

# TOWN OF HUDSON

## Zoning Board of Adjustment



Charlie Brackett, Chairman

Marilyn E. McGrath, Selectmen Liaison

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

### MEETING AGENDA – January 23, 2020

The Hudson Zoning Board of Adjustment will hold a meeting on January 23, 2020, in the Community Development Paul Buxton Meeting Room in the basement of Hudson Town Hall (please enter by ramp entrance at right side). The public hearings for applications will begin at 7:00 PM, with the applications normally being heard in the order listed below.

SUITABLE ACCOMMODATIONS FOR THE SENSORY IMPAIRED WILL BE PROVIDED UPON ADEQUATE ADVANCE NOTICE BY CALLING 886-6008 OR TDD 886-6011. The following items before the Board will be considered:

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**

1. Case 165-155 (01-23-20) (deferred from 12-12-19): Keri Demers, 23 Dexter St., Nashua, NH requests a Special Exception for 77 Derry Street, Hudson, NH to allow a Dog Daycare and Boarding facility which will have uses of retail grooming, training, community pet education and kennel/boarding of dogs (day & overnight). [Map 165, Lot 155-000; Zoned Business (B); HZO Article VI, §334-23, Special Exceptions, General Requirements].
2. Case 242-068 (01-23-20): Elaine Bettencourt, 26 Gowing Rd., Hudson, NH requests a Use Variance to allow the construction of a 714 SF Accessory Dwelling Unit (ADU) in the lower level of a split level duplex where an ADU is not allowed in two family dwellings. [Map 242, Lot 068-000; Zoned Residential-Two (R-2); HZO Article XIII, §334-73.3 A, Accessory Dwelling Units, Provisions].
3. Case 147-016 (01-23-20): Alfred Sapochetti, 3B Yale Ct., Hudson, NH requests a Use Variance for 181 A Webster St., Hudson, NH to prepare food (hot & cold) on site for take-out and serve ice cream for take-out, a use not permitted. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V, §334-21, Table of Permitted Principal Uses].

**IV. REQUEST FOR REHEARING:**

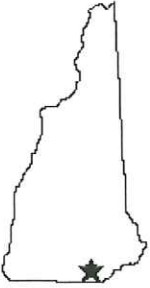
**V. REVIEW OF MINUTES:**

12/12/19 Minutes

**VI. OTHER:**

1. Election of Officers
2. Proposed Zoning Ordinance amendments going to ballot.
3. ZBA-9/24/09 Use Variance granted w/stipulations for 35 Hazelwood Rd: Completed- \$2,500 septic bond released.
4. ZORC Reactivated ?

Bruce Buttrick  
Zoning Administrator



# TOWN OF HUDSON

## Land Use Division



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

### Zoning Administrator Staff Report

Meeting Date: January 23, 2020 *2B 1-15-20*

Case 165-155 (01-23-20) (deferred from 12-12-19): Keri Demers, 23 Dexter St., Nashua, NH requests a Special Exception for 77 Derry Street, Hudson, NH to allow a Dog Daycare and Boarding facility which will have uses of retail grooming, training, community pet education and kennel/boarding of dogs (day & overnight). [Map 165, Lot 155-000; Zoned Business (B); HZO Article VI, §334-23, Special Exceptions, General Requirements].

**Reference Documents:** Please refer to Zoning Administrator's Staff Report for December 12, 2019 and the Dec 12, 2019 ZBA minutes.

#### **Summary:**

The Board at the 12-12-19 ZBA Hearing, deferred/continued this case so the applicant could do the following:

- *Meet with the Zoning Administrator and the Animal Control Officer. Attachment A.*
- *Review of State Regulations. Attachment A.*
- *Incorporate recommendations from Animal Control Officer. Attachment A.*
- *Letter from owner authorizing the space and wanted the owner to explain the relationship that he has with the ownership entity. Attachment B.*
- *Meet with in-mall neighbors (to inform them of the proposal). Attachment B.*
- *Floor Plan/layout approval by owner. Attachment C*
- *Address Fire Chief and Town Planner concerns: Applicant is aware that those items/issues will be addressed in the Planning Board Site Plan Review and Building Permit processes.*

#### **Attachments:**

**"A"** various emails between the Applicant, Zoning Administrator, Animal Control Officer and State of NH Dept of Agriculture.

**"B"** Authorization letter from "managing partner" Daniel Gordon, and NH Secretary of State listing of partners of LLC's.

**"C"** Owner's signoff of proposed floorplan/layout.

**"D"** "ZBA: A Handbook for Local Officials" regarding Special Exceptions published by NH Office of Strategic Initiatives (5 pgs).



## Buttrick, Bruce

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**From:** McMillan, Jana  
**Sent:** Tuesday, January 7, 2020 10:28 AM  
**To:** Buttrick, Bruce; Keri Demers  
**Subject:** RE: recap of our meetings RE : 77 Derry St

To recap the meeting in reference to what I was tasked with addressing, which we did address in the very first meeting. The Dept. of Agriculture, Animal Industry division, has no rules specific to this type of business. Keri had contacted the DAMF and was given the same information. I recommended that Keri review the Agr rules for pet shops because there is some good information to review on housing animals. We also discussed emergency exits and normal business entry and exit for the least amount of stress on the animals since the dogs would be walked through one cat area (if memory serves me.)

Jana McMillan  
Animal Control Supervisor  
Deputy Health Officer  
Hudson Police Department  
1 Constitution Dr  
Hudson, NH 03051  
Email: [jmcmillan@hudsonnh.gov](mailto:jmcmillan@hudsonnh.gov)  
General: (603)886-6011  
Direct: (603)889-7387  
Fax: (603)886-0605

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**From:** Buttrick, Bruce  
**Sent:** Monday, January 6, 2020 4:32 PM  
**To:** McMillan, Jana <[jmcmillan@hudsonnh.gov](mailto:jmcmillan@hudsonnh.gov)>; Keri Demers <[tirtal@gmail.com](mailto:tirtal@gmail.com)>  
**Subject:** recap of our meetings RE : 77 Derry St

Can either one of you, preferably Jana, draft/compose a synopsis of our meetings (to date) and that the proposal at 77 Derry St doesn't violate any State requirements (because there aren't any).

Thank-you,

Bruce

**Bruce Buttrick, MCP**  
*Zoning and Code Enforcement*

A,

**From:** Dewey & Friends Day Care and boarding [mailto:deweyandfriendsdaycare@gmail.com]  
**Sent:** Thursday, December 26, 2019 2:51 PM  
**To:** Buttrick, Bruce <bbuttrick@hudsonnh.gov>  
**Subject:** Fwd: FW: Help with new Business

**Keri Demers**  
Dewey & Friends  
Day Care and Boarding  
DeweyAndFriends.com



----- Forwarded message -----

**From:** Heisler, Cindy <Cindy.Heisler@agr.nh.gov>  
**Date:** Mon, Dec 16, 2019 at 10:12 AM  
**Subject:** FW: Help with new Business  
**To:** deweyandfriendsdaycare@gmail.com <deweyandfriendsdaycare@gmail.com>

Good Morning Keri

I was given your email to respond to. There is nothing at the state level for dog daycares, boarding kennels or grooming facilities. If you want to look at the minimum requirements for pet vendors, you can check out Agr 1700 and use those as some form of guideline, but they would not be enforceable in your situation.

