do with property values.

1221

1222 **5. Ordinance results in unnecessary hardship**

1223 Mr. Boyer stated that literal enforcement would be a hardship in not allowing this
1224 variance to continue along with all the others.

1225

1226 **Mr. Boyer – to grant**

1227

1228 **1. Granting this variance will not be contrary to the public interest**

1229 Mr. Sakati stated that this is not contrary to public interest. It does not conflict with the
1230 spirit of the ordinance.

1231

1232 **2. The proposed use will observe the spirit of the ordinance**

1233 Mr. Sakati stated that this variance does not conflict with the spirit of the ordinance.

1234

1235 **3. Substantial justice would be done to the property owner by granting this variance**

1236 Mr. Sakati stated that justice will be done to the property owner.

1237

1238 **4. The proposed use will not diminish the value surrounding properties**

1239 Mr. Sakati stated that surrounding property values will not be diminished.

1240

1241 **5. Ordinance results in unnecessary hardship**

1242 Mr. Sakati stated that literal enforcement would create an unnecessary hardship.

1243

1244 **Mr. Sakti – to grant**

1245

1246 **1. Granting this variance will not be contrary to the public interest**

1247 Mr. Brendon Sullivan stated that granting this would not conflict with the ordinance or
1248 cause harm to the character of the neighborhood, public health, etc.

1249

1250 **2. The proposed use will observe the spirit of the ordinance**

1251 Mr. Brendon Sullivan stated that the proposed use will not alter any parts of the
1252 neighborhood or public health, safety, or welfare.

1253

1254 **3. Substantial justice would be done to the property owner by granting this variance**

1255 Mr. Brendon Sullivan stated that substantial justice would be done to the property owner
1256 by allowing the variance to continue on a congruent timeline.

1257

1258 **4. The proposed use will not diminish the value surrounding properties**

1259 Mr. Brendon Sullivan that this variance does not alter the values of surrounding
1260 properties.

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1262 **5. Ordinance results in unnecessary hardship**

1263 Mr. Brendon Sullivan stated that granting the variance will allow the applicant's process
1264 to be streamlined.

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Mr. Brendon Sullivan – to deny

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.

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

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

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

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

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 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.

1314
1315 Mr. Dumont explained that this is the last thing he would want to happen. The overall advice was
1316 to be cautious and reach out to legal counsel. He received advice from legal counsel who sits on
1317 a separate zoning board that this can be permitted per the Chair's discretion. Mr. Dion stated that
1318 this could be on a case-by-case basis. This would allow for leeway and leverage when needed for
1319 cases.

1320
1321 Mr. Dumont stated that NHMA commended Hudson on the ZBA Chair making it clear which
1322 Board members are present during meetings and their roles on cases. Mr. Dion noted that other
1323 towns allow for liaisons to be used as voting members, if need be. This could lead to concerns
1324 regarding too much leverage coming from the Board of Selectmen. He does not want to put the
1325 Board in the wrong position to not hear from those with expertise.

1326
1327 Mr. Dumont suggested at least allowing the Zoning Administrator to participate in discussions,
1328 even if the Board of Selectmen liaison is removed from the language. Mr. Sakati stated that his
1329 only concern is with the liaison role. Mr. Dion stated that he believes it adds value for the liaison
1330 to be able to give some additional color from the side of the Board of Selectmen that the ZBA
1331 may not always know.

1332
1333 Mr. Dion stated that he watched 20-30 other NH towns to see how their ZBAs run their
1334 meetings. It is fairly common for the liaison role to at least sit and participate in discussions. Mr.
1335 Sakati stated that it seems this item has been worked through.

1336
1337 **Motion made by Mr. Boyer to approve §143-9. Decision Process as written, duly seconded**
1338 **by Mr. Lanphear.**

1339 **Vote: 5-0-0 motion carried to approve the meeting minutes.**

1340
1341 **VIII. ADJOURNMENT:**

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1343 **Motion made by Mr. Boyer, duly seconded by Mr. Lanphear and unanimously voted to**
1344 **adjourn the 02/26/2026 ZBA Meeting at 10:42PM.**

1345 **Vote: 5-0-0 motion carried to approve the meeting minutes.**

1346
1347 Respectfully submitted,
1348 Kristan Patenaude, Recording Secretary

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Tristan Dion, ZBA Chairman