



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 – MAY 28, 2026 – DRAFT

I. CALL TO ORDER

Mr. Dion called the meeting to order at 7:06 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, Todd Boyer, Tim Lanphear, Dean Sakati

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

Others present were: Ben Witham-Gradert – Town Liaison, Xen Vurgaropulos (Selectman Liaison)

Remote attendance: Kristan Patenaude – Recording Secretary

IV. SEATING OF ALTERNATES

Alternate Brendon Sullivan was appointed to vote.

V. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD: DEFERRED HEARINGS: (Deferred from 04-23-26)

1. **Case 211-067 (05-28-26):** Hudson Community Food Pantry Corporation, 23 Library Street, Hudson, NH, requests a variance for **72 Burns Hill Road**, Hudson, NH to subdivide a portion of the 25-acre lot to be used for a community food pantry classified as a civic use (D-22) where this use is not allowed in the Residential-Two (R-2) district. [Map 211, Lot 067, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

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

Mr. Dion stated that due to personal relationships with the applicants, he recused himself and asked Mr. Boyer to sit as Chair.

Alternate McDonough was appointed to vote for this case.

Mr. Sakati stated that his son is close friends with Ethan Beals who is the project designer, but this presents no bias for him on this case.

Applicant’s Representative Testimony:

47
48 Attorney Andrew Prolman, of Prunier & Prolman, PA, addressed the Board. He explained that
49 the applicant is seeking a variance to allow the Food Pantry in the R-2 District on a portion of 72
50 Burns Hill Road. The Food Pantry is currently operating out of 23 Library Street, which is
51 owned by the Roman Catholic Bishop of Manchester. The RCBM has decided to sell the
52 property and so the Food Pantry needs to find a new home. The owner of 72 Burns Hill Road is
53 very sympathetic to the food pantry and has offered up 1.5 acres of their property at a very
54 generous price. If this variance request is successful and is also approved by the Planning Board,
55 the Food Pantry may still never open up at 72 Burns Hill Road for a number of reasons. The
56 project may not pencil out, may not make financial sense, or another property may come up over
57 the course of the many months it takes to get through permitting. Also, the new owner of the
58 church property may keep the Food Pantry on. In the meantime, the applicant is seeking this
59 option as a new home based on the generous offer received.

60
61 Len Lathrop, 31 Winslow Farm Road, spoke in support the Hudson Community Food Pantry's
62 application for a zoning adjustment to be allowed to build on Burns Hill Road. He was
63 representing the Hudson Community Food Pantry Board of Directors and has been a board
64 member since 2018. The Hudson Pantry is directed and staffed completely by volunteers. There
65 are no paid employees. The Hudson Food Pantry spans over 40 years on Library Street. It is a
66 registered IRS 501(c)(3) and holds a New Hampshire Charitable Foundation registration. The
67 Pantry provides food and supplies to the food insecure of Hudson in multiple ways. The primary
68 program is to support people who have trouble getting enough food for their families. The Pantry
69 serves between 50-60 families each week. Clients come in on Thursday nights between 5:30PM-
70 7:30PM for a weekly appointment. Currently six families come in every 15 minutes. Included in
71 the Board packet is a two page example menu that families fill out requesting what they need.
72 The menus submitted are the actual ones being used a month ago before the Pantry was deferred.
73 The volunteers take the menus into the building, the food requested is packed into boxes, brought
74 back to parking lot, and loaded into cars by volunteers. During the fall and winter times, there is
75 an additional small distribution for elderly clients who cannot drive at night, on Wednesday
76 mornings from 9:00 AM-10:00 AM. The Pantry receives food supplies primarily from three
77 sources of rescue food, which is picked up by volunteers and brought from the Hannaford store
78 to the Food Pantry on Tuesday and Wednesday mornings between 7:00AM-8:30AM. These
79 rescue foods include frozen meats, fresh produce, bakery and other products that might not have
80 sold at the store. Food is also picked up once a month from the USDA. Finally, once a week
81 volunteers pick up food from the New Hampshire Food Bank that is operated by Catholic
82 Charities. Both of these organizations are in Manchester. The truck goes to Manchester, picks up
83 the food and comes back run; all of this is completely by volunteers. These stable items include
84 spaghettis and soups, canned vegetables, cereals, and many other items that have long shelf
85 expiration dates or best used by dates.

86
87 Mr. Lathrop explained that, in addition to the family program, the Pantry hosts the Feed Our
88 Kids program, which is operated in collaboration with the Hudson School District. The program
89 is run through the School's guidance counselor who requests a specific number of bags for
90 children who need support. National Honor Society students from Alvirne come to the Pantry on
91 Wednesday afternoon after school to fill the backpacks and deliver them to the schools. The bags
92 are given to students in need on Fridays to help ensure that all students have sufficient food
93 throughout the weekend, even when School lunch and breakfast programs are not operating.
94 Each week, the Pantry distributes approximately 80-100 bags to all the schools, including
95 Alvirne. Holiday Services happened three times year where the Pantry assists clients for the

96 holidays. This usually occurs on the Saturday prior to Christmas, Thanksgiving, and Easter. The
97 Pantry provides holiday meals, appropriate gifts, and even Easter baskets. On those Saturdays,
98 the Pantry can serve between 90-120 families. There is a greater need during the holidays
99 Distribution opens at approximately 8:30 AM and finishes by 11:30AM. Other services include
100 working with the Red Cross, Hudson Fire Department, and Hudson Police Department to
101 provide food and necessities for families who have been going through a tragedy, such as a fire
102 or crises. The Pantry provides birthday bags to the children of its clients so they can celebrate
103 like other families. The Pantry also has a backpack program prior to school starting so that the
104 children in need can arrive at school with backpacks. The Pantry's funding is completely from
105 grants and approximately 95% of funding is from donations. The Board would be amazed at the
106 number of \$25 and \$100 checks that come in the mail every month from Hudson citizens. The
107 Pantry works with many grants and other sources, including telethons, but mostly from the
108 generosity of Hudson residents who recognize the needs of their neighbors.
109

110 Ethan Beals, project manager at Hayner/Swanson Inc., resident at 29 Chagnon Lane, and
111 member of the Board of Directors for the Hudson Food Pantry, explained that the Pantry is fully
112 run by volunteers. This includes the Board of Directors which does more than simply handing
113 out food. There are a lot of requirements for nonprofits and many regulations related to the food
114 received from local, state, and federal entities. He noted that the average age of the board is
115 approximately 90 years old. He explained that the Board received a draft real menu that clients
116 receive to order food at the Pantry. The first menu is a nonperishable menu, with items such as
117 spaghettis, canned veggies, etc. The second menu is a perishable menu which sets the Pantry
118 apart from others, as it tries to provide clients with prepared meals with fresh produce, meats,
119 and other items that standard food pantries do not offer.
120

121 Mr. Beals explained that the conceptual plan, which has been discussed with the landowner, is to
122 subdivide approximately 1.5 acres from the site in order to construct a new two-story, 4,800 s.f.
123 building, including a new driveway off Burns Hill Road. The site will have 17 parking spaces,
124 nine overflow parking spaces and a two lane driveway that circles the building, creating a traffic
125 pattern for clients. The goal is to get clients off Burns Hill Road as quickly as possible, in order
126 to fill out the menus, fulfill their food order, and get them back onto Burns Hill Road safely. He
127 addressed some of the written comments provided to the Board. First and foremost, the site does
128 pose some engineering challenges. The plan that was submitted today is only at a conceptual
129 level and a formal, detailed survey of the property is currently underway. Much of the in-depth
130 planning and site design happens at the Planning Board level, including things such as a full site
131 plan, traffic study, traffic analysis, stormwater analysis, septic design, etc. There were some
132 written comments regarding the Pantry trying to find a commercially zoned space in Town
133 instead. This specific use is not in the Zoning Ordinance and therefore it is likely that relief
134 would be needed on just about every site in Hudson. He noted that there are not a lot of
135 commercial spaces that fit the Pantry's needs, with a sweet spot of approximately a 5,000 s.f.
136 space. The Pantry frequently reviews commercial spaces that become available in Town and
137 there is not much in the range that would be needed. Also, the Pantry needs a below market rate
138 for rent and utilities. This better allows the Pantry to use nearly all of its donations and funding
139 sources for its clients and the community. A commercial space in Town, at about half of the
140 space needed of 2,500 s.f., rents for approximately \$4,000-\$5000/month, which is much more
141 than double what the Pantry currently pays. This would include utilities. Other larger spaces,
142 such as the former Walgreens or former Rite Aid, are rented at the tens of thousands of dollars
143 per month rate. A quote received for the Walgreens space was approximately \$17,000 per month
144 plus additional maintenance and utility pieces. The Pantry cannot afford that level of rent and

145 still hope to have sufficient funding to provide food and items for purchase for its clients. In
146 summary, the Pantry provides a valuable community service only to Hudson residents. These
147 clients already exist within the community. The Pantry wants to continue to provide that service
148 for a long time into the future but cannot do so without some semblance of help from the
149 community. The Pantry tried to purchase the church property and continues to actively look
150 every day at new commercial listings but, as a small nonprofit, cannot compete with larger
151 commercial for-profit entities to purchase or rent most properties.

152
153 Attorney Prolman explained that the proposed lot is shown on the bottom left of the plans. The
154 immediate neighbor to the north and west of this is the Town of Hudson, as the old landfill site.
155 The immediate neighbor to the east is the current owner, as the remainder tract. Directly across
156 the street from the site is the Provincial Heights condominium common land. The applicant is
157 looking to shoehorn the building onto the site, in order to not have a direct impact upon the
158 residential neighbors. There are residential neighbors close by, but the intention is to design this
159 to minimize any impacts upon the neighborhood. With respect to the concerns from neighbors,
160 many of the letters seem to fall into the categories of routine opposition that this will impact
161 property values, traffic concerns, and concerns about the character of the neighborhood. The
162 applicant respectfully disagrees with those comments and does not believe that harm will be
163 done to the character of the neighborhood. The second set of comments include people who seem
164 to be worried that the Food Pantry being allowed on this site will lead to rezoning of the entire
165 lot toward commercial uses. The Town recently voted to turn this whole lot into R-2. He stated
166 that he does not know what the owner intends to do with this property, but this request is only for
167 the Food Pantry application. The storage facility use which was before the Board some time ago
168 and was denied, cannot come back due to New Hampshire case law. He does not see that there
169 will be a dramatic enough change to allow that application to come back before the Board. The
170 remainder of this property could likely be built out as residential, but the Food Pantry fits in this
171 area.