[http://www.gencourt.state.nh.us/rules/state\\_agencies/agr1700.html](http://www.gencourt.state.nh.us/rules/state_agencies/agr1700.html)

Thank you,

Cindy  
Cynthia M. Heisler  
NH Dept. of Agriculture, Markets & Food  
Division of Animal Industry  
PO Box 2042  
25 Capitol St., 2<sup>nd</sup> Fl.  
Concord, NH 03302-2042  
603-271-2404  
Fax 603-271-1109

A<sub>2</sub>



**Buttrick, Bruce**

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**From:** Buttrick, Bruce  
**Sent:** Tuesday, December 24, 2019 10:12 AM  
**To:** Keri Demers  
**Cc:** 'Jess Hepler'; McMillan, Jana  
**Subject:** 12-24-19 mtg recap for Jan23 ZBA MTG  
**Attachments:** Message from "CD-PR-RICOH"

ALCON,  
Attendees: Keri Demers, Jess Hepler, Jana McMillan, and Bruce Buttrick.

Discussed the email (attached) from the State of NH, that stated *"There is nothing at the State level for dog daycares, boarding kennels or grooming facilities."*

Conceptual Plan dated 12/19/2019 presented.  
Jess will secure signed approval of the proposal (and layout) from the Owner(s).  
Jess will secure the official owner's authorization/signatures.  
Applicant will indicate on the sketch the entrances and the proposed "daily" entrance out back for the "daycare" activities.  
Applicant will indicate on the sketch all exits that exists/are available for use.  
Jess will research the lease to verify if any prohibited "restrictions" are present.  
Bruce provided copy of the Mechanical (vent'l) code for the applicant's use.

Applicant to contact Brian Groth (Town Planner) for the details for getting on the Planning Board agenda and for the site plan review process.

Regards,  
  
Bruce

**Bruce Buttrick, MCP**  
*Zoning and Code Enforcement*

  
**Town of Hudson**  
Land Use Division  
12 School Street  
Hudson, NH 03051  
Ph: (603) 886-6008  
F: (603) 594-1142

A<sub>3</sub>

# HUDSON VICKERRY LEASING, LLC

To the Hudson Zoning Board:

My name is Daniel Gordon and I am the Manager of Hudson Vickerry Leasing, LLC. Hudson Vickerry Leasing, LLC leases the property from Hudson Vickerry, LLC, the owner of the Hudson Mall. I am also the Manager of Hudson Vickerry, LLC. As Manager, I have legal full authority to speak for and sign on behalf of both entities.

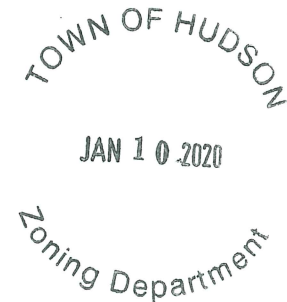
Furthermore, I understand that the Zoning Board will be reviewing an application from Keri Demers on January 23, 2020 for tenancy at the Hudson Mall. Please be advised that we have reviewed all existing leases and her use is consistent with, and does not violate, any existing lease restrictions.

I thank you for your consideration in this matter.

Sincerely,

Handwritten signature in blue ink that reads "Daniel M. Gordon" followed by the date "1/8/20".

Daniel Gordon  
Manager  
Hudson Vickerry leasing, LLC



## Business Information

### Business Details

Business Name:	HUDSON VICKERRY LEASING, LLC	Business ID:	488753
Business Type:	Domestic Limited Liability Company	Business Status:	Good Standing
Management Style:	Manager Managed		
Business Creation Date:	09/29/2004	Name in State of Formation:	Not Available
Date of Formation in Jurisdiction:	09/29/2004		
Principal Office Address:	C/O THE MEG COMPANIES25 ORCHARD VIEW DR, LONDONDERRY, NH, 03053, USA	Mailing Address:	C/O THE MEG COMPANIES25 ORCHARD VIEW DR, LONDONDERRY, NH, 03053, USA
Citizenship / State of Formation:	Domestic/New Hampshire		
		Last Annual Report Year:	2019
		Next Report Year:	2020
Duration:	Perpetual		
Business Email:	deb@themegcompanies.com	Phone #:	NONE
Notification Email:	NONE	Fiscal Year End Date:	NONE

### Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	OTHER / REAL AND PERSONAL PROPERTY	

Page 1 of 1, records 1 to 1 of 1

B<sub>2</sub>



## Principals Information

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Name/Title	Business Address
Daniel M. Gordon / Member	25 Orchard View Drive, Londonderry, NH, 03053, USA
Daniel M. Gordon / Manager	25 Orchard View Drive, Londonderry, NH, 03053, USA

Page 1 of 1, records 1 to 2 of 2

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## Registered Agent Information

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Name: Gordon, Robert F

Registered Office C/O THE MEG COMPANIES 25 ORCHARD VIEW DR, LONDONDERRY, NH,  
Address: 03053, USA

Registered Mailing C/O THE MEG COMPANIES 25 ORCHARD VIEW DR, LONDONDERRY, NH,  
Address: 03053, USA

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## Trade Name Information

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No Trade Name(s) associated to this business.

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## Trade Name Owned By

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No Records to View.

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## Trademark Information

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Trademark Number	Trademark Name	Business Address	Mailing Address
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No records to view.

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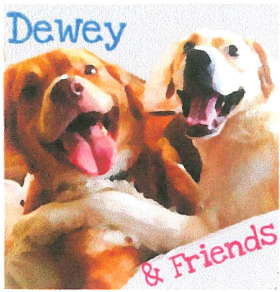
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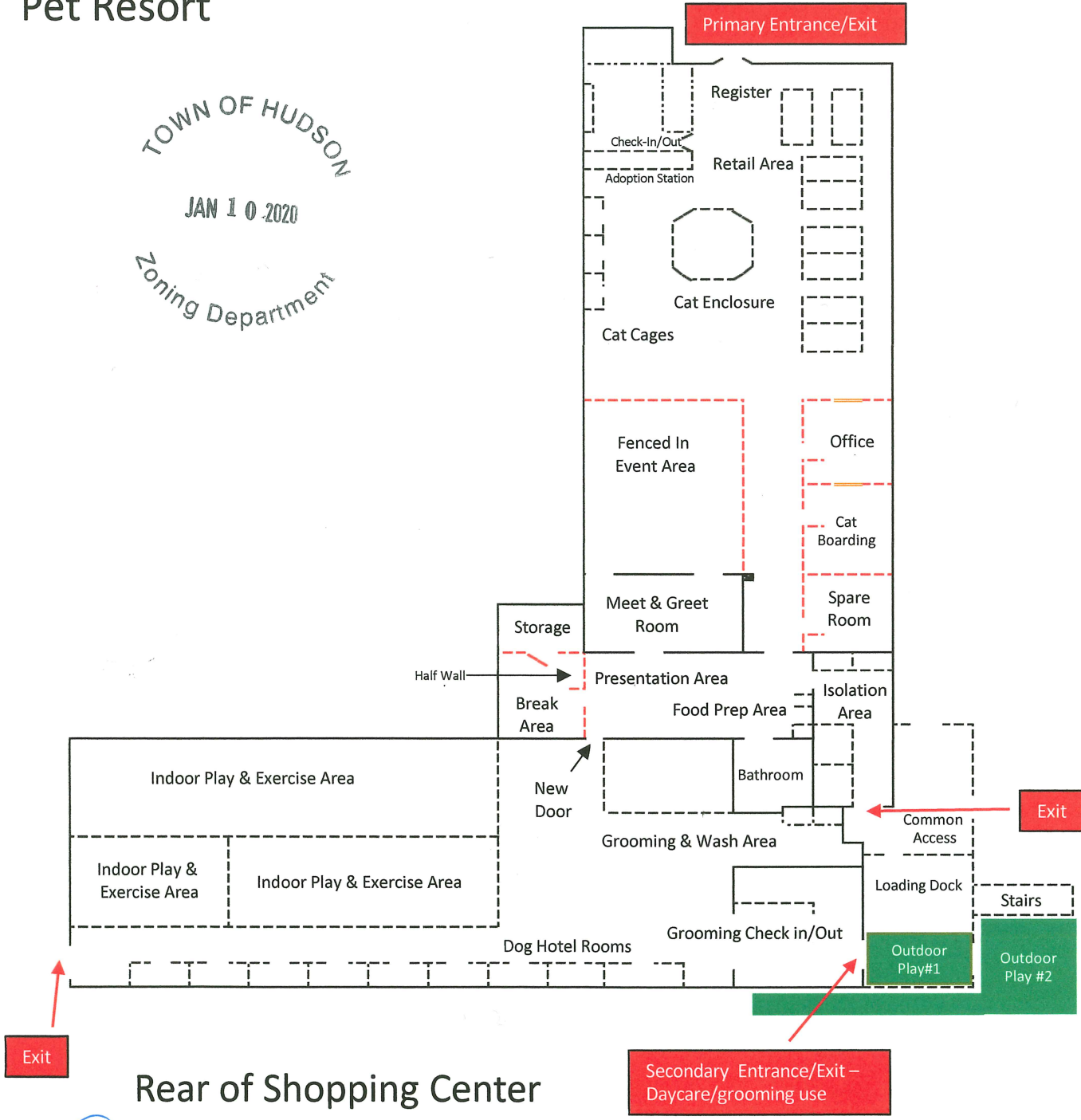
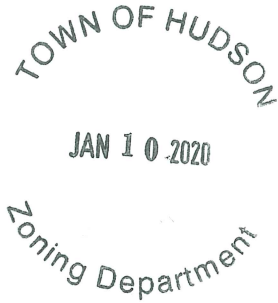
B<sub>3</sub>