172
173 Attorney Prolman addressed the variance criteria. The applicant does not believe this proposal
174 would be contrary to the public interest. The Hudson Food Pantry operation does great things at
175 a minimal amount of time. The staff is not on site much. The distribution operation is there for
176 two hours currently every Thursday and a couple of Saturdays before holidays. This will have
177 minimal impact. The proposed use will not harm the character of the neighborhood. With public
178 interest comes the spirit and intent of the ordinance. Case law in New Hampshire states that these
179 two concepts are closely related. The applicant is providing a civic service of a food pantry and
180 doing this in a residential neighborhood will not change the character of that to such a degree
181 that undoes the zoning. The proposal is not violating the spirit of the ordinance as it is providing
182 a much needed service, and staff is only on site approximately ten hours a week. In terms of
183 substantial justice, this weighs in favor of the applicant. The applicant recognizes that this is in a
184 residential neighborhood but, given the benefit that the Food Pantry provides for those in need in
185 Hudson, this outweighs any impact to the neighborhood and to the general rights of the public.
186 The intention is to construct a barn-looking building and install the barn in whatever color the
187 boards and neighbors would like to see. Typically, a red barn has a New England feel. This will
188 be designed to have a residential feel. The site will have a parking lot and a two lane drive aisle,
189 which is not very residential, but this will be addressed with landscaping and lawn areas. The
190 goal is to make this fit as best as possible. The proposed new construction and services on the
191 site will not adversely affect neighboring property values. In terms of hardship, this is a very
192 large lot with wetlands on it. It is a challenging lot for most development. The limited use being
193 proposed does not lead to a fair and substantial relationship to inhibit the proposed use for the

194 Food Pantry. This is a reasonable use and a much needed use, given the needs in Town and the
195 services that the Food Pantry provides.
196

197 **Board Questions:**
198

199 Mr. Lanphear asked if most of the existing food storage at the Pantry is in the basement. Mr.
200 Beals stated that the rent number given was based on half of the space that the Pantry needs for
201 its use. The sweet spot is approximately 5,000 s.f. and the active market for approximately 2,500
202 s.f. is more than double what the Pantry currently pays. The majority of food operations are in
203 the basement, as it is easier to keep cool and there is significant investment in pest control for the
204 use. Every inch of the upper floors is also utilized. The Pantry receives donations, including toy
205 donations, year-round and needs places to store them. Currently, every room of the existing
206 space is filled with storage boxes and other donations. The Pantry knows it needs to downsize
207 somewhat, but the current space is approximately 8,500 s.f. To provide the necessary storage and
208 otherwise, the new building needs to be approximately 5,000 s.f.
209

210 Mr. Boyer asked to receive public comment either in favor, neutral or opposed from the public at
211 7:40 PM.
212

213 **Public Comments in Favor:**
214

215 Carlos Pestana, 50 Bear Path Lane and Vice President of the Community Food Pantry, stated that
216 this is one of the largest food pantries in the State. The pantry is crucial in providing food to
217 Hudson residents and students that may be suffering from food insecurity. The Town needs the
218 Pantry, and the hope is that the Board looks favorably on the request.
219

220 Leona Shanholtz, 99 Robinson Road, stated that this is one of the few food pantries that provides
221 Christmas gifts for adults as well as children. People from Buttercup and other housing places
222 around Town received their first Easter basket ever from the Food Pantry. That program was
223 started by Pauline to meet the needs of the people in the community. The Feed Our Kids program
224 is intriguing. Teachers have told the Pantry that once the Feed Our Kids program went into
225 effect, they noticed that children on Monday mornings who had been given eight meals over the
226 weekend came into school more alert and responsive in their classrooms. The Pantry receives
227 phone calls from special services at the School Department when there are emergency situations
228 with families. The Pantry is intricately involved with the welfare of many people in Town. She
229 has been a volunteer for 25 years and she believes this kind of a facility is needed for the
230 community. This is 100% for Hudson residents and provides a service that is necessary in the
231 community.
232

233 Pauline Boisvert, 36 A Street, stated that she has been a volunteer for a number of years. She
234 pointed out that if someone is going to be hungry, they better be hungry in Hudson because the
235 citizens of Hudson will take good care of them.
236

237 Joyce Nadeau, 11 Pelham Road, stated that she has been a volunteer for years. She finds that it
238 helps everyone very much. People in Hudson like to give. She knows her back is covered if
239 something happens because the Food Pantry is available. This is important for the Town and
240 children and should not fall through the cracks.
241

242 Timothy Lyko, 8 Daniel Webster Drive, stated that he has been volunteering for a couple of
243 months and it is incredible what can be accomplished with volunteers. It is difficult to find a new
244 place to rent, as the Pantry is a non-profit and does not have money to compete with. The Pantry
245 has industrial sized refrigerators and freezers that cannot go on an average floor. It would be nice
246 to design the building a driveway as the Pantry needs. This location and project will help the
247 Pantry a lot. The Pantry loves to be a good neighbor and will make the property look nice.

248
249 Mr. Witham-Gradert explained that the Board received letters of support from the New
250 Hampshire Food Bank, Hudson School District, Hudson Lions Club, Greater Hudson Chamber
251 of Commerce, Hannaford Supermarkets, Hudson Memorial VFW Post 5791, General Federation
252 of Women's Club, Hudson Women's Club, Hudson/Litchfield Rotary Club, Hudson Historical
253 Society, Service Credit Union, and First Baptist Church Food Pantry of Hudson, NH. The full
254 letters have been provided to the Board in its package which is posted online for the public.

255
256 **Public Comments Opposed:**

257
258 Laurie Jennings, 2 Wildwood Terrace, stated that she believes in food pantries and has
259 volunteered at food pantries many times. She believes in the people who run them, the volunteers
260 who show up every week, and the families who depend on them. Food insecurity is real in this
261 community and, as an active member of Saint Kathryn's Parish, she supports the Food Pantry
262 through weekly donation. She believes in helping vulnerable members of the community. She
263 asked the Board to understand that her opposition to the variance is not opposition to the Hudson
264 Community Food Pantry or the mission it serves. It is not opposition to feeding people, and it is
265 not indifference to hunger. It is a conviction to do the right thing in finding a permanent, stable,
266 properly zoned location for the Food Pantry in Hudson, without asking the residents of Burns
267 Hill Road and the surrounding neighborhoods to bear the cost of it. The pantry deserves a home.
268 She and her neighbors deserve to have their neighborhood protected. She asked the Board to find
269 a way to honor both of these things by denying the variance and sending the application toward a
270 solution that does not require anybody to lose. She submitted a packet about the case in April.
271 She has read all 11 support letters from some of the most noble organizations in Town but not
272 one addresses the legal standard before the Board. The Board must evaluate the land in question
273 and what will happen if the Food Pantry has to downsize or outgrows the building. There is a
274 question as to what would then happen on the site. It is not the Board's job to decide if the pantry
275 is a good organization; they obviously are. But it is the Board's job to decide if this specific
276 parcel of land meets the high legal standard for a variance. In reviewing the letters that endorse
277 the Pantry searching for a home elsewhere in Hudson, not 72 Burns Hill Road, she agrees with
278 them. This belongs in a General or Business District where the use is already permitted without a
279 legal issue. Also, the application claims that staff is only on site for ten hours, but the letters from
280 Hannaford and others prove otherwise. Her concern is that the Hudson voters deliberately
281 rezoned this parcel to R-2 in March 2024. This is not an old forgotten ordinance, it is fresh. The
282 request is to override a recent Town-wide vote via a variance. Such a dangerous precedent tells
283 voters that their ballot box decisions can be undone by the next application that comes along.
284 This is concerning. The balancing test favors the neighborhood. The Pantry's issue in its real
285 estate search is a solvable problem. Harm to the residential character of Burns Hill Road is
286 permanent and irreversible. The Pantry has the institutional goodwill to succeed anywhere in
287 Hudson. They do not need a variance, just the right site. She works from home most days and her
288 desk overlooks Burns Hill Road. She sees speeding cars and the risks that she and her neighbors
289 face when walking anywhere outside. There is trash and this road is a dangerous place. She

290 asked that a traffic study be done if this is even to be considered. She asked the Board to protect
291 the integrity of the R-2 Zone, uphold the voters' decision, and deny Case 211-067.

292
293 Donald Crawford, 15 St Mary Drive, stated that this is a true residential neighborhood, which is
294 what voters wanted in making it R-2. Any kind of an industrial/retail building in that
295 neighborhood would truly change it. His concerns are for the neighborhood and with Burns Hill
296 Road itself. Hudson is growing like crazy. Burns Hill Road from Wason Road is one of the most
297 dangerous intersections in Town. Nottingham West, on the other end, does not need any more
298 traffic. That road is a cut through and a challenge for the Town. The Town has been dealing with
299 the traffic in this area. Traffic comes from the crest of Burns Hill Road with trucks and 200 or so
300 families trying to pull out onto Burns Hill Road. This building is proposed in the most dangerous
301 spot on that road, at that crest of the hill. The Police are there constantly and do a great job. This
302 is due to the speeding cars at the crest of the hill. Now the Town is being asked to allow a
303 variance that would increase traffic for a building that the area is not zoned for. This does not
304 make sense when there are other places in Town for it. Her is not anti-food pantry. It appears
305 there is a real estate issue, but he does not understand that. The proposed location is not
306 relatively convenient, considering Lowell Road, Central Street, or other locations where a food
307 pantry could go and serve its clients. This is a true residential neighborhood. He is strongly
308 opposed to this. He does not see a hardship of the owner as they could build residential uses on
309 the site. The site has 25 acres, which is a lot of room for residential houses. He is not anti-
310 growth, but would like to see common sense growth. There are traffic concerns and this would
311 change the look of the neighborhood forever.

312
313 Robinson Smith, 48 Burns Hill Road, stated that that food banks provide a vital service to the
314 community and are of high value. However. having a food pantry on Burns Hill will not be
315 conducive to the area, especially with the residential designation. There are no businesses in that
316 area. The applicant stated that they only provide services for Hudson residents, but he usually
317 finds this is a misnomer for food pantries. For example, the Nashua Soup Kitchen and other
318 pantries provide services to anybody that shows up. It is not specifically for the community.
319 Southern New Hampshire has an advantage because there is no sales tax. Thus, a large
320 population of people come up from Lowell and use the Market Basket, Walmart, Sam's Club,
321 etc. If there is a food pantry in this area, they will likely use it to access their needs. This will
322 increase traffic from outside of the community. This is a big problem. Also, food banks receive
323 their funding through federal and state grants, along with local businesses, charities, private
324 donations, etc. They are incentivized to expand their services to increase revenue and funding.
325 For example, the Nashua Soup Kitchen provides hot meals for 200+ people twice a day, or 400+
326 people in total. They also have an upstairs area set aside to provide shelter services, showing an
327 expansion of services or scope creep, which could also occur that the proposed Pantry's location
328 in the future. This is a concern. Further adding to the issue, the Pantry, surrounded by woods and
329 undeveloped land, will be a perfect environment to foster homeless encampments similar to the
330 homeless communities along the highway, in Lowell, MA, Mines Falls Park in Nashua, and
331 along the Merrimack River and railroad tracks in Manchester, NH. He personally witnessed in
332 Lowell, MA, syringes discarded on downtown sidewalks, homeless passed out, fights breaking
333 out, and homeless rummaging through residential trash cans and dumpsters looking for cans,
334 bottles, and anything they can find for a value and placing them in shopping carts. There are
335 living encampments behind parking garages all located a stone's throw from the Community
336 College downtown. He asked if Hudson has the appropriate infrastructure, necessary social
337 workers, additional police, fire and rescue services, to manage these potential encampments. He
338 asked how the residents of the Burns Hill and the surrounding area will manage these issues

339 moving forward. He asked how approving this variance will impact existing abutters and
340 property owners. The Hudson Police recently caught a person stealing items out of vehicles in
341 the Burns Hill area. These types of crimes will trend up due to a food pantry being built in a
342 residential area and will potentially increase the homeless population. For all these reasons, he
343 asked that the Board deny the applicant's request for a variance.
344

345 David Morin, Burns Hill Road, stated that he moved to Burns Hill Road specifically because he
346 valued the quiet residential nature of the R-2 Zone, the very character that this variance seeks to
347 change. He formally opposed the variance request for 72 Burns Hill Road. The applicant bears
348 the burden of proving they meet all five legal criteria and this application falls short on every
349 account. First, the public interest and spirit of the ordinance. The public interest was clearly
350 defined in March 2024 when Hudson citizens voted to keep this land residential, R-2. The Town
351 also came together to oppose the building of storage units on occasions last year. Granting a
352 variance would disregard that democratic mandate and voice of the residents. The spirit of the
353 ordinance for R-A is to protect the peace and safety of the neighborhood. A facility projecting 55
354 cars in a two hour window, per the applicant's own filing, is a high intensity use that clashes with
355 the residential vibe of the community. In terms of an unnecessary hardship, a variance requires a
356 hardship to be unique to the land. No such hardship exists. The land is perfectly suitable for
357 residential uses. If the applicant claims that the land is safe for high volume traffic and delivery
358 trucks, then it is certainly safe for a residential driveway. Furthermore, a 3,000 s.f. facility does
359 not require the destruction of a 25-acre forest. This use belongs in any of Hudson's existing
360 move-in ready commercial spaces that already have the infrastructure and better community
361 access. The Trojan Horse items is that substantial justice requires that the benefit to the applicant
362 not outweigh the harm to the public. There is a glaring disproportion. He asked why the Board
363 would break the zoning of a 250acre forest for a building that is only 3,000 s.f. This looks like a
364 Trojan horse designed to establish a nonresidential precedent on the land. Variances run with the
365 land, and granting this request would effectively reclassify the property, allowing for future
366 commercial development on the remaining 23-24 acres. If the project proves financially
367 unfeasible for nonprofit, the landowner is left with a subdivided nonresidential building for the
368 very industrial uses this Board already denied in 2024 and 2025. Developing the land, clearing
369 the forest, and installing a commercial grade septic and building from scratch is a multimillion
370 dollar undertaking. Regarding diminished property values, the established zoning protects home
371 investments. If the R-2 seal is broken for a project that could easily fit in a commercial zone, it
372 sets a precedent that no residential neighborhood in Hudson is secure. This creates a creeping
373 commercialization that permanently reshapes the neighborhoods and negatively impacts property
374 values. He also noted safety and infrastructure concerns in terms of traffic safety, fire
375 suppression, and engineering. In conclusion, the law requires the Board to judge the land use, not
376 the mission. A charitable label is not a legal substitute for the five point test. As the land is
377 usable for other purposes that are correctly zoned and because this project creates a permanent
378 harm to the neighborhood, he asked the Board to deny the variance.
379

380 Rita Banatwala, 29 Fairway Drive, stated that she is a strong advocate for the food pantry. She
381 has volunteered there, and her kids have volunteered there. This is not the issue. The issue is
382 about the location. She asked the Board to consider if the land should be rezoned. The voters
383 already voted recently in the past couple of years to not change this. She asked if the Board has
384 the right to change it now. Probably not. She asked if the proposal would diminish nearby
385 property values. Yes, based on the abutters that have already spoken. She stated that she would
386 not buy her current property if it was next door to a food pantry. Changing residential zoning
387 areas is driving people out of Town. She asked if this is what the Board wants to do.