# Dewey & Friends Pet Resort Conceptual Plan 1/3/2020

## Front of Shopping Center and Parking Field

### Pet Resort



## Rear of Shopping Center

Owner grants preliminary approval of this conceptual plan.

*Daniel M. Gordon, Mgr. 1/8/20*

Daniel Gordon, Manager  
Hudson Vickerry Leasing LLC

Peter J. Loughlin, Esq., 15 New Hampshire Practice: Land Use Planning and Zoning, Ch. 22, Powers of the ZBA, § 22.02 (LexisNexis Matthew Bender) (internal footnotes omitted). It is strongly suggested an appeal window be identified in the board's rules of procedure. OSI suggests 30 days, which is a common deadline in the state.

In order to bring an appeal of an administrative decision, a person must also have standing. Merely being a resident and taxpayer of a town is not enough to confer standing to appeal a decision of the administrative officer who determined that there was not sufficient basis to pursue an alleged violation of the zoning ordinance concerning the voluntary merger of two lots. See *Goldstein v. Town of Bedford* (November 22, 2006).

Similarly, in *Golf Course Investors of NH, LLC v. Town of Jaffrey & a.* (April 12, 2011), the court found that seven residents who tried to appeal a planning board decision to the ZBA that a condominium conversion did not require site plan review did not have standing as "persons aggrieved." None were abutters, did not address how their properties would be directly affected, were actually in favor of the project with the acceptance of its size, and one had even attended the planning board meeting. To establish standing, an appealing party must show "some direct, definite interest in the outcome of the action or proceeding." Four factors are considered when determining whether a non-abutter has sufficient interest to confer standing: (1) the proximity of the appealing party's property to the property for which approval is sought; (2) the type of change being proposed; (3) the immediacy of the injury claimed; and (4) the appealing party's participation in the administrative hearings. See *Weeks Restaurant Corp. v. City of Dover*, 119 N.H. 541 (1979).

For further discussion on this topic see "Administrative Decisions in Planning and Zoning: How They're Made, How They're Appealed," NHMA Law Lecture #3, Fall 2010.

## SPECIAL EXCEPTIONS

### RSA 674:33 Powers of Zoning Board of Adjustment

- IV. (a) A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.
- (b) Special exceptions authorized under this paragraph shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.
- (c) The zoning ordinance may be amended to provide for the termination of all special exceptions that were authorized under this paragraph before August 19, 2013 and that have not been exercised. After adoption of such an amendment to the zoning ordinance, the planning board shall post notice of the termination in the city or town hall. The notice shall be posted for one year and shall prominently state the expiration date of the notice. The notice shall state that special exceptions authorized before August 19, 2013 are scheduled to terminate, but shall be valid if exercised within 2 years of the expiration date of the notice or as further extended by the zoning board of adjustment for good cause.
- V. . . . .
- VI. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or rendering its decision.
- VII. Neither a special exception nor a variance shall be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.



Under this authority, the board of adjustment has the power to grant those exceptions that are clearly specified in the zoning ordinance. The legislative body, in enacting the ordinance, established what can be granted as an exception and the conditions which must be met before the board of adjustment may grant it. Unless a particular use for which an application is submitted is stated in the ordinance as being explicitly allowed by special exception, the board of adjustment is powerless to grant a special exception for that use. If this fact can be kept in mind, there should be no confusion between the meaning of "special exception" and "variance."

A **variance** is permission granted to use a specific piece of property in a more flexible manner than allowed by the ordinance; a **special exception** is a specific, permitted land use that is allowed when clearly defined criteria and conditions contained in the ordinance are met. Providing for special exceptions makes it possible to allow uses where they are reasonable in a uniform and controlled manner, but to prohibit them where the specified conditions cannot be met. Requirements, in this sense, are measurable qualifications that are the same at all times and places and can be expressed in specific terms.

It is important to remember the key distinction between a special exception and a variance. A special exception seeks permission to do something that the zoning ordinance permits only under certain special circumstances, e.g., a retail store over 5,000 square feet is permitted in the zone so long as certain parking, drainage and design criteria are met. A variance seeks permission to do something that the ordinance does not permit, e.g., to locate the commercial business in an industrial zone (formerly termed a "use" variance), or to construct the new building partially within the side setback line (formerly an "area" variance); and, as is set forth below in more detail, the standards for any variance without distinction are the subject of much judicial interpretation and flux.

A use permitted by special exception is also distinguishable from a non-conforming use. As described above, a special exception is a permitted use provided that the petitioner demonstrates to the ZBA compliance with the special exception requirements set forth in the ordinance. By contrast, a non-conforming use is a use existing on the land that was lawful when the ordinance prohibiting that use was adopted. See *1808 Corporation v. Town of New Ipswich*, 161 N.H. 772 (2011) (holding that ZBA did not err in ruling that office building permitted by special exception is not entitled to expand per doctrine of expansion of nonconforming use).

In the case of a request for special exception, the ZBA may not vary or waive any of the requirements set forth in the ordinance. See *Tidd v. Town of Alton*, 148 N.H. 424 (2002); *Mudge v. Precinct of Haverhill Corner*, 133 N.H. 881 (1991); and *New London Land Use Assoc. v. New London Zoning Board*, 130 N.H. 510 (1988). Although the ZBA may not vary or waive any of the requirements set forth in the ordinance, the applicant may ask for a variance from one or more of the requirements. See *1808 Corporation v. Town of New Ipswich*, 161 N.H. 772 (2011) (noting that petitioner was allowed to use its building for office space because it had a special exception and was allowed to devote 3,700 of its building's square footage for such a use because it obtained a variance from the special exception requirement that the building's foundation not exceed 1,500 square feet).