388

389 Monica Kiernan, 11 Wildwood Terrace, stated that it is interesting to hear testimony regarding
390 how many people are served by the Food Pantry. She likes supporting this, as does her business.
391 Burns Hill Road has been already designated in a 2025 study by the Hudson Police as having one
392 of the top ten most dangerous intersections in Town. Traffic there will be increased
393 monumentally by the proposal at a traffic pattern that is already dangerous and there has already
394 been a fatality on Wason Road. The food pantry cannot be in her neighborhood. As mentioned,
395 volunteers come to stock the pantry at 7:30AM-8:00 AM, which is a prime driving time. People
396 are already stuck behind school buses, and this will now be impacted again. There is another
397 high traffic time scheduled after school for volunteers to come back to the site. She loves
398 volunteerism, but not at this site and not at that time. This is not an imperative emergency. The
399 Hudson Food Pantry, which is currently on the Church property, has not been kicked out. A
400 variance for another use at 72 Burns Hill Road was already denied and now another variance is
401 being requested 18 months later because the owner of the property would like this as a business.
402 She cannot support this as a resident. This will change the entire neighborhood. She thought the
403 owner would be a bit more invested in the Hudson community than turning this bedroom
404 community into a blight like the golf course. If this can happen anywhere in Hudson, nowhere
405 left is safe. She asked the Board to deny the variance and allow the community, at least these
406 neighborhoods and houses to remain intact and beautiful.

407

408 Ed Thompson, 22 Burns Hill Road, stated that this parcel was before the Board twice last year -
409 once for a variance for a different non-permitted use, which was denied, and again for a
410 rehearing, which was also denied. On each occasion the Board made the right decision, and
411 upheld the zoning bylaws, namely the table of permitted uses under Section 334-21, as the five
412 criteria were not met. He believes the only reason this variance request is before the Board is for
413 the property owner to attempt to target the heartstrings of the Board members in order to gain a
414 variance approval, thus setting the camel's head inside the tent and subsequently provide an
415 avenue for future commercial development on the parcel. Under NH zoning law, a variance runs
416 with the land. This means that the relief is permanently attached to a specific parcel. As stated, a
417 variance is not for the individual who has applied for it, nor the specific builder or the project
418 they proposed. This would set a bad precedence, not only for this parcel but for many other
419 parcels in Town. The owner of this parcel sits on the Planning Board, Mr. Hurd, and he should
420 know the zoning laws very well and should not be asking for them to be broken. As land use
421 Board members, it is imperative that these individuals be held to the highest standards. He
422 reviewed the five criteria. Regarding that granting the requested variance will not be contrary to
423 public interest, this is a food pantry, not a home. By definition it is out of character with the
424 neighborhood and, thus, not included in the zoning district under permitted uses. The traffic
425 generated by food pantry, even at 50-100 trips per day, is certainly not in the public interest on a
426 road that has seen approximately a 50% increase in traffic in the last five years. Regarding that
427 the proposed use will observe the spirit of the ordinance, the applicant states that this will not
428 alter the essential character of the neighborhood. The existing character of the neighborhood is
429 represented by single-family homes. A food service use for food and personal items would
430 change that. A quick search on the web states that the Hudson Community Food Pantry is
431 currently serving more than 80 families per week. This number represents a significant increase
432 from recent months when demand was 45-55 families per week. Although the pantry currently is
433 open only on Tuesday and Wednesday from 7:00 AM-10:00 AM for workers to take donations,
434 and distribution to occur on Thursday nights from 5:30PM-7:30 PM, these times are all during
435 peak AM and PM commuter hours. This is a food pantry, not a single family home, so it is out of
436 character with the neighborhood and thus not included in the zoning district. Regarding that

437 substantial justice would be done to the property owner by granting this variance, the benefit
438 gained by the applicant must not be outweighed by the harm to the general public or individual
439 neighbors. The only justice would be to the landowner while causing harm and injustice to the
440 general public and neighbors. This would set a scenario for the property owner to certainly come
441 back and request more variances on the remaining 23 acres of land. Regarding that the proposed
442 use will not diminish values of surrounding properties, although it has not been proven, property
443 values will diminish. Selling a house on a road with higher than normal traffic will not help
444 prices, especially those nearest the nonresidential use pantry. Finally, regarding hardship and
445 special conditions that exist so that literal enforcement of the ordinance would result in
446 unnecessary hardship, there is no hardship. There could be a reasonable use of the land as it is
447 currently zoned. The owner was aware of the wetlands on the property when it was purchased.
448 The owner can freely build what is listed in the table of permitted uses without having to break
449 the current zoning laws. Finally, he noted that none of the emails and letters in support of the
450 food pantry mentioned that the proposed site for a relocation would be in the middle of an
451 established, quiet residential neighborhood on a busy collector road in town. The applicant does
452 not meet the five criteria and thus the variance should be denied.

453
454 Debra Putnam, 59 Rangers Drive, stated that should the ZBA grant a variance for even a piece of
455 the greater property to civic use D-22, this would send a message to all voters and residents of
456 the Town that their vote does not matter. By extension, all Warrant Articles approved through
457 the legal voting process would be null and void.

458
459 Gretchen Whiting, 22 Glen Drive, stated that she is torn. She completely supports and donates to
460 the food pantry. She recognized and thanked the pantry board for all of the research it provided
461 to the Board. She also acknowledged that the food pantry is requesting the zoning variance, not
462 the owner of the 25 acres, and it is only being requested for one acre of the site. She also noted
463 that hardships on the neighborhood from this proposal. Traffic in the area is bad and there have
464 been at least ten accidents along the road per year. Increasing traffic near the corner will be very
465 difficult, especially in the timing of the proposed hours. The proposal would be adjacent to the
466 old Burns Hill dump. Burns Hill is known for having asbestos issues, with some residents having
467 asbestos in their yards. If construction were started and asbestos was found, she asked what this
468 would do to the neighborhood. She noted that everything from the top of Burns Hill flows
469 downhill. The wetlands go down Burns Hill toward Glen Drive. Regarding power, she stated that
470 she does not know if there is enough power to supply the pantry's needs for refrigeration. She
471 stated that she does not know if the applicant will tie into the sewer system or use their own
472 septic system. There is a pump house on Glen Drive, and she asked if this would be able to
473 support the applicant's use. She noted that there is trash on Burns Hill and Wason along the road.
474 Increasing people along the road will also increase that trash. She collects trash every Thursday
475 when walking the road. She asked the Board to reject the variance, mainly due to the hardship
476 against the neighbors. She supports what the pantry wants to build and why it wants to build it,
477 but she is not convinced that this specific site is right for it.

478
479 Robert Nunes, 12 St Mary Drive, stated that the proposed location is horrible because it does
480 downhill, and will be quite tricky to take a left. This is zoned R-2, and it is unclear who would
481 want a residential house right next to a food pantry. Though, nothing against food pantries. There
482 have to be better locations in Town for this. He opposes the variance.

483
484 Larry Martone, 8 Saint Anthony Drive, stated that he lives a couple hundred yards from the
485 proposed location. This is a residential neighborhood. The closest businesses are on Lowell

486 Road, where they belong, Meineke and Market Basket. It needs to stay that way and he opposes
487 this variance.

488
489 Mr. Witham-Gradert read a synopsis of the letters sent in opposition. In terms of the abutter
490 comments submitted: Fred Brough, 75 Burns Hill Rd.; Dave Morin plus addendum, 67 Burns
491 Hill Rd.; Catherine Morin, 67 Burns Hill Rd.; and Tammy Eaton, 69 Burns Hill Rd. In terms of
492 non-abutter comments: Keith McGilvery, 27 Richmond Dr.; Suzanne Roark, 5 Gloria Ave.;
493 Timothy Hennighausen, 14 Cedar St.; John Hone, 27 Sheffield St.; John and Kathy Hesse, 6
494 Pinewood Rd.; Robinson Smith Sr., 48 Burns Hill Rd.; Laurie Jennings, 2 Wildwood Terrace;
495 Christopher Thatcher, 15 Parkhurst Dr.; Michael LaBonte, 14 Glen Dr.; Pete and Joanne
496 Radziewicz, 49 Burns Hill Rd.; Christine Nevins, 18 Burns Hill Rd.; Anthony and Catherine
497 Janko, 33 Saint Anthony Dr.; Donna Dufour, 4 Madison Dr.; Janice Degulis, 45 1/2 Burns Hill
498 Rd.; Kristen Brown, Hudson address not listed; Donna Boucher, 8 Windham Rd.; and Monica
499 Kiernan, 11 Wildwood Terrace. The Board also received a letter with 48 signatures which is
500 available as part of the public record. He noted that seven of those signatures are redundant to
501 those who sent in individual letters, leaving a remaining 41 signatures of independent people
502 who did not provide written comments elsewhere. All letters have all been provided to the Board
503 in advance. Staff received three additional letters after the submission period had ended which
504 were provided to the Board but are not part of the memo.

505
506 **Public Comments Neutral:** None at this time.

507
508 Seeing no additional comments at this time, Mr. Boyer closed the public comment period at 8:26
509 PM.