The Zoning Board of Adjustment in New Hampshire, NH OSI Spring Planning & Zoning Conference, April 2018; presented by Christopher L. Boldt, Esq., Donahue, Tucker, & Ciandella, PLLC.

The practical application of a special exception may be illustrated by a hypothetical case of a rural town that has no industrial zone but wants to allow industries to locate in a particular district under certain circumstances. One condition, which must be stated in the ordinance, might be that the proposed industry would not create a hazardous traffic condition. Whether or not the traffic conditions generated by a particular industry would be hazardous would depend on the type of operation proposed; the road in question; the set-back of buildings on nearby lots; the location of intersections, school crossings, parks and homes; and off-street parking provisions.

It would not be possible to set uniform requirements in the ordinance, such as the number of persons who may be employed, that would prevent traffic hazards in all cases and yet not be needlessly restrictive in a specific case. By referring the matter to the board of adjustment, it is possible to consider each case on its own merits and still remain within the intent and purpose of the ordinance. "There must... be sufficient evidence before the board to support a favorable finding on each of the statutory requirements for a special exception." *Barrington East Cluster Unit I Owner's Association v. Barrington*, 121 N.H. 627 [1981].

Special exceptions are sometimes used to control the location of specific commercial or industrial uses such as public utilities, gas stations and parking lots, which may appropriately be located in residential districts. Schools, hospitals, nursing homes, and other establishments with similar location problems often require approval as special exceptions subject to conditions spelled out in the zoning ordinance.

The granting of a special exception does not alter the zoning ordinance, but applies only to the particular project under consideration. An application for an additional similar use on the same parcel would have to be considered separately by the board and approved or denied based on the application and the conditions required.

The board of adjustment cannot legally approve a special exception for a prohibited use if the ordinance does not identify that use. Also, the board cannot legally approve a special exception if the stipulated conditions do not exist or cannot be met. On the other hand, if the special exception is listed in the ordinance and the conditions are met, the board cannot legally refuse to grant the special exception even though it may feel that the standards are not adequate to protect the neighborhood.

Three questions must be answered to decide whether or not a special exception can be legally granted:

1. Is the use one that is ordinarily prohibited in the district?
2. Is the use specifically allowed as a special exception under the terms of the ordinance?
3. Are the conditions specified in the ordinance for granting the exception met in the particular case?

**"If the conditions for a special exception are not met, the board cannot allow it; however, if the conditions are met, the board must grant the special exception."**  
*Shell Oil v. Manchester*, 101 N.H. 76

In *Sklar Realty Inc. v. Merrimack and Agway, Inc.*, 125 N.H. 321 (1984), the supreme court added a new dimension to the validity of a special exception in certain circumstances. If conditions imposed by a planning board under site review authority substantially alter a plan for which a special exception has been granted, the board of adjustment must review its original approval. The court stated, "[w]e hold it was error to conclude that the special exception necessarily survived the change in... plans. The [planning] board may not enter a further order favorable... [to the applicant] unless the ZBA reaffirms its own order after a consideration of the second plan."

D<sub>3</sub>



Language counts when reviewing a special exception. In *Cormier v. Town of Danville ZBA*, 142 N.H. 775 (1998), the ordinance allows excavations provided they are compatible with, and not injurious to, either natural features or historic landmarks or other historic structures. The board denied a special exception finding that the use would be detrimental to the historic and natural character of Tuckertown Road. The decision was appealed and upheld by the superior court. The supreme court reversed the ZBA, finding that there was nothing in the record to support the ZBA's conclusion that the proposal would have an adverse impact on the road. The court reminded the board that "the law demands that findings be more specific than a mere recitation of conclusions." Board members should be sure that factual conclusions like "adverse impact" are supported by factual findings contained in the record, whether from testimony, evidence, or board members' personal knowledge of the area. If you determine that there WILL be something (adverse impact, detrimental effect, etc.), you should next ask yourself, and make sure the record reflects, WHY you came to that conclusion, i.e., "We find that there will be an adverse impact because of x, y, z."

1998 Land Use Law Update, Timothy Bates, Esq.; NH OSP Annual Planning and Zoning Conference, May 30, 1998.

A special exception is only valid if exercised within 2 years from being approved unless the local ordinance allows a greater time period or if such was included within the decision of the ZBA. Further, there is now a six month window within which the special exception remains valid following the resolution of a planning application filed in reliance upon the special exception. See RSA 674:33, IV.

**In 2018, the legislature amended RSA 674:33, I-a and RSA 674:33, IV to allow municipalities to amend their zoning ordinance to provide for the termination of unexercised variances and special exceptions that were granted before August 19, 2013.**

**The Planning Board must post a notice of termination in town hall for one year, stating that variances and special exceptions authorized before August 19, 2013 are scheduled to terminate, but shall be valid if exercised within 2 years of the expiration date of the notice. Variances and special exceptions subject to these automatic termination provisions may still be extended by the ZBA for good cause.**

### Variations from the Terms of a Special Exception

The question sometimes arises as to whether an applicant for a particular land use can obtain a variance from one of the terms of a special exception in order to qualify for a special exception. Clearly, where a use is allowed by special exception provided certain criteria are met, the special exception could not be granted if any one of the criteria is not satisfied. Similarly, the board could not first grant a variance for the unsatisfied criteria, then turn around and grant the special exception even if all other criteria are met.

When a board is considering whether to grant a special exception, it may not vary or waive any of the requirements set forth within the zoning ordinance. *Tidd v. Town of Alton*, 148 N.H. 424, 427 (2002) (Landowner not entitled to establish a campground by special exception since a requirement for the special exception was that there be no hazards created by automobile traffic and the evidence before the board was that there would be a hazard.) And while the board may grant a special exception, it cannot waive the requirement for a special exception. *Mudge v. Precinct of Haverhill Corner*, 133 N.H. 881, 886 (1991) (The abutter alleged that a special exception was needed before the particular land use



was permitted. Two of the Zoning Board of Adjustment members concluded that a special exception was needed. However, those members voted to waive the need for a special exception without addressing the need for or ability of a variance. The court ruled that the Zoning Board improperly “waived” the requirement for a special exception for the construction of 22 additional mobile home sites on a 42-acre tract of land.)

The fact that a landowner does not qualify for a special exception does not mean that approval could not be obtained to achieve the same goal. The landowner could apply for whatever variance relief was necessary to allow the use without applying for a special exception. In *New London Land Use Association v. New London Zoning Board of Adjustment et al.*, for example, the court noted as follows:

“Denial of Lakeside’s request for a special exception, because it did not conform to the density requirement of the zoning ordinance, does not restrict its vested right to continue its motel operation, nor does it require Lakeside to change, in any way, the manner in which the motel units are now situated upon the land. A special exception is a use permitted upon certain conditions as set forth in a town’s zoning ordinance. 3 Rathkopf, *Law of Zoning and Planning* § 41.02 (1987). It is generally recognized in this State that, in considering whether to grant a special exception, zoning boards may not vary or waive any of the requirements as set forth within the zoning ordinance. *Shell Oil Company v. Manchester*, 101 N.H. 76, 78, 133 A.2d 501, 502 (1957); *Stone v. Cray*, 89 N.H. 483, 487, 200 A.2d 517, 521 (1938). A zoning ordinance is not discriminatory because it permits the continuation of existing structures and conditions while prohibiting the creation of new structures or conditions of the same type. *Stone, supra* at 485, 200 A.2d at 520. If Lakeside seeks permission to act outside the ordinance, it may apply for a variance from the density requirements of the ordinance. *New London v. Leiskiewicz*, 110 N.H. [462], 466, 272 A.2d [856], 859 (1970).