510
511 **Applicant's Representative Testimony:**

512
513 Mr. Beals stated that it is clear the Hudson community largely supports the Hudson Community
514 Food Pantry and he hopes this will always be the case in the future. Regardless of what happens
515 tonight, he hopes people will show the same enthusiasm they showed in speaking tonight to help
516 support the food pantry, its mission, and its future location. He stated that there is no question
517 that this is not the perfect site. If he was engineering a site and the cost did not matter, this likely
518 would not be the site that he would choose. However, in all honesty, the landowner has offered
519 the Pantry about 1.5 acres for effectively what he pays in taxes for that area. That is simply too
520 valuable for the Pantry to pass up. He hopes that someone else may be generous enough to offer
521 land to the Pantry for that price to continue to fulfill its mission. In terms of specific traffic
522 issues, Burns Hill Road has existing traffic issues which he looks forward to studying further. At
523 this point in time, a traffic study has not been completed, and a traffic analysis comes through the
524 Planning Board process. The applicant plans on doing an in-depth analysis for the existing traffic
525 and proposed traffic for the use. If the study proves that improvements are needed, the applicant
526 will partner with the Town to try to make improvements to intersections or roadways, as any
527 project does in the Town. He stated that he takes exception to the comments regarding the
528 Pantry's client base. Any new client has to demonstrate proof of residency in Hudson. This is
529 reviewed on a continuing rotating basis. People are asked for tax bills, stamped mail pieces
530 addressed to them, etc. as a requirement for proof of residency. The Pantry absolutely does not
531 serve people from outside the community, nor would it change that mission. The dedication as
532 the Hudson Community Food Pantry continues to be to serve the people of Hudson. He cannot
533 speak to other communities, such as Lowell, Manchester, Nashua, etc. and potential homeless
534 encampments there. This is not the Pantry's experience. It is not looking to open a shelter. It is

535 looking to find a permanent home for the existing operations. The Pantry does not have an
536 eviction letter in hand, but a property for sale will likely be purchased by a developer or a
537 business owner to be reutilized. It is likely that the Pantry will not have a permanent home there.
538 This creates a lot of uncertainty for the Pantry and its client base which relies on the Pantry for
539 its food insecurities. Other issues such as traffic, asbestos, stormwater, septic/sewer, etc., are
540 Planning Board items. Asbestos is not as prevalent here in southern New Hampshire and there
541 are ways to handle it which do not prohibit people from working on their property.
542

543 Attorney Prolman stated that comparing a full blown residential development to the limited
544 operations of the food pantry, would likely see traffic. He believes the applicant has met the
545 criteria for the variance and he appreciates the neighbors' opposition and professionalism.
546

547 **Board Discussion:**
548

549 Mr. Lanphear noted that, if this variance is approved, it could be 3-9 months before it is
550 determined that this project will move forward and another 6-12 months to build the structure.
551 This is almost 1.5-2 years for the project, and he asked what would happen to the Pantry is
552 evicted 3 months from now. Mr. Beals stated that this exact scenario keeps every volunteer and
553 board member up at night. There are weekly meetings to develop contingency plans such as
554 making a smaller location work until building a permanent home. Simply ceasing services would
555 drastically impact the lives of all the clients and is not an acceptable alternative. There are
556 contingency plans in place and there have been generous offerings, such as from another church
557 in Hudson with stopgap ideas. It is not simple to move significant refrigeration into the second
558 floor of a church. This would have to be well thought through. Thousands of cans have a lot of
559 weight to them. The applicant is working with several real estate agents to try to find a better
560 property in Town. There has been discussion regarding if there is a town-owned property that
561 could be used or a location in an industrial park. However, it is difficult for the applicant to
562 compete in buying a piece of land at market value or renting an appropriately sized space for
563 market value. The applicant is not financially equipped to do so, unfortunately. Mr. Lanphear
564 suggested an industrial space. Mr. Beals stated that many industrial spaces are approximately
565 30,000s.f-75,000 s.f. and most do not want to divide off 5,000 s.f. within the building, impacting
566 the rest of the space. The needed size and use are unique.
567

568 Attorney Prolman stated that he spoke to the listing broker today and there are 2-3 offers at this
569 time for the Roman Catholic Bishop of Manchester property. The property is not under contract
570 yet, but it probably will be in the next month or so. Mr. Beals stated that, with the maximum bid
571 the Pantry could offer, it was told that it is out of the bidding for the property. Attorney Prolman
572 noted that the statute under which the Board works, authorizes the Board to add conditions of
573 approval to any application. He suggested that the Board could limit the variance to a food
574 pantry. This may help alleviate concerns that other commercial uses could come to the site.
575

576 Mr. Boyer asked to receive public comment either in favor, neutral or opposed from the public at
577 8:37 PM.
578

579 **Public Comments in Opposition:**
580

581 Ed Thompson, 22 Burns Hill Road, verified that the Board received a signed petition from the
582 neighborhood. Mr. Witham-Gradert stated that it had.

583 Seeing no additional comments at this time, Mr. Boyer closed the public comment period at 8:38
584 PM.

585

586 **Board Discussion and Deliberations:**

587

588 Mr. Vurgaropulos stated that this is a very unique situation. It includes people pulling at heart
589 strings, the law, and everything else. He is not opposed to the food pantry and believes they do
590 amazing work and are 100% essential to the Town. He is not a fan of the proposed location
591 based on the traffic and the shape of the road. If this was a straight road, high traffic might be a
592 bit different, but this is a windy road and there have been many accidents along it. Adding
593 unnecessary additional traffic and requesting a variance for that is not appropriate in his opinion.

594

595 Mr. Sakati thanked the volunteers for their work and agreed that this pulls at the heartstrings. He
596 also thanked the residents who put together an incredibly thoughtful analysis, addressing the five
597 criteria in a professional way. The Planning Board recently recommended new zoning and the
598 Town approved it. He would be very uncomfortable reversing the new zoning or making an
599 exception from it, as much as he would like to support the purpose and the benefit of the food
600 pantry. This speaks to the spirit of the ordinance. Reversing a recent decision of the Town's
601 position on this would come close to spot zoning to deciding on a case by case basis, which he
602 does not feel comfortable with. The Town's zoning is relatively liberal in general.

603

604 Mr. Boyer stated that the first variance criteria is if the proposal is contrary to public interest.
605 This location is undeniably a neighborhood. The applicant is a 501(c)(3) business, as it has a tax
606 ID number. If it were approved for this location, it would be similar to saying that the Goodwill
607 store could go there because they identify the exact same way. The proposal does not pass the
608 first criteria test. Regarding an unnecessary hardship, the applicant has not described that
609 something else could not be done with the property the way it is currently zoned. He believes
610 something else could be done with that property under the current zoning and the applicant has
611 not said otherwise. The proposal would not pass the test for criterion 5A. There is the hardship of
612 this pulling at the heartstrings, but he does not believe it will be able to pass the other criteria to
613 be granted.

614

615 **Mr. Lanphear moved to deny a variance, duly seconded by Mr. Sakati:**

616

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

618

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

620

621 Mr. Lanphear stated that the proposal would definitely be out of character of the
622 neighborhood and the safety of the people that live in the neighborhood. This is an R-2
623 District and trying to put a business in an R-2 district is difficult.

624

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

626

627 Mr. Lanphear stated that there is a conflict between the proposal and the purpose of the
628 ordinance which was changed a couple years ago to an R-2 District.

629

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

631

632 Mr. Lanphear stated the benefit to the applicant in approve this variance is not
633 outweighed by the disruption to the public and the use of the R-2 District.

634

632 **4. The proposed use will not diminish the value surrounding properties**
 633 Mr. Lanphear stated that he is not a professional real estate analyst but believes the
 634 proposal will change the character and so could impact values.
 635

636 **5. Ordinance results in unnecessary hardship**
 637 Mr. Lanphear stated he does not see the hardship for the special conditions of the
 638 property. While the proposed use is reasonable, it may not be the best use for this
 639 property, as it is located in an R-2 Zone.
 640

641 **Mr. Lanphear – to deny**
 642

643 **1. Granting this variance will not be contrary to the public interest**
 644 Mr. Sakati stated that adding a commercial D22 civic use to an R-2 Zone would be in
 645 conflict with the implicit purpose of the ordinance.
 646

647 **2. The proposed use will observe the spirit of the ordinance**
 648 Mr. Sakati stated that the spirit of the ordinance is reinforced through the recent zoning
 649 changes and this application seeks to contradict that change.
 650

651 **3. Substantial justice would be done to the property owner by granting this variance**
 652 Mr. Sakati stated that the owner could build something on the property within the table of
 653 permitted uses.
 654

655 **4. The proposed use will not diminish the value surrounding properties**
 656 Mr. Sakati stated that there is space on each side of the proposed use. If that space were
 657 to be developed, there could be an impact and diminishment of value.
 658

659 **5. Ordinance results in unnecessary hardship**
 660 Mr. Sakati stated there is not a hardship because the owner can build within compliance
 661 of the table of uses. He makes this decision with a heavy heart, knowing that it is no
 662 consolation to the volunteers working hard to support the food pantry and those who are
 663 food insecure.
 664

665 **Mr. Sakati – to deny**
 666

667 **1. Granting this variance will not be contrary to the public interest**
 668 Mr. McDonough stated that the proposal would go against the character of the
 669 neighborhood and it could create safety issues due to the peak traffic issues noted by the
 670 applicant and brought up by the public.
 671

672 **2. The proposed use will observe the spirit of the ordinance**
 673 Mr. McDonough stated that the proposed use would go against the spirit of the ordinance,
 674 which was explicitly voted on by the Town.
 675

676 **3. Substantial justice would be done to the property owner by granting this variance**
 677 Mr. McDonough stated that the property owner could build within the R-2 Zone for a
 678 different use and there is no hardship that would necessitate building this property as
 679 proposed.
 680

681 **4. The proposed use will not diminish the value surrounding properties**
 682 Mr. McDonough stated that building of this space could potentially diminish values of
 683 the surrounding properties or reduce values of any R-2 built buildings on the property
 684 afterwards.

685
 686 **5. Ordinance results in unnecessary hardship**
 687 Mr. McDonough stated that he did not see a proven hardship for the land. The food
 688 pantry has obviously come under hardship but that does not overrule the use of the land
 689 and so the proposed use is unreasonable.

690
 691 **Mr. McDonough – to deny**

692
 693 **1. Granting this variance will not be contrary to the public interest**
 694 Mr. Brendon Sullivan stated that the variance is contrary to the public interest.

695
 696 **2. The proposed use will observe the spirit of the ordinance**
 697 Mr. Brendon Sullivan stated that the variance goes against the spirit of the ordinance and
 698 will alter the character of the neighborhood.

699
 700 **3. Substantial justice would be done to the property owner by granting this variance**
 701 Mr. Brendon Sullivan stated that the harm to the general public outweighs the benefit of
 702 the variance.

703
 704 **4. The proposed use will not diminish the value surrounding properties**
 705 Mr. Brendon Sullivan stated that it is difficult to speak to diminishing values of
 706 properties, but this would undoubtedly impact the area.

707
 708 **5. Ordinance results in unnecessary hardship**
 709 Mr. Brendon Sullivan stated that this does not meet the criteria for the hardship and is an
 710 unreasonable one.

711
 712 **Mr. Brendon Sullivan – to deny**

713
 714 **1. Granting this variance will not be contrary to the public interest**
 715 Mr. Boyer stated that granting the variance is completely contrary to the public's interest.
 716 It is contrary to place a business in a residential area.

717
 718 **2. The proposed use will observe the spirit of the ordinance**
 719 Mr. Boyer stated that the Pantry is registered as a nonprofit organization with a tax ID
 720 number. The ordinance is designed for residential use and that is what the residents of
 721 Hudson voted for. Therefore, the variance would be against what the spirit of the
 722 ordinance is.

723
 724 **3. Substantial justice would be done to the property owner by granting this variance**
 725 Mr. Boyer stated that substantial justice would be done to the general public and the
 726 residents of Hudson by denying this request. There are no special conditions given of the
 727 property that would invoke the substantial justice criteria within the regulations.

728
 729 **4. The proposed use will not diminish the value surrounding properties**

730 Mr. Boyer stated that the food pantry exists currently. There is a brand new constructed
731 house right beside it that has been there for over 12 months and is priced right but has not
732 sold. He can only speculate but if the house was built in the neighborhood off Burns Hill
733 Road, maybe it would have already sold.
734

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

736 Mr. Boyer stated that the land is zoned R-2. It is a large parcel of land. The zoning
737 regulations allow for several different housing developments within that district, and the
738 applicant has not shown that a different use could not be placed on the land.
739

740 **Mr. Boyer – to deny**

741
742 **Vote: 5-0-0 motion carried unanimously to deny the variance.**
743

744 Mr. Boyer reviewed the 30-day appeal period with the Applicant.
745

746 *The Board took a ten minute recess at 8:53PM.*
747

748 *The Board resumed the meeting at 9:05PM.*
749

750 *Mr. Dion resumed his seat as Chair. Mr. McDonough was no longer seated as a voting member.*
751

- 752 **2. Case 245-012 (05-28-26):** Bradford Baker, Sr., **23 Fairway Dr.**, Hudson, NH requests a
753 variance to allow a proposed concrete slab foundation with a metal garage to encroach on
754 the side yard setback by 2 feet, leaving 13 feet of side yard setback where 15 feet is
755 required. [Map 245, Lot 012, Sublot-000; Zoned Residential-One (R-1); HZO Article VI:
756 Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements]
757

758 Mr. Witham-Gradert read the Case into the record.
759

760 Mr. Sakati stated that he lives at 11 Fairway Drive and is not a direct abutter. He does not believe
761 he needs to recuse. A Google search showed the distance of his property being between 1,000-
762 1,600' away. The state of California, which has strictest laws, defines abutters as within 500'. He
763 does not have any biases in this case. Mr. Lanphear stated that he believes Mr. Sakati will take a
764 neutral hand in this case. There was no opposition from the Board.
765

766 **Applicant's Testimony:**
767

768 Bradford Baker, Sr., applicant, explained that the circumstances for this application have
769 changed over time. They used to include a front setback waiver request, but that issue has been
770 eliminated. The issue at this time includes the side setback, as the property goes from 2' to 1' at
771 the side setback and it is not perfectly parallel with the lot line. At the rear of the foundation
772 there is only a 1' setback encroachment and at the front there is a 2' setback encroachment. This
773 was the result of a contractor error and modifications have been made to the building to eliminate
774 the front setback issue. If the Board does not vote to resolve this, he will move the building
775 elsewhere on the lot. This will cost him about \$25,000-\$30,000 and take more time. He has not
776 had any pushback from his neighbor who is closest to the side setback. Anyone else in the
777 neighborhood would be impacted by him moving the structure closer to them, if the variance is
778 denied. Denying the variance would move the structure approximately 2' closer to other people

779 in the neighborhood. The person at 21 Fairway Drive, who would be most impacted by this side
780 setback issue, does not have an issue with it. He would like to have this resolved immediately
781 and either move the structure over or receive the proper permitting for the setback as is. The
782 garage will be done by the end of the summer regardless.

783
784 Mr. Baker addressed the variance criteria. He stated that there is a very minor overhang to the
785 side setback. It is less than 22" at the rear. This is a residential garage for personal use. It will be
786 used for parking cars, motorcycles, and storage of other garage items. He was victimized by a
787 contractor who did not do good work in the beginning. He wishes he had better oversight of the
788 job. This was a mistake that was made and he has to deal with it. The proposal will not diminish
789 the value of any properties because the intention is to shift approximately 20" to the left and this
790 will not change the actual visual appearance of the garage. If he has to shift the building over and
791 pour more concrete, he will end up undoing changes made to the length of the building because
792 he will be pouring the concrete anyway. Thus, the building will become bigger than it currently
793 is proposed to be. He has taken 9' off the front of the building from what was originally
794 proposed in order to not have the front setback issue. This was verified by Chris Sullivan in the
795 Zoning Department and reviewed on site. He noted that moving the structure will cost a lot of
796 money only to relocate it 2' over. This will be a lot of disruption. Some people in the
797 neighborhood complained about visibility of the building, but he believes it is less visible where
798 it currently is and moving it 2' over closer to the driveway will make it more visible, though only
799 by a small amount. There is plenty of distance between his house and the property at 21 Fairview
800 Drive and he has agreed to install landscaping on the property line. This was a personal
801 agreement made with the owner of 21 Fairview Drive.

802
803 **Board Questions:**

804
805 Mr. Dion asked if the building is already in place. Mr. Baker explained that the initial ribs that
806 support the building were installed. The concrete will cost the same if the structure needs to be
807 removed and relocated.

808
809 Mr. Dion asked if the structure will be 9' shorter off the front if the variance is approved but, if
810 the variance is denied and the structure is shifted over the 9' will be included. Mr. Baker
811 agreed. The structure will be larger if the variance is denied. Mr. Dion explained that the Board
812 has seen some complaints regarding the size of the structure based on the 9' being removed and
813 he would like this point to be clear.

814
815 Mr. Boyer stated that the applicant paid for an obtained a certified foundation plan. The applicant
816 has removed the concrete outside of the setbacks. Mr. Baker agreed. Mr. Boyer asked the
817 monetary value spent to make the front in compliance. Mr. Baker stated that this was
818 approximately a few thousand dollars. Mr. Boyer stated that, if the 2' variance is not granted, the
819 applicant plans to move the foundation into of the setbacks and build the structure. Mr. Baker
820 agreed.

821
822 Mr. Sakati asked about the proposed landscaping. Mr. Baker stated that this will be on the side
823 property line as decided with 21 Fairway Drive and include blackberry bushes. There will also be
824 some landscaping in the front of the building though this is not fully decided on yet. The use of
825 the structure has changed since this was initially proposed as he no longer has the vehicles he
826 was planning to store in it. It will now be used for storage of his truck. Mr. Sakati asked about
827 the front façade of the garage. Mr. Baker stated that it will be horizontal barn board with windows

828 and glass doors. Mr. Sakati stated that the Board has to review based on the criteria, including
829 any descriptions. Mr. Baker stated that he initially planned on sliding glass doors, windows, and
830 horizontal barn board. Removal of the 9' will add some depth to the structure and so the front
831 may not be completely flush, but the materials will not change. The sides will be a two tone
832 paint. Mr. Sakti asked if the façade choices have been run by the neighbors. Mr. Baker stated that
833 he did outreach at first, but he has only spoken to the owner of 21 Fairway Drive recently. Mr.
834 Sakati stated that he has recently seen a tie on the left corner anchored by something. Mr. Baker
835 stated that a rake may be leaning on this but there is not a tie buckle or anything else.

836
837 Mr. Vurgaropulos asked about the façade. Mr. Baker stated that the garage doors will face his
838 house to the rear.

839
840 Mr. Witham-Gradert stated that a copy of the applicant's discussion with the owner of 21
841 Fairway Drive regarding the landscaping and structure were received and provided to the Board.

842
843 Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at
844 9:14 PM.

845
846 **Public Comments in Favor:** None at this time.

847
848 **Public Comments Neutral or Opposed:**

849
850 Ed Thompson, 22 Burns Hill Road, stated that he believes a variance is usually applied for
851 before something is built on a property. He asked why this is not an equitable waiver application.
852 This parcel is in the R-1 Zone, which has some of the tightest requirements for residential in
853 Hudson. He stated that there is an existing industrial structure on this property which does not
854 look like a garage. It looks like something that was used on a farm to store hay or for a highway
855 department to store sand or salt. This structure failed originally because it was in the front
856 setback and now the request is for a 2' side setback. This is not about the money or the 2', it is
857 that the proposal does not meet the first criterion, which is that is cannot be contrary to the public
858 interest. This has altered the essential character of that neighborhood. If he lived across the street
859 from this, he believes his property value would be diminished. He feels bad for the homeowner,
860 as there has been a lot of money spent. He cannot understand why the garage was not built
861 attached to the house. CAD systems today can design a lot on a parcel this size. The cost seems
862 to be spiraling. The neighborhood contains other attached and detached garages that look like the
863 existing homes, but this does not.

864
865 James Crowley, 4 Fairway Drive, asked why the applicant has not required the original
866 installer/contractor of the concrete slab to fully correct the slab's location rather than asking the
867 Town to address the issue through a requested variance. Requiring the responsible contractor to
868 correct the work is the most practical way to resolve the current zoning issue. The current
869 variance request ignores many of the facts brought forth in the previous case, 25-089 for an
870 equitable waiver. The applicant has already stated that if this variance is denied, he will move the
871 structure and rebuild it within the setback area. He addressed the variance criteria. In terms of
872 this not being contrary to the public interest, the currently proposed location versus the relocated
873 location will not look different to the human eye other than the building size. The Board should
874 rule that the variance is contrary to public interest if it would significantly change the
875 neighborhood's character. Importantly, the Board should note that this criterion is not limited to
876 determining whether the proposed zoning use is acceptable, but it introduces visual impacts

877 inconsistent with the neighborhood's established characters. The subdivision has 80 dwellings in
878 it, most with attached garages and some with standalone garages. The style of those garages fit
879 the neighborhood. He displayed photos of the existing 23 Fairway Drive structure before the 9'
880 was removed from the front and a picture of what it looks like now. There are concerning visual
881 impacts for this variance. The trees do not go the full length of the structure to shield it visually
882 when traveling westward on Fairway Dr. The trees offer no shielding whatsoever of the visual
883 impact. The architectural plan that was provided for the front elevation shows the top of the front
884 elevation being painted to blend with the existing homes. However, he doubts the two-tone paint
885 job and a metal roof as proposed tonight will blend in. Even with the 9' removed, this structure
886 will still have a tremendous visual impact. In terms of the spirit of the ordinance, the applicant
887 provides that there is only a minor infringement, but the Board must evaluate if the proposed
888 scale, intensity, and appearance are consistent with the area. Also, if there will be no meaningful
889 change to noise, traffic, lighting, or visual character. This is a tremendously high structure and
890 definitely out of scale. The structure is out of scale with existing detached garages in the
891 neighborhood. He does not understand how the Board will satisfactorily perform a balancing test
892 between the applicant and the neighborhood, because if the variance is denied, the applicant will
893 build the full structure elsewhere on the lot and the neighborhood will have to absorb the
894 structure. The structure is supposed to be within the character of the neighborhood. He does not
895 understand why the contractor is not on the hook for this, not the homeowner. In terms of the
896 values of surrounding properties not being diminished, the applicant provided the Board only
897 speculative consideration and no proof that this is a valid conclusion. An application for previous
898 relief which was denied by the Board saw the applicant provide a traditional appraisal that there
899 would be no negative market impact. The validity of that report was shown to be incorrect
900 because the two examples given to prove no impact were flawed and not consistent with the
901 Fairway Dr. neighborhood. The examples to prove no negative market impact were on higher
902 traffic count, collector roads. Fairway Dr. is not. There is one way entrance to this 80 lot
903 subdivision and one way out. The burden is on the applicant to show that the surrounding
904 property values will not be diminished, and the Board must rely on competent evidence, not
905 speculation. Tonight's packet of materials does not include any new reports from the applicant on
906 property value impacts with comparable sales or how the proposed garage appearance will not
907 affect marketability of residential homes in this neighborhood. The applicant proposes only that
908 there will be no value impact which is only speculative. In terms of unnecessary hardship, the
909 applicant has chosen to make the variance request based on special conditions of the property.
910 This is a 1+ acre lot similar to those around it. The applicant states that the variance would
911 unreasonably interfere with the reasonable use of the property because of the lot conditions. He
912 asked how the applicant can simply move the whole structure elsewhere on the lot, if this is
913 denied. The contractor should be held accountable.

914

Board Questions:

915

916

917 Mr. McDonough asked if Mr. Crowley prefers denying the variance and allowing for the
918 structure that is 9' longer. Mr. Crowley stated that there are no winners in this case. The zoning
919 ordinance does not protect the neighborhood regarding architecture. He believes the Board
920 should not grant a variance. The structure could be placed elsewhere on the lot or more
921 adequately screened. The applicant has a security installation business, and he asked if business
922 equipment will be stored in the structure. This is a residential neighborhood.