*New London Land Use Association v. New London Zoning Board of Adjustment et al.*, 130 N.H. 510, 517-18 (1988).

## VARIANCES

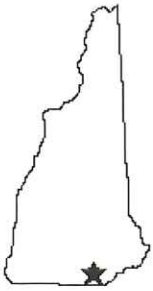
RSA 674:33 Powers of Zoning Board of Adjustment

I(a) The zoning board of adjustment shall have the power to:

- (1) . . . .
- (2) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:
  - (A) The variance will not be contrary to the public interest;
  - (B) The spirit of the ordinance is observed;
  - (C) Substantial justice is done;
  - (D) The values of surrounding properties are not diminished; and
  - (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

I(b)(1) For purposes of subparagraph I(a)(2)(E), “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (B) The proposed use is a reasonable one.



# TOWN OF HUDSON

## Land Use Division



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

### Zoning Administrator Staff Report

Meeting Date: January 23, 2020 BB 1-15-20

Case 242-068 (01-23-20): Elaine Bettencourt, 26 Gowing Rd., Hudson, NH requests a Use Variance to allow the construction of a 714 SF Accessory Dwelling Unit (ADU) in the lower level of a split level duplex where an ADU is not allowed in two family dwellings. [Map 242, Lot 068-000; Zoned Residential-Two (R-2); HZO Article XIII A, §334-73.3 A, Accessory Dwelling Units, Provisions].

#### **Summary:**

Applicant requests a Variance to allow the construction of a 714 sqft Accessory Dwelling Unit (ADU) within one unit of a (two family) duplex style structure. The zoning ordinance does not allow ADU in other than single family structures.

The applicant has stated the need for this additional "Dwelling Unit" is for her disabled brother, the Board could consider the provision for variance under RSA 674:33V.

#### **Property description:**

This is an existing developed lot of record with 60,374 sqft (60,000 sqft required for duplex) and 296 ft of frontage (120ft required). The existing structures appear to satisfy all required building setbacks, owner states the shed in rear is gone.

#### **In-house (Town) review/comments:**

Fire Dept: Yes  
Engineering: Yes  
Town Planner: Yes

#### **HISTORY:**

Assessing: Listed as a Duplex residence w/ commercial warehouse, NOTE: the current tax card has note dated 12/2/2019 by Chief Assessor: "*removed comm use description from card, old prior use/JM*".

Building Permits: #445-77 to erect a 24 x 30 detached garage issued June 17, 1977; #245-87 to construct 28 x 31 addition to create duplex issued Nov 20, 1986; Jan 13, 1988 septic approval for 6 bedrooms; #2012-00348 to construct 16 x 16 shed issued 6/12/2012.

**Attachments:**

“A” Assessing records

“B” #445-77 Garage building permit (June 17, 1977).

“C” #245-87 addition/conversion to Duplex (Nov 20, 1986)

“D” Septic approval

“E” #2012-00348 16 x 16 shed building permit

“F” Town Engineer in-house review/comments

“G” Fire Chief / Inspectional Services Dept in-house review/comments

“H” Town Planner in-house review/comments

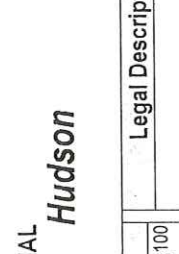
“I” “ZBA: A Handbook for Local Officials” regarding *“Granting Variances for the Disabled”*  
published by NH Office of Strategic Initiatives



## Previous Assessments

Year	Code	Building	Yard Items	Land Value	Acres	Special Land	Total
2019	104 - TWO FAM	209,300	21,300	102,325	1.14	0.00	332,925
2019	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2019	104 - TWO FAM	209,300	21,300	102,325	1.14	0.00	332,925
2019	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2018	104 - TWO FAM	202,600	21,300	102,325	1.14	0.00	326,225
2018	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2018	104 - TWO FAM	202,600	21,300	102,325	1.14	0.00	326,225
2018	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2017	104 - TWO FAM	202,600	21,300	102,325	1.14	0.00	326,225
2017	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2017	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2017	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2017	104 - TWO FAM	202,600	21,300	102,325	1.14	0.00	326,225
2017	316 - COMM WRHSE	0	0	33,275	0.25	0.00	33,275
2016	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2016	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2016	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2016	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2015	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2015	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2015	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2015	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2014	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2014	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2014	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2014	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2013	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2013	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2013	104 - TWO FAM	164,000	18,000	89,525	1.14	0.00	271,525
2013	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2012	104 - TWO FAM	164,000	13,800	89,525	1.14	0.00	267,325
2012	316 - COMM WRHSE	0	0	28,875	0.25	0.00	28,875
2012	104 - TWO FAM	216,800	700	118,400	1.14	0.00	335,900
2012	316 - COMM WRHSE	24,300	0	38,500	0.25	0.00	62,800
2011	104 - TWO FAM	216,800	700	118,400	1.14	0.00	335,900
2011	316 - COMM WRHSE	24,300	0	38,500	0.25	0.00	62,800
2011	104 - TWO FAM	216,800	700	118,400	1.14	0.00	335,900
2011	316 - COMM WRHSE	24,300	0	38,500	0.25	0.00	62,800
2010	104 - TWO FAM	216,800	700	118,400	1.14	0.00	335,900
2010	316 - COMM WRHSE	24,300	0	38,500	0.25	0.00	62,800

APPROXIMATE  
USE VALUE:  
ASSESSED:



**IN PROCESS APPRAISAL SUMMARY**

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value
104	1.386	209,300	21,300	123,500	354,100
Total Card	1.386	209,300	21,300	123,500	354,100
Total Parcel	1.386	209,300	21,300	123,500	354,100

**PROPERTY LOCATION**

No 26 - 28 GOWING RD, HUDSON  
Direction/Street/City

**OWNERSHIP**

Owner 1: BETTENCOURT, ELAINE T.  
Owner 2:  
Owner 3:  
Street 1: 26 GOWING RD.  
Street 2:

**PREVIOUS ASSESSMENT**

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2019	013	FV	209,300	21,300	1.386	135,600	366,200	366,200	Year End Roll	9/16/2019
2018	013	JB	209,300	21,300	1.386	135,600	366,200	366,200	Year End Roll	5/8/2019
2017	013	FV	202,600	21,300	1.386	135,600	359,500	359,500	Year End Roll	8/27/2018
2016	013	JB	202,600	21,300	1.386	135,600	359,500	359,500	Year End Roll	5/9/2018
2015	013	FV	202,600	21,300	1.386	135,600	359,500	359,500	Year End Roll	10/26/2017
2014	013	PV	202,600	21,300	1.386	135,600	359,500	359,500	Year End Roll	8/28/2017
2013	013	JB	164,000	18,000	1.386	118,400	300,400	300,400	Year End Roll	5/10/2017
2012	013	FV	164,000	18,000	1.386	118,400	300,400	300,400	Year End Roll	8/30/2016

**SALES INFORMATION**

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes
MAYNARD, EMILE maynard, emile	8225-2825 3854-35	1	7/30/2010		370,000	No	No	No	
	2205-159	1	12/22/1986	FAMILY TRANS		No	No	No	
			4/77/1972			No	No	No	

**OTHER ASSESSMENTS**

Code	Descrpt/No	Amount	Com. Int

**NARRATIVE DESCRIPTION**

This parcel contains 1.386 ACRES of land mainly classified as TWO FAM with a DUPLEX Building built about 1972, having primarily VINYL Exterior and 2128 Square Feet, with 2 Units, 2 Baths, 1 3/4 Bath, 1 HalfBath, 12 Rooms, and 6 Bdrms.