923

924 Mr. Witham-Gradert stated that, in terms of an equitable waiver, as modification was done to the
925 infringement at the time while knowing, this would not by definition be an equitable waiver

926 which requires an honest and genuine mistake made without knowing. In trying to bring this
927 closer to compliance, it is transformed into a variance instead. This changes the criteria.
928 Regarding the concern about business, business uses are not permitted in this zone.
929

930 **Public Comments Neutral or Opposed:**

931
932 Ria Banatwala, 29 Fairway Drive, stated that on January 23, 2025, the equitable waiver of
933 dimensional requirement for the foundation which encroaches both the side and front yard
934 setbacks was denied. She asked why this is before the Board again. She feels bad for Mr. Baker
935 and is anxious for the structure to be painted or something because she can see the sun shine off
936 of through her windows and she is three houses away. This is because the structure is so high
937 because Quonset huts are high. The original use proposed was for a tractor and equipment but
938 now it appears to be a garage for the applicant's truck and maybe another ca. She does not
939 understand why the applicant would go through the cost of pouring more foundation for parking
940 a couple of cars because 4-6 cars can already fit. The Town should never have approved this.
941 The Building Inspector stated that this was a gambrel, but it is not. She reviewed the definition of
942 a gambrel with him. This item was already denied on the issues and does not understand why the
943 Board is reviewing the exact same thing that was previously denied. There was a promise for
944 landscaping on the streetside which was included on the plans. She asked when this would be
945 completed or torn down, especially as the original use is no longer proposed.
946

947 Mr. Vurgaropoulos explained that this is back before the Board due to substantial changes to the
948 plan. The removal of 9' allows this to come back. Mr. Witham-Gradert explained that NH case
949 law, Dover v. Fisher stated that boards may not rehear cases unless there is a substantive change.
950 The substantive change proposed in this case is removing 87% of the total encroachment. The
951 Board can vote to determine if this application passes the Dover v. Fisher test. This was not
952 suggested within the staff report as it seems to be a clear mathematical difference. Ms.
953 Banatwala noted that there was 0% change to the side setback request which was part of the
954 equitable waiver. 50% of the structure is not proposed to have any change.
955

956 Mr. Dion paused public comment and asked the Board to consider the Dover v. Fisher test. Mr.
957 Boyer stated that seeing the entire front of the structure cut off and hearing that the applicant has
958 gone through the effort to do that, makes him believe that this passes the test that a substantial
959 change has taken place. Mr. Lanphear agreed that the front setback is now 100% correct, which
960 is 80% of the total improvement that was in the setbacks in terms of linear feet. That leaves only
961 13% of the side setback and he sees this as a major change. Mr. Sakati stated that Dover v. Fisher
962 states that this should not be retried, but the packet of information for a variance changes his
963 view to think of the structure as proposed, not established. Through the lens of this being
964 proposed, there is a different view.
965

966 **Mr. Lanphear moved to continue moving forward with this case, as the criteria for Dover**
967 **v. Fisher have been met to hear the case, duly seconded by Mr. Boyer.**

968
969 **Board Speaking on the Vote:**

970
971 **Mr. Lanphear – to move forward**

972 **Mr. Boyer – to move forward**

973 **Mr. Sakati – to not move forward and apply the strict standard in Dover v. Fisher; the**
974 **front and the back need to be in compliance**

975 **Mr. Sullivan – to not move forward as this does not meet the standard as previously**
976 **discussed**

977 **Mr. Dion – to move forward, as the current proposal has changed enough with the entire**
978 **front of the structure being removed. This is not an equitable waiver for something that has**
979 **already happened and so the scope has been changed. The front half was the focus when**
980 **this was originally heard, such as it infringing on the public’s right based on its location to**
981 **the street. This aspect has been removed, changing the outlook and scope of the case itself.**

982

983 **Vote: 3-2-0 motion carried.**

984

985 **Public Comments Neutral or Opposed:**

986

987 Debra Putnam, 59 Rangers Drive, stated that a lack of planning on the applicant’s part does not
988 demand a solution on the Town’s part.

989

990 **Applicant’s Testimony**

991

992 Mr. Baker stated that the side setback will be reduced with the removal of the 9’ from the front.
993 His business is located in Hudson. It is run out of a building five times the size of this garage. He
994 is not trying to reduce his business to a homebased business at this time.

995

996 Mr. Sakati asked what will be done in the notch carved out of the façade. Mr. Baker stated that
997 this will be filled in with material. There was a track there that had to be popped out to remove
998 the concrete. The façade will be made equal.

999

1000 Mr. Boyer stated that the piece cannot cross over the setback when it is replaced. Mr. Baker
1001 agreed.

1002

1003 Mr. Lanphear asked about the shininess of the building and the two tone color that some of the
1004 neighbors do not seem to enjoy. Mr. Baker stated that he will paint the building whatever color is
1005 appropriate. He was trying to give the appearance of depth. The building will be earth tones, and
1006 he wanted to blend in the colors with the wood. The second story is to let light into the building.

1007

1008 **Public Comments In Favor, Neutral, or Opposed:**

1009

1010 Seeing no additional comments at this time, Mr. Boyer closed the public comment period at 9:51
1011 PM.

1012

1013 **Board Discussion and Deliberation:**

1014

1015 Mr. Boyer stated that the garage can be placed in this location, even if it is within the setbacks. In
1016 terms of being contrary to the public interest, the Board needs to consider whether or not it
1017 blends with the neighborhood. If there was no variance required, the applicant could build
1018 whatever he wanted in his front yard. It is difficult for him to deny a variance and the applicant
1019 to then build the garage in the front yard to the dislike of all the neighbors. The Board could
1020 grant him the variance for the setback that he currently has and take the opportunity to throw in a
1021 stipulations that the applicant stick to his word regarding the barn board façade on the front and
1022 painting on the sides in an attempt to blend in with the neighborhood.

1023

1024 Mr. Dion stated that the zoning ordinance does not protect on architecture. If the structure had
1025 been placed within the setbacks, it would not have come before the Board. The neighbors
1026 would have to deal with a Quonset hut essentially as it sits. He does not believe the visual of the
1027 structure impacts the character of the neighborhood. The Board has to focus on it being 2' over
1028 and how that affects the character of the neighborhood. On the flip side, the Board has to
1029 consider the fact that this is no longer an equitable waiver of dimension. This is a brand new
1030 variance request for a new plan. It is harder to prove that there is some sort of unnecessary
1031 hardship when it has been very clearly stated that the applicant could easily move this into the
1032 setback. There has to be some sort of hardship with the land itself that makes it unique or is
1033 different from the neighbors which is forcing the applicant to keep it in this spot.

1034
1035 Mr. Lanphear stated that in the original design, the applicant was going to store a couple of his
1036 vehicles in the garage. The current proposal is a major improvement as it includes a grass area
1037 and proposed trees. The applicant might block the view of some of this stuff. The applicant is
1038 also talking about painting the structure. This has come a long way. The applicant has spent tons
1039 of money cleaning up the structure and this is his hardship. The Board could make him rip it all
1040 apart and start over again, but it is possible that the applicant did not understand how a certified
1041 foundation plan worked in the beginning. Maybe it was not explained to him correctly. The
1042 Board cannot be the judge of that. All the Board knows is that this was a big mistake when
1043 installed. The hardship is the 2'. The Board has granted other people in the town a 2' allowance
1044 because the foundation was into a setback. The applicant removed 87% of the issue. The
1045 applicant stated that he will add barn board and install windows. He will paint it similar to the
1046 earth tones of his house. These are good stipulations that could be added to the variance.

1047
1048 Mr. Witham-Gradert stated that the Board has mentioned the design and the intent of the
1049 architecture. Other towns have full architectural guidelines and standards by which their zoning
1050 board could then reference but Hudson does not. Unfortunately, that makes the ZBA's task more
1051 difficult as the question of character becomes far more nebulous in nature. There is not a written
1052 list of architectural guidelines to go off of.

1053
1054 Mr. Sakati stated that one of the criteria is if the building matches the character of the
1055 neighborhood. Based on the proposed size, color, and style, he does not believe it matches. He
1056 has seen structures like this to help prevent fires, but they do not usually blend in with the
1057 neighborhood. He stated that he has been considering if he would approve the proposal if nothing
1058 was in place and he would not. The applicant has stated that it can be moved and made larger,
1059 showing that there are other locations on the lot where it could be placed. The hardship does not
1060 deal with money spent. The hardship is about the land itself.

1061
1062 Mr. Boyer stated that this proposal would not have come before the Board as a new item because
1063 it could be placed within the setbacks. He is weighing the property owner's rights and keeping
1064 the rest of the neighborhood happy. If a variance is granted for 2', the Board can impose
1065 stipulations which the applicant has agreed to, in hopes of protecting the neighborhood. If the
1066 variance is denied, the applicant can make the structure larger right in front of his house without
1067 any stipulations. Granting the variance could make the best of the situation.

1068
1069 Mr. McDonough asked if the neighborhood would have the same feelings if the structure was
1070 wood framed garage instead of a metal structure. Mr. Sakati suggested that he would ask the
1071 applicant to push the garage as closer to the house as possible. Mr. McDonough stated that he
1072 views the 2' issue more to the material design than the setback issue. Mr. Dion stated that the

1073 Board could consider only the proposed location within the setback without knowing what the
1074 structure would look like. The Board does not control the look of the structure. Mr. Sakati stated
1075 that one of the criteria to get the approval to construct something, deals with having to comply
1076 with similar color, materials, etc. Mr. Witham-Gradert stated that the building permit
1077 requirements are rooted in the building code. The discussion is usually around standardization of
1078 materials and come from the Building Department requirements and the Health and Safety Code,
1079 which trumps most other requirements. Mr. Lanphear stated that this is a garage and will be used
1080 as such. Mr. McDonough stated that the Board could consider the quantitative impact to the
1081 neighborhood. The applicant will have traditional materials on some of the building and the
1082 question could be when the metal structure becomes closer to the character of the neighborhood.
1083 Mr. Dion stated that, if this was placed within the setback, the Board would not discuss what the
1084 structure looks like at all.

1085
1086 Mr. Witham-Gradert suggested stipulations such as a restriction to one story, an enclosed
1087 structure, and painting/rendering the structure non-reflective. The Board can discuss these items
1088 further. Mr. Lanphear suggested stipulations regarding painting the building to be non-reflective,
1089 one-story, barn board facia, and windows only for light. Mr. Witham-Gradert suggested that this
1090 could be listed as in line with the character of the building outlined by the applicant's testimony.

1091
1092 Mr. Dion asked to receive public comment at 10:25 PM.

1093
1094 Mr. Baker stated that he knows he is accountable to the stipulations on record. He will finish the
1095 front with barn board, windows, and paint. Both sides will be full closed in. The structure will be
1096 painted, with finished trim, and siding on the front and back. There will also be landscaping.

1097
1098 Mr. Dion asked to close public comment at 10:27 PM.

1099
1100 **Mr. Lanphear moved to grant a variance, with the stipulations as agreed to by the**
1101 **applicant on the record: this will be a one story structure, without a business use, the**
1102 **character and design of the building as agreed to by the applicant, and landscaping per the**
1103 **applicant's testimony, as duly seconded by Mr. Boyer:**

1104
1105 **Board Speaking on Each Variance Criterion:**

1106
1107 **1. Granting this variance will not be contrary to the public interest**

1108 Mr. Lanphear stated that the proposal will not be contrary to the public interest. The
1109 applicant has done all he can to get the structure as close as possible to being compliant,
1110 with minimal impact to the setbacks. This will not threaten the public, health, or safety.

1111
1112 **2. The proposed use will observe the spirit of the ordinance**

1113 Mr. Lanphear stated that the proposed use will observe the spirit of the ordinance. It will
1114 not threaten the public health, safety, or welfare. In the end, it will be a better project.

1115
1116 **3. Substantial justice would be done to the property owner by granting this variance**

1117 Mr. Lanphear stated substantial justice will be done to the property owner. The applicant
1118 has corrected the major front setback issue and has been going through this process for
1119 two years. He has done his due diligence and done it correctly.

1120
1121 **4. The proposed use will not diminish the value surrounding properties**

1122 Mr. Lanphear stated that there should be no change to the value of surrounding
1123 properties.
1124

1125 **5. Ordinance results in unnecessary hardship**

1126 Mr. Lanphear stated that the unnecessary hardship to the applicant was the error made by
1127 the contractor at the beginning, which he has corrected by removing 87% of the major
1128 setback issue in total, with 100% of the front setback issue being fixed. The proposed use
1129 is a reasonable one.
1130

1131 **Mr. Lanphear – to grant**
1132

1133 **1. Granting this variance will not be contrary to the public interest**

1134 Mr. Boyer stated that granting the variance is not contrary to the public interest. There are
1135 stipulations in place that are designed to work with the public's interest.
1136

1137 **2. The proposed use will observe the spirit of the ordinance**

1138 Mr. Boyer stated that the spirit of the ordinance will be observed. The spirit of the
1139 ordinance is met by including special stipulations in the variance.
1140

1141 **3. Substantial justice would be done to the property owner by granting this variance**

1142 Mr. Boyer stated that substantial justice will be done to the property owner because the
1143 owner will be able to finally finish the project/garage which he has been trying to do for
1144 the past two years.
1145

1146 **4. The proposed use will not diminish the value surrounding properties**

1147 Mr. Boyer stated the proposal will not diminish the values of the surrounding properties.
1148 He believes the applicant will do everything possible to make the structure look
1149 neighborly as the applicant does not want his property value to go down.
1150

1151 **5. Ordinance results in unnecessary hardship**

1152 Mr. Boyer stated that literal enforcement of the ordinance would be an unnecessary
1153 hardship. Removing the 2' that this is encroaching into the setback is an unnecessary
1154 hardship especially as the applicant has already done substantial work to come into
1155 compliance. Granting the variance is covering the unnecessary hardship.
1156

1157 **Mr. Boyer – to grant**
1158

1159 **1. Granting this variance will not be contrary to the public interest**

1160 Mr. Sakati stated that the request will not be contrary to the public interest. This is in the
1161 side setback, and side setbacks are intended to protect established development patterns
1162 in neighborhoods. The applicant has an existing shed in the side setback, and the direct
1163 neighbor has stated that the encroachment is okay. The applicant has agreed to install
1164 landscaping along that line.
1165

1166 **2. The proposed use will observe the spirit of the ordinance**

1167 Mr. Sakati stated that the proposed use will not observe the spirit of the ordinance. The
1168 encroachment on the setback was not constructed properly. There is space to install the
1169 structure elsewhere on the property. The applicant could have chosen other spots. No
1170 substantial justice would be done to the property owner by granting the variance.