**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
0	R2	RESD TWO		water	9	PRIV WATER
z				Sewer	0	SEPTIC
n				Electri		
				Exmpt		
Flood Haz:	C			Topo	4	ROLLING
D				Street		
s				Gas:		
t						

**LAND SECTION (First 7 lines only)**

Use Code	Description	LUC	No of Units	Depth/ Price/Units
104	TWO FAM	1.1	1	SITE ACRE SITE
104	TWO FAM	1.1	0.386	ACRES EXCESS

**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
0	R2	RESD TWO		water	9	PRIV WATER
z				Sewer	0	SEPTIC
n				Electri		
				Exmpt		
Flood Haz:	C			Topo	4	ROLLING
D				Street		
s				Gas:		
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104	TWO FAM	1.1	1	SITE ACRE SITE
104	TWO FAM	1.1	0.386	ACRES EXCESS

**LAND SECTION (First 7 lines only)**

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**LAND SECTION (First 7 lines only)**

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			4/77/1972			No	No	No	

**PROPERTY FACTORS**

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z				Sewer	0	SEPTIC
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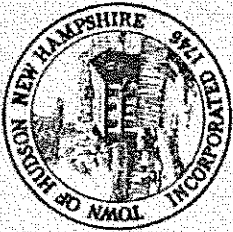
**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
0	R2	RESD TWO		water	9	PRIV WATER
z				Sewer	0	









# Town of Hudson, N. H.

Office of Town Building Inspector  
BUILDING PERMIT

No. 445-91

....., 1966

This certifies that ..... Name of Owner

is granted permission to alter ..... Description  
erect  
repair  
move

..... of Building

..... on premises located at and known as

..... to  
..... Street or Avenue

..... Number  
and to do things lawful to that end.

This permit is issued on application number ..... is subject to the conditions thereof and to the provisions of the Zoning Ordinance, and is void unless work thereunder shall have been commenced within 60 days next after the date hereof.

This Permit is issued under the condition that this building WILL NOT be occupied until a Certificate of occupancy is obtained from the Building Inspector.

..... Administrative Officer

B,



TOWN OF HUDSON, N. H.

Application for a Permit To Build

Date 6/14/77

Table with 2 columns: Category (Residential, Commercial, Industrial, Garage, Breezeway, No. of Units) and Checkmark.

Table with 3 columns: Category (Subdivision, Planning Bd. Approval Sub Div., Water Pollution Approval Sub Div. No., Septic Construction Permit No., Necessary Bonds Posted, Bd. of Adj. Variance Granted If Nec.) and Yes/No.

Table with 2 columns: Category (New, Alter, Addition, Repair) and Checkmark.

Permit Number 445-77

Name of Owner EMILE + DENISE MAYNARD Address 26 Gowing Rd Tel. 889-7541

Land Purchased From OWNED Address Hudson

Location Property Tax No. ACCT NO. 2914-001

Name of General Contractor ~~OWN~~ SELF Map and Lot No. 9/19

Name of Heating Contr. NONE Name of Electrical Contractor EMILE MAYNARD

Type of Heat NONE Name of Plumbing Contractor

Name of Fireplace Mason Name of Masonry Contractor

Material of Building FF TEXTURE 1-11 Style of Roof 5/12 Roof Covering 240# Shingles

Size of Foundation 24x30 Living Floor Area No. of Stories 1

Size of Garage 24x30 Water Sewer

Foundation Material CEMENT + Blocks Width 8" Height 32" Footings Yes No

Fireplace No. of Flues Size Chimney Material

Brief Description of Repair, Alter or Other

6.00 The undersigned hereby agrees that the proposed work shall be done in accordance with the foregoing statement, and with the plans and specifications submitted; and that the work connected therewith shall conform with the building laws and regulations of the town of Hudson, and that W.E. will notify the Building Inspector when foundation, frame, chimneys, fire-stops and heater-pipes, electrical wiring and plumbing are ready for inspection. I also certify that I have been authorized by the owner to apply for this permit.

OVER Sketch of building, show streets set back from property lines on all sides on other side.

Owner's Signature Emile Maynard Contractor's Signature Same Address 26 Gowing Rd Hudson, N.H.

B2

Map 9 Lot 19

# BUILDING PERMIT

AMOUNT PAID

DEPT. FILE COPY

VALIDATION

APPLICANT Emile & Denise Maynard DATE November 20 19 86 PERMIT NO. 245-87  
 ADDRESS 28 Gowing Road, Hudson, NH 03051  
(NO.) (STREET) (CONTR'S LICENSE)

PERMIT TO erect Addition (2) STORY Residential NUMBER OF DWELLING UNITS Two  
(TYPE OF IMPROVEMENT) NO. (PROPOSED USE)

AT (LOCATION) 28 Gowing Road, Hudson, NH 03051 ZONING DISTRICT A-1  
(NO.) (STREET)

BETWEEN Richman Road AND Gowing Road  
(CROSS STREET) (CROSS STREET)

FORM NO. BOC 4-A-1 1969

SUBDIVISION \_\_\_\_\_ LOT 19 BLOCK 9 LOT SIZE \_\_\_\_\_

BUILDING IS TO BE 28 FT. WIDE BY 31 FT. LONG BY \_\_\_\_\_ FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCTION

TO TYPE \_\_\_\_\_ USE GROUP \_\_\_\_\_ BASEMENT WALLS OR FOUNDATION Poured Concrete Slab  
(TYPE)

REMARKS: To construct 28 x 31 Addition to existing single family home. Converting to Duplex.

AREA OR VOLUME 1,500 sq. ft. ESTIMATED COST \$ 27,776.00 PERMIT FEE \$ 86.00  
(CUBIC/SQUARE FEET)

OWNER Emile & Denise Maynard BUILDING DEPT. BY *Blaine B. Madigan*  
ADDRESS 28 Gowing Road, Hudson, NH 03051

(Affidavit on reverse side of application to be completed by authorized agent of owner)

C



# APPROVAL FOR CONSTRUCTION

N.H. DEPARTMENT OF ENVIRONMENTAL SERVICES  
WATER SUPPLY & POLLUTION CONTROL DIVISION  
P.O. BOX 95, 6 HAZEN DRIVE, CONCORD, NH 03301

THE PLANS AND SPECIFICATIONS FOR SEWAGE OR WASTE DISPOSAL SYSTEM SUBMITTED FOR

*Map 9-19*

OWNER: DENISE MAYNARD  
26 GOWING ROAD  
HUDSON, NH 03051

APPROVAL NO. 158089

Lot Numbers: 19  
Subd. Appvl. No.:  
Subd. Name:

COPY OF APPROVAL SENT TO:  
BOARD OF SELECTMEN  
TOWN OFFICE  
HUDSON, NH 03051

Type of System: 0000006BR  
000900GPD

Town/City Location: HUDSON


Street Location: 26 GOWING ROAD

BY APPLICANT: PERMIT NO. 000000043

MAYNARD & PAQUETTE, INC.  
23 EAST PEARL  
NASHUA, NH, 03050

**Subsurface waste disposal systems must be operated and maintained in a manner so as to prevent nuisance or health hazard due to system failure. (RSA 149-E:3-b)**

**It is unlawful to discharge any hazardous chemicals or substances into subsurface waste disposal systems. Included are paints, thinners, gasoline and chlorinated hydrocarbon solvents such as TCE, sometimes used to clean failed septic systems and auto parts. (WS 410.05)**



**ADVISE YOUR CONTRACTOR OF REQUIRED CHANGES  
IN PLANS AS INDICATED BY BELOW CONDITIONS**

*12-2-88*

Approved this date: 01/06/88

By: *M. Estabrook*  
HAUREEN ESTABROOK

N.H. Water Supply & Pollution Control  
Division Staff

REVISED 2/87

W0029373

**D**

(OVER)





Town of Hudson, NH  
**Building Permit**  
 Community Development Department  
 12 School Street  
 Hudson, NH 03051  
 603-886-6005

Permit Number  
 2012-00348  
 Date of Issue  
 6/12/2012  
 Expiration Date  
 6/12/2013

Owner: BETTENCOURT, ELAINE T. BETTENCOURT, JOSEPH W.

Applicant: Shane Walsh

Location of Work: 28 GOWING RD  
 (No. and Street) (Unit or Building)

Description of Work: Construct a 16' x 16' shed

**ZONING DATA:** District: R-2 Map/Lot: 242-068-000

**REMARKS:**

**Required Inspections**

**Sheds:**

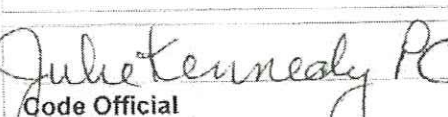
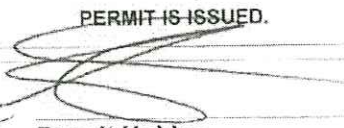
- Generally a single inspection of the completed shed will be performed after the basic structure is up and complete. This will include supports and placement relative to setbacks. The property line closest should be clearly marked for setback determinations.
- Per the Hudson Zoning Ordinance Section 334-27-1 (C) "Accessory structures (sheds) shall be placed to the rear of the main building."

ALL CONSTRUCTION MUST BE LOCATED 15 FEET FROM THE SIDE AND REAR PROPERTY LINES.

**• Building Permit Issuance Conditions are as follows:**

- THIS PERMIT CONVEYS NO RIGHT TO OCCUPY ANY STREET, ALLEY OR SIDEWALK OR ANY PART THEREOF, EITHER TEMPORARILY OR PERMANENTLY.
- THE ISSUANCE OF THIS PERMIT DOES NOT RELEASE THE APPLICANT FROM THE CONDITIONS OF ANY APPLICABLE SUBDIVISION AND OR SITE PLAN APPROVAL REQUIREMENTS.
- APPROVED PLANS MUST BE RETAINED ON JOB AND THIS CARD KEPT POSTED UNTIL FINAL INSPECTION HAS BEEN MADE.
- NO BUILDING SHALL BE OCCUPIED OR USED UNTIL A FINAL INSPECTION IS PERFORMED.
- WHEN APPLICABLE, SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.
- WORK MUST BE STARTED WITHIN 6 MONTHS FROM THE DATE OF PERMIT ISSUANCE.
- ALL CONSTRUCTION MUST CONFORM TO ALL APPLICABLE STATE OF NEW HAMPSHIRE AND HUDSON TOWN CODES.

Page 1 of 2

Permit Holder: Shane Walsh		(Taking Responsibility for the Work)	
Company/Affiliation:		Job Site Phone Number:	
Constr Cost:	\$2,500	Permit Fee:	\$50.00
Check No.:		Cash:	\$0.00
<b>The Permit Card Shall be Posted and Visible From the Street During Construction</b>			
THIS BUILDING PERMIT AUTHORIZES ALL CODE OFFICIALS, BUILDING INSPECTOR AND ASSESSOR OR THEIR AGENTS TO CONDUCT INSPECTIONS FROM TIME TO TIME DURING AND UPON COMPLETION OF THE WORK FOR WHICH THIS PERMIT IS ISSUED.			
 Code Official		 Permit Holder	
		6/12/2012 Date	

**E**

**ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE**

REQUEST FOR REVIEW/COMMENTS:

Case: 242-068 (1-23-20)

Property Location: 26 Gowing Road

*For Town Use*

Plan Routing Date: 12/30/2019 Reply requested by: 01/10/2020 ZBA Hearing Date: 01/23/2020

I have no comments  I have comments (see below)

EZD Name: Elvis Dhima Date: 01/08/2020  
(Initials)

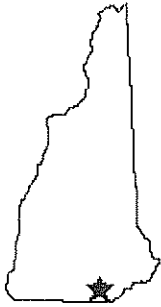
DEPT.  Town Engineer  Fire/Health Department  Town Planner

I have the following comments

1. Applicant shall provide approved septic system design to accomodate the ADU.
2. Applicant shall demonstrate that the existing well can handle the ADU water demand.

F





# TOWN OF HUDSON

## FIRE DEPARTMENT

39 FERRY STREET, HUDSON, NEW HAMPSHIRE 03051



Emergency 911  
Business 603-886-6021  
Fax 603-594-1164

Robert M. Buxton  
Chief of Department

TO: Bruce Buttrick  
Zoning Administrator

FR: Robert M. Buxton  
Fire Chief

*RMB*

DT: December 30, 2019

RE: 26 Gowing Road

The following comments are being offered regarding the proposed ALU located at 26 Gowing Road.

After reviewing the Hudson Town Code, the International Building Code (IBC) and the NFPA 101 Life Safety Code the addition of a 3rd living unit at this address will offer some challenges from a life safety standpoint.

The following is a list of concerns;

- This proposal will create a three family dwelling unit. This will cause the additional dwelling unit to be classified as an occupancy R-2 (more than two dwelling units primarily permanent in nature)
- The minimum fire-resistive rating between units shall be (2) hours
- The IBC also requires a sprinkler system in all type (R) occupancies
- Town Code 210-18 would require an automatic sprinkler system to be installed
- Town Code 210-7, 210-9 requires an automatic fire alarm system to be installed

These are items that we believe the property owner and the Zoning Board of Adjustment should be aware of.

Cc; Zoning Board of Adjustment

G

ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE

REQUEST FOR REVIEW/COMMENTS:

Case: 242-068 (1-23-20)

Property Location: 26 Gowing Road

*For Town Use*

Plan Routing Date: 12/30/2019 Reply requested by: 01/10/2020 ZBA Hearing Date: 01/23/2020

I have no comments  I have comments (see below)

BG Name: Brian Groth Date: 01/15/2020  
(initials)

DEPT.  
 Town Engineer  Fire/Health Department  Town Planner

I believe the applicant can achieve their desired outcome, or close to it, without establishing an additional dwelling unit.

Establishing the split-level duplex as two independent units may have multiple unintended repercussions related to crossing the threshold from a duplex to a multi-family building.

*Brian Groth*

*1/15/2020*

H

The granting of a variance should not be confused with "spot zoning," defined by the New Hampshire Supreme Court as the singling out of a parcel of land by the legislative body through the zoning process for treatment unjustifiably differing from that of surrounding land, thereby creating an island having no relevant differences from its neighbors. *Bosse v. Portsmouth*, 107 N.H. 523(1967). Boards should not dismiss variance requests merely on the basis of a claim of improper spot zoning. On the contrary, although a variance which has been granted with no basis for treating the subject parcel in a manner different from surrounding property may create an effect similar to spot zoning, the grant of a variance is not spot zoning.

All requests for variances should be reviewed very carefully. Denial of a proper variance request may result in a taking or loss of legitimate property rights of a landowner while the granting of an improper variance may alter the character of a neighborhood, forever beginning a domino effect as adjacent, affected properties seek similar requests due to the now changed character of the area.