- 1171
1172 **3. Substantial justice would be done to the property owner by granting this variance**
1173 Mr. Sakati stated that substantial justice would be done to the property owner. The public
1174 suffers either way, as the structure will be in place. The public is harmed either way.
1175
1176 **4. The proposed use will not diminish the value surrounding properties**
1177 Mr. Sakati stated that the direct abutters will be affected by the structures' size and type.
1178
1179 **5. Ordinance results in unnecessary hardship**
1180 Mr. Sakati stated that a hardship pertains to the land, not financial or anything else. The
1181 hardship in this case is self-imposed and not a result of the land. The structure could be
1182 built in other locations.
1183

1184 **Mr. Sakati – to deny**
1185

- 1186 **1. Granting this variance will not be contrary to the public interest**
1187 Mr. Brendon Sullivan stated that the variance is not contrary to the public interest within
1188 the stipulations
1189
1190 **2. The proposed use will observe the spirit of the ordinance**
1191 Mr. Brendon Sullivan stated that the applicant observes the spirit of the ordinance.
1192
1193 **3. Substantial justice would be done to the property owner by granting this variance**
1194 Mr. Brendon Sullivan stated that the variance will allow the applicant to finish the project
1195 within stipulations.
1196
1197 **4. The proposed use will not diminish the value surrounding properties**
1198 Mr. Brendon Sullivan stated that the stipulations will mitigate any factors that would diminish
1199 value to surrounding properties.
1200
1201 **5. Ordinance results in unnecessary hardship**
1202 Mr. Brendon Sullivan stated that the project will be within the stipulations and the
1203 ordinance guidelines. The proposed use is a reasonable one.
1204

1205 **Mr. Brendon Sullivan – to grant**
1206

- 1207 **1. Granting this variance will not be contrary to the public interest**
1208 Mr. Dion stated that, in terms of the 1'-2' encroachment, this will not frustrate the
1209 purpose of the ordinance. It will not threaten the public safety or injure public rights.
1210
1211 **2. The proposed use will observe the spirit of the ordinance**
1212 Mr. Dion stated that the proposal does not conflict with the purpose of the ordinance. It
1213 does not threaten the character of the neighborhood or public health, safety, or welfare.
1214 He is trying not to focus on the structure itself and what it looks like, but what could
1215 theoretically be placed on the site.
1216
1217 **3. Substantial justice would be done to the property owner by granting this variance**
1218 Mr. Dion stated that substantial justice would be granted to the property owner. There is
1219 not any public harm from it breaching the 1'-2'.

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

Mr. Dion that there was not any testimony given on this item and the applicant has not provided any testimony regarding if a structure being 1'-2' into the setback would harm values.

5. Ordinance results in unnecessary hardship

Mr. Dion stated that he does not see an unnecessary hardship and does not believe the properly meets this criterion. This is a self-inflicted hardship in the sense that this is a theoretical thing that could be done. There was a plan put in place by the applicant as to how to remedy the situation, but Mr. Dion stated that he does not believe the remedy was enough. It was made very clear by the applicant that they could remediate this fully to be within the setback. There was not a reason given for it to be in this exact location. He does believe the proposed use is reasonable.

Mr. Dion – to deny

Vote: 3-2-0 motion carried to grant the variance.

Mr. Dion reviewed the 30-day appeal period with the Applicant.

NEW HEARINGS:

1. **Case 198-012 (05-28-26):** Jay Hall, Esq. duly authorized for Colbea Enterprises, LLC, 695 George Washington Highway, Lincoln, RI, requests an extension/renewal of each of the following three (3) variances granted on 6/27/2024 for **91-97 Lowell Road**, Hudson, NH [Map 198, Lots 011, 012, 014, 015, 016]:
 - a. **Wall Signs:** A variance to allow three (3) Business and Industrial wall signs where only one (1) is permitted. [HZO Article XII: Signs; §334-63, Business and industrial building signs]
 - b. **Free-Standing Signs:** A variance to allow a 146.9 SF freestanding “pylon” sign where a maximum size of 100 SF is permitted and to allow five (5) freestanding signs where each individual site may have no more than one (1) freestanding pole or ground sign. [HZO Article XII: Signs; §334-64A and §334-64, Freestanding business and industrial signs].
 - c. **Directional Signs:** A variance to allow several directional and directory signs to be larger than three (3) SF where no greater than three (3) SF in area is permitted and do not contain any additional advertising or messages other than incidental corporate or institutional symbols or logos. [HZO Article XII: Signs; §334-68, Directional and directory signs]

Mr. Witham-Gradert read the Case into the record. He stated that, in terms of extension requests, the Board has previously gone through the entire case as a matter of caution. In discussing with colleagues, this is not necessary. In granting an extension, the Board is not rehearing the case but instead weighing if an extension is warranted based on circumstances presented by the applicant. The Board will move to either grant an extension or not but does not need to reevaluate the hardship of the case.

1267 Mr. Boyer disclosed that he sits on the Planning Board and that this applicant has come before
1268 the Planning Board, but at that time he was not a seated member and did not vote on that plan.
1269 He believes he can sit on the ZBA for this case and be unbiased.

1270

1271 **Applicant's Testimony**

1272

1273 Chris Drescher, representing the applicant/owner, explained that the legal standard for an
1274 extension is if there has been a large change in circumstances. The proposal is to renew three
1275 variances, all of which deal with signage for the project. The applicant sought these variances in
1276 May/June 2024, all of which were granted unanimously. The applicant then proceeded to site
1277 plan review before the Planning Board. The first iteration was ultimately rejected and denied
1278 without prejudice in the face of much abutter opposition. Rather than appeal, the applicant went
1279 back to the drawing board and submitted a subsequent application for site plan review, which
1280 was approved with a few changes. The abutters had concerns regarding noise, traffic, etc., mostly
1281 to do with the originally proposed car wash. The case wash was removed from the second
1282 iteration. The second plan was approved and all of the circumstances that were applicable to the
1283 variance requests the first time are still in place, except that the car wash and some of the
1284 associated signage have been removed. He explained that an Exhibit 1 and an Exhibit 2 were
1285 provided for each variance application. Exhibit 1 shows the existing conditions and Exhibit 2
1286 shows the items proposed to be removed from the plans. The current proposal will lead to the site
1287 being more compliant, with less signage than originally proposed.

1288

1289 Mr. Drescher explained that the first variance is for signage on the building which requests three
1290 signs where the ordinance allows one. The next item is for the menu board for the drive-through,
1291 electric vehicle charging station free standing signs, and a canopy sign with the gas logo above
1292 the pumps. Finally, the signs above the gas pumps happen to be 1 square inch larger than the
1293 ordinance allows but these are manufactured by Shell, which leads to the hardship. In creating a
1294 second iteration of the plan, the applicant listened to the Planning Board and the abutters and
1295 made efforts to reach out to all abutters. The applicant ended up receiving many blessings in the
1296 end. The applicant is hoping to start construction as soon as possible but is approaching the
1297 deadline for the two years for the variances that were granted in 2024 and is trying to be
1298 proactive to obtain the necessary extensions.

1299

1300 Mr. Witham-Gradert explained that normally, when a variance is granted, the State puts a hold
1301 on the process as it works its way through other boards, but for the two months that the plan was
1302 being worked on, it was no longer under this hold and so the clock started ticking for the
1303 variances again. This is basically being heard due to a technicality in State law. Also, a technical
1304 review by the Zoning Department of the signs determined that they are equal or lesser than what
1305 was originally granted for the variance.

1306

1307 **Board Questions:**

1308

1309 None at this time.

1310

1311 **Public Comments In Favor, Neutral, or Opposed:**

1312

1313 Mr. Dion opened the public comment period at 10:54 PM.

1314

1315 Seeing no comments at this time, Mr. Dion closed the public comment period at 10:55 PM.

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Board Discussion and Deliberation:

Mr. Lanphear moved to grant an extension/renewal for variance a. granted on 6/27/2024, to February 28, 2028, as duly seconded by Mr. Boyer:

Public Comments In Favor, Neutral, or Opposed:

Mr. Drescher requested an extension for variance a. for two years.
Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:58 PM.

Board Speaking on the Vote:

- Mr. Lanphear – to grant**
- Mr. Boyer – to grant**
- Mr. Sakati – to grant**
- Mr. Sullivan – to grant**
- Mr. Dion – to grant**

Vote: 5-0-0 motion carried unanimously to grant the extension.

Public Comments In Favor, Neutral, or Opposed:

Mr. Drescher requested an extension for variance b. two years.
Seeing no additional comments at this time, Mr. Dion closed the public comment period at 10:59 PM.

Mr. Lanphear moved to grant an extension/renewal for variance b. granted on 6/27/2024, to February 28, 2028, as duly seconded by Mr. Boyer:

Board Speaking on the Vote:

- Mr. Lanphear – to grant**
- Mr. Boyer – to grant**
- Mr. Sakati – to grant**
- Mr. Sullivan – to grant**
- Mr. Dion – to grant**

Vote: 5-0-0 motion carried unanimously to grant the extension.

Public Comments In Favor, Neutral, or Opposed:

Mr. Drescher requested an extension for variance c. for two years.
Seeing no additional comments at this time, Mr. Dion closed the public comment period at 11 PM.

1365
1366 **Mr. Lanphear moved to grant an extension/renewal for variance c. granted on 6/27/2024, to**
1367 **February 28, 2028, as duly seconded by Mr. Boyer:**
1368

1369 **Board Speaking on the Vote:**

1370
1371 **Mr. Lanphear – to grant**
1372 **Mr. Boyer – to grant**
1373 **Mr. Sakati – to grant**
1374 **Mr. Sullivan – to grant**
1375 **Mr. Dion – to grant**

1376
1377 **Vote: 5-0-0 motion carried unanimously to grant the extension.**
1378

1379 **2. Case 173-033 (05-28-26): Robert B. Thomson, & Maria Stratakis, Trustees, 53 Derry**
1380 **St., Hudson, NH requests a variance to allow multifamily dwellings (A-3) in the Town**
1381 **Residence (TR) Zone where this use is not permitted. [Map 173, Lot 033, Sublot-000;**
1382 **Zoned Town Residence (TR); HZO Article V: Permitted Uses; §334-21, Table of**
1383 **Permitted Principal Uses]**
1384

1385 **Mr. Dion moved to accept the hearing of a case after 11PM, as duly seconded by Mr.**
1386 **Sakati:**

1387 **Vote: 5-0-0 motion carried unanimously.**
1388

1389 Mr. Witham-Gradert read the Case into the record.
1390

1391 *Mr. Boyer recused himself from this case. Mr. McDonough was seated as a voting member for*
1392 *this case.*
1393

1394 **Applicant's Testimony**
1395

1396 Katie Weiss, Bedford Design Consultants, explained that the request is for a use variance for a
1397 proposed multifamily project. Surrounding this property, there are residential properties off
1398 Nellie Court and Abbott Street. There are also nearby commercial uses in the business zone.,
1399 with an Aroma Joes located directly across the street, a pizza place to the right, and a car wash to
1400 the left. There are office buildings on the same side of the road as this property. There are
1401 residential areas to the north and a dentist office to the south, along with a duplex and another
1402 office building. There are power lines running through the area and that seems to be a district
1403 definition for the TR Zone. The TR Zone is located across the street and is a business zone.
1404 There are multifamily uses across the street and in the area. There is another multifamily
1405 building off Liberty Street, which is also in a TR Zone, but located across from a business
1406 district. There are also duplex units nearby. The property in question is located on Route 102
1407 split between the Business Zone and the TR Zone. The proposal is for eight residential units in
1408 two separate blocks. The buildings will be 30'x30' and three stories tall. The first floor of the
1409 buildings would house the garage, with two stories above. The applicant is proposing stormwater
1410 on the site and there is access to water and electrical. The plan shows a turnaround for fire trucks
1411 and meets those requirements.
1412

1413 Ms. Weisse reviewed the variance criteria. This use variance does not threaten the neighborhood
1414 character because the users across the street and to the south are business uses and are not
1415 keeping in with the TR Zone. Many of the nearby buildings are not residential in size or shape.
1416 There are large parking lots and pavement areas surrounding them. The public health, safety, and
1417 welfare will not be harmed with this residential use because the site has water, sewer, stormwater
1418 drainage, and electricity available and will meet the strict standards of the Town's site plan
1419 process. The residential units will add to the Town's tax base. Secondly, the Town Residence
1420 Zone is meant to protect established residential neighborhoods. The proposed use does not
1421 conflict with underlying Zone because this area of roadway is mostly developed as a business
1422 zone. The business zone is located across the street with the Aroma Joes, Royal Pizza, and an
1423 office building. There are also business zoned uses to the south, even though this portion of the
1424 roadway is zoned TR. Next, the guiding factor for substantial justice is that any loss to the
1425 individual that is not outweighed to the general public is an injustice. The general public would
1426 gain additional housing units in Town, tax revenue on eight housing units, and the minimal fiscal
1427 impact from the project. Substantial justice is also done if the proposed use is consistent with the
1428 present use of the surrounding area. As mentioned, there are businesses uses to the south and
1429 west of the site. There are several multifamily projects to the west of Webster Street, one with 56
1430 units and another totaling 34 units. There was also a small multifamily project on Library Street
1431 with six units, which is also zoned TR and directly across from the business zone. Values of
1432 surrounding properties will not be diminished because the current property tax card has the land
1433 assessed at \$151,300 for 4.96 acres with no building. Similarly, the duplex to the south is
1434 assessed with two units at \$422,000 and \$365,000 for a total land and building appraisal of
1435 \$787,000. The addition of that duplex increased the property value to almost twice that of a
1436 single family home. There is no reason to believe that additional residential units along Route
1437 102 would diminish residential property values. In terms of the last criterion, the property is
1438 located across from the Business Zone and properties to the south of the lot are also zoned for
1439 business uses. The use restriction on the property does not serve the purpose of maintaining the
1440 New England town development pattern because the pattern has already been disturbed in this
1441 section of the roadway. Also, proximity to the Business Zone and other business uses makes this
1442 lot appear to be zoned business, not TR. A multifamily use should be allowed as the underlying
1443 zones' main objective is no longer maintained. This makes the use a reasonable one that will not
1444 alter the character of the businesses surrounding it on Route 102/Derry Street.

1445

Board Questions:

1446

1448 Mr. Lanphear asked about the proposed stormwater location. Ms. Weisse stated that the site
1449 slopes up, so the stormwater has to be located to the front of the site. These will be a small dip.
1450 Mr. Lanphear expressed concern that water in this area could seep under the ground of Route
1451 102. Mr. Witham-Gradert stated that the Town's stormwater requirements do not allow water to
1452 escape the site. Water into a detention basin has to sink down into the ground on the property.
1453 When the final plans are submitted, the Town Engineer and Fuss & O'Neill will review them.

1454

1455 Mr. Lanphear asked the height of the buildings. Ms. Weisse stated that they will be under the 38'
1456 maximum allowed by the Town. Mr. Witham-Gradert noted that the crest of the roofline is the
1457 limit.

1458

1459 Mr. Lanphear stated that this will be fairly high density for eight units on one acre.

1460

1461 In response to a question from Mr. Dion, Mr. Witham-Gradert stated that the minimum driveway
1462 width is 24'. This is for entrance/exit to the site.

1463

1464 **Public Comments In Favor, Neutral, or Opposed:**

1465

1466 Mr. Dion asked to receive public comment either in favor, neutral or opposed from the public at
1467 11:05 PM.

1468

1469 Mr. Witham-Gradert stated that a letter of public comment was received in opposition from the
1470 owners of 22 Abbot Street.

1471

1472 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 11:06
1473 PM.

1474

1475 **Board Discussion and Deliberation:**

1476

1477 Mr. Witham-Gradert explained that the site's final layout is subject to the Planning Board's
1478 review. The ZBA should discuss the proposed use and intensity of said use.

1479

1480 Mr. Vurgaropulos asked about the proposed turnaround that breaches the rear setback. Mr.
1481 Witham-Gradert stated that Planning Board regulations have some rules around pavement within
1482 the setbacks. This layout is likely subject to change based on review by the Fire Marshall.

1483

1484 Mr. Dion echoed concerns regarding access to the site due to the proposed density of the site.
1485 Various properties along Derry Street are already difficult to access.

1486

1487 Mr. McDonough stated that it is a strange scenario based on the location of the nearby districts.

1488 Mr. Dion stated that the definition of the TR Zones should be considered. This is established

1489 with smaller lots than standard and with setbacks and use densities reflecting traditional New

1490 England town or village lot development patterns. The district is intended to permit the

1491 continued use, maintenance, and vitality of these unique residential areas, protecting their

1492 residential character while simultaneously limiting the expansion of these neighborhoods into

1493 adjacent developed lands. It seems as though the purpose to keep small New England lots and to

1494 maintain the character of these neighborhoods as best as possible. It is unclear if turning a sub

1495 one acre lot into eight units maintains the character.

1496

1497 Mr. Lanphear asked if the decision allows the applicant to build multifamily units on the
1498 property, which could then allow two units or 12 units? Mr. Witham-Gradert stated that the ZBA

1499 may limit the degree of nonconformance and could propose a limit of no more than a certain

1500 number of units. He explained that the applicant mentioned a multifamily use but did not provide

1501 a number of units and so this was not included in the Board's packet. He encouraged the Board

1502 to discuss with the applicant what appropriate number would be. He noted that in the Business

1503 Zone, multifamily uses are subject to a square footage requirement of 53,560 s.f. for three units

1504 and an additional 5,000 s.f. required per additional unit. That does not apply here as this is in the

1505 TR Zone. If this parcel and proposal were in the Business Zone, it would be non-conforming for

1506 dimensional reasons. It is not non-conforming in this instance because it is in the TR Zone. In the

1507 most basic terms, zero units are allowed because multifamily is not allowed at all in this Zone.

1508 The applicant is requesting to allow multifamily in the first place. Normally, the minimum lot

1509 size within the TR Zone is 10,000 s.f.

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Mr. Lanphear stated that the density allowed on the property is a good guideline to use.

Mr. McDonough asked if Route 102 is too active to support a single-family use and so the only allowable use for the property could be multifamily use. A driveway close to the road in order to maximize the backyard could lead to safety issues. This could create a bubble of precedent in the TR Zone for multifamily use. Mr. Lanphear stated that there are other multifamily uses along Route 102. Mr. Sakati stated that additional allowable units in the TR Zone should be established by the Planning Board and not done through spot zoning. Mr. Witham-Gradert noted that the ZBA is not a precedent setting board.

Mr. McDonough stated that he believes Route 102 may be too busy for other residential uses. This seems to be a hardship of the property. Mr. Dion stated that he feels oppositely regarding placing additional traffic accessing the road. Mr. Lanphear stated that single family houses can now have ADUs, leading to additional people on a property. The question is what the right unit count is for this property. The state still has housing needs. He believes four units is a good fit for the site.

Mr. Sakati stated that there is an abutter behind the property zoned TR and there could be an impact on that property due to the proposed density. Mr. Dion agreed that there are other residential backyards in the area, and the proposed density seems to change the character of the area.

Public Comments In Favor, Neutral, or Opposed:

Mr. Dion reopened public comment.

Robert Thompson, 11 Nellie Court and applicant, stated that there is a backyard on the rear abutting property that abuts the property in question. It is his home that would see the units proposed to be built. The property was purchased because his property backs onto the Derry Street property. Derry Street is very busy at this time. The intention was to place a duplex on the property but there is not an easy place to back out onto Derry Street. People are looking for smaller starter homes. The homes on the property are proposed to be turned to allow for privacy. It is difficult to find reasonably priced homes in Town that are not along the highway. These would have garages underneath. Eight seemed like a comfortable number for the site, with each having a bit of a yard. Natural gas, water, and sewer are all available for the property.

Mr. Lanphear expressed concern that people could begin buying the single-family homes in this area of the Zone and build multifamily uses. Mr. McDonough asked the number at which the project becomes infeasible. Mr. Thompson stated that it will become financially infeasible at less than six units likely. These will be 900 s.f. livable spaces with three bedrooms each. Water and sewer are across the street and so lines will need to be run to the property, creating a financial hardship. He has spent \$20,000 digging out an old septic system and foundation.

Mr. Lanphear asked if these will be sold as condos. Mr. Thompson stated that he believes he would have to. Mr. Witham-Gradert explained that this would be worked out through the Planning Board process.

1558 There was discussion regarding water lines and sewer proposed for the property. The water lines
1559 have to be connected via the road, per the Town Engineer.

1560
1561 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 11:45
1562 PM.

1563
1564 **Board Discussion and Deliberation:**

1565
1566 Mr. Lanphear stated that he would recommend four units on this property in this Zone and for
1567 the acreage. The Town needs smaller houses based on today's population. Mr. Witham-Gradert
1568 explained that approval of any number of houses over one single family house will disallow
1569 ADUs on the lot, as these are only permitted on single family lots being used as such.

1570
1571 Mr. McDonough stated that he would be okay with six units on the lot. Mr. Dion stated that he
1572 would be okay with four, as this would allow for more green space between the units. This will
1573 also be more in keeping with the neighborhood. Mr. McDonough stated that the neighborhood
1574 consists of a coffee shop across the street and a grocery store down the street. This is more than
1575 the applicant could get in the Business Zone. Mr. Sakati expressed concern with the letters in
1576 opposition from abutters received. Mr. Sullivan agreed that four seems realistic.

1577
1578 **Mr. Lanphear moved to grant a variance, with a stipulations of a maximum of four units,**
1579 **as duly seconded by Mr. Sakati:**

1580
1581 **Public Comments In Favor, Neutral, or Opposed:**

1582
1583 Mr. Dion reopened public comment.

1584
1585 Mr. Dion asked the applicant about the proposed stipulation. Ms. Weisse stated that his client
1586 would like to defer the application at this time in order to run costs based on the proposed
1587 stipulation.

1588
1589 Seeing no additional comments at this time, Mr. Dion closed the public comment period at 11:52
1590 PM.

1591
1592 **Mr. Lanphear rescinded his previous motion.**

1593
1594 **Mr. Lanphear moved to defer the application to June 25, 2026, as duly seconded by Mr.**
1595 **Sakati:**

1596 **Vote: 5-0-0 motion carried unanimously to defer the application.**

1597
1598 ***Mr. Boyer retook his seat. Mr. McDonough returned to his seat as an alternate.***

1599
1600 **VI. REVIEW OF MINUTES:**

1601 04/23/2026 edited draft Meeting Minutes

1602
1603 **Mr. Lanphear moved to approve the meeting minutes of 04/23/2026, as edited, duly**
1604 **seconded by Mr. Boyer.**

1605 **Vote: 5-0-0 motion carried unanimously to approve the meeting minutes.**

1606
1607 **VII. OTHER BUSINESS:**

Not Official until reviewed, approved and signed.

1608
1609 Mr. Witham-Gradert stated that the full revision of the Land Use Code is moving forward, both
1610 planning and zoning. There will be a joint meeting for this purpose at a future date. ZBA
1611 members are welcome to send in feedback in the meantime.
1612

1613 **VIII. ADJOURNMENT:**

1614
1615 **Motion made by Mr. Sakati, duly seconded by Mr. Boyer and unanimously voted to**
1616 **adjourn the 05/28/2026 ZBA Meeting at 12:03AM.**
1617 **Vote: 5-0-0 motion carried to adjourn the meeting.**
1618

1619 Respectfully submitted,
1620 Kristan Patenaude, Recording Secretary

1621
1622
1623
1624 _____
1625 Tristan Dion, ZBA Chairman

Draft