Spot zoning occurs when an area is unjustly singled out for treatment different from that of similar surrounding land. The mere fact that an area is small and is zoned at the request of a single owner does not make it spot zoning. Persons challenging a rezoning have the burden before the trial court to demonstrate that the change is unreasonable or unlawful. The zoning amendment, which merely extends a pre-existing agricultural land boundary and does not create a new incongruous district, is not spot zoning. The court also noted that the zoning amendment was supported by a majority of the public and would protect the health and welfare of area residents. See *Miller v. Town of Tilton*, 139 N.H. 429 (1995).

### \* Granting Variances for the Disabled

RSA 674:33 authorizes zoning boards of adjustment to grant variances to zoning ordinances for a person or persons having a recognized physical disability, which may be granted for as long as the particular person has a need to use the premises. RSA 674:33, V states:

- V. Notwithstanding subparagraph I(a)(2), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:
  - (a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.
  - (b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

### EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

RSA 674:33-a Equitable Waiver of Dimensional Requirement

- I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:
  - (a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
  - (b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or



APPLICATION FOR A VARIANCE

DEC 19 2019

Zoning Department  
Zoning Board of Adjustment  
Town of Hudson

Entries in this box are to be filled out by  
Land Use Division personnel  
Case No. 242-068 (1-23-20)  
Date Filed 12/19/19

Name of Applicant Elaine Bettencourt Map: 242 Lot: 068<sup>000</sup> Zoning District: R-2

Telephone Number (Home) 978-998-4548 (Work) 978-569-1000

Mailing Address 26 Gowing Road Hudson N.H. 03051

Owner Elaine Bettencourt Joseph Bettencourt

Location of Property 26 Gowing Road Hudson N.H. 03051  
(Street Address)

Elaine Bettencourt Joe Bettencourt 12-11-19  
Signature of Applicant Date

Elaine Bettencourt Joe Bettencourt 12-11-19  
Signature of Property-Owner(s) Date

NOTE: Fill in all portions of the Application Form(s) as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate. If you are not the property owner, you must provide written documentation signed by the property owner(s) to confirm that the property owner(s) are allowing you to speak on his/her/their behalf or that you have permission to seek the described variance.

Items in this box are to be filled out by Land Use Division personnel

<b>COST:</b>		Date received: <u>12/19/19</u>
Application fee:	<u>\$130.00</u>	
<u>8</u> Direct Abutters x \$4.05 =	<u>32.40</u>	
<u>6</u> Indirect Abutters x \$0.55 =	<u>3.30</u>	
<b>Total amount due:</b>	<u>\$165.70</u>	Amt. received: <u>\$165.70</u>
		Receipt No.: <u>579,276</u>
Received by: <u>TSG</u>		chk# <u>1472</u>

By determination of the Zoning Administrator or Building Inspector, the following Departmental review is required:

Engineering  Fire Department  Health Officer  Planner

# TOWN OF HUDSON, NH

## NOTICE TO APPLICANTS

The following **requirements/checklist** pertain to the Town of Hudson, NH, Zoning Board of Adjustment applications, as applicable:

Applicant Initials		Staff Initials
<u>EB</u>	The applicant must provide 13 copies including the original of the filled-out application form, together with this checklist and any required attachments listed. (Paper clips, no staples)	<u>TG</u>
<u>EB</u>	Before making the 13 copies, please review the application with the Zoning Administrator or staff.	<u>TG.</u>
<u>EB</u>	A separate application shall be submitted for each request, with a separate application fee for each request i.e. <u>Variance</u> Special Exception, Home Occupation Special Exception, Wetland Special Exception, Appeal from an Administrative Decision, and Equitable Waiver but only one abutter notification fee will be charged for multiple requests. If paying by check, make the check payable to the Town of Hudson.	<u>TG.</u>
<u>EB</u>	If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.)	<u>N/A.</u>
<u>EB</u>	Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) prepared by applicant, with the proper mailing addresses, must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained from the assessor's office. (NOTE: the Land Use Division cannot process your application without the abutter lists. It is the applicant's responsibility to ensure that the abutter lists are complete and correct. If at the time of the hearing any applicable property owner is found not to have been notified because the lists are incomplete or incorrect, the Zoning Board will defer the hearing to a later date, following notification of such abutters.)	<u>TG.</u>
<u>EB</u>	A copy of both sides of the assessor's card shall be provided. (NOTE: these copies are available from the Assessor's Office)	<u>✓TG.</u>
<u>EB</u>	A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.	<u>TG.</u>
<u>EB</u>	For a Wetland Special Exception, a letter or a copy of the relevant decision from the Hudson Conservation Commission shall be attached to the application for existing single-family and duplex residential uses. All other Wetland Special Exceptions (multifamily, commercial, or industrial uses) must have letters both from the Conservation Commission and from the Planning Board.	<u>N/A.</u>

**PLOT PLAN-**

ES Except for requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a copy of a certified plot plan from a licensed land surveyor. The required plot plan shall include all of the items listed below. Pictures and construction plans will also be helpful. (NOTE: it is the responsibility of the applicant to make sure that all of the requirements are satisfied. The application may be deferred if all items are not satisfactorily submitted):

N/A  
see floor plan attached.

- a) N/A The plot plan shall be drawn to scale on an 8 1/2" x 11" or 11" x 17" sheet with a North pointing arrow shown on the plan.
- b) N/A The plot plan shall be up-to date and dated, and shall be no more than three years old.
- c) N/A The plot plan shall have the signature and the name of the preparer, with his/her/their seal.
- d) N/A The plot plan shall include lot dimensions and bearings, with any bounding streets and with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property. (NOTE: copies of the GIS map can be obtained at the Land Use Division.)
- e) N/A The plot plan shall include the location and dimensions of existing or required services, the area (total square footage), all buffer zones, natural features, any landscaped areas, any recreation areas, any safety zones, all signs, streams or other wetland bodies, and any drainage easements.
- f) N/A The plot plan shall include all existing buildings or other structures, together with their dimensions and the distances from the lot lines, as well as any encroachments.
- g) N/A The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments.
- h) N/A The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.
- i) N/A The plot plan shall indicate all parking spaces and lanes, with dimensions.



The applicant has signed and dated this form to show his/her awareness of these requirements.

Elaine Bedencourt  
Signature of Applicant(s)

12-11-19  
Date

The Land Use Division will schedule a public hearing at the next available meeting of the Hudson Zoning Board of Adjustment for your properly-completed application. Applications are scheduled on a first-come, first-served basis. Public notice of the hearing will be posted on public bulletin boards in the Town Hall, the Post Office, and the Rogers Library and also printed in a newspaper, and a notice will be mailed to the applicant, all abutters, and any other parties whom the Board may deem to have an interest.

After the public hearing, the Board will deliberate and then reach a decision either to grant the request (perhaps with stipulations to make it palatable) or to deny the request—or to defer final action to another meeting, or perhaps to accept a request for withdrawal. You will be sent a Notice of Decision during the following week.

If you believe that the Board's decision is wrong, you have the right to appeal. In addition, any third party/parties affected by the decision also has/have the right to appeal the decision of your case. To appeal, you must first ask the Board for a rehearing; this motion for rehearing may be in the form of a letter to the Board. The rehearing request must be made in writing within thirty (30) days following the Board's decision, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The Board may grant such a rehearing if, in the Board's opinion, good reason is stated in the motion. In general, the Board will not allow a rehearing unless a majority of its sitting members conclude either that the protested decision was illegal or unreasonable or that the request for rehearing demonstrates the availability of new evidence that was not available at the original hearing. The Board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal the decision to the Court(s). When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters.

Please refer to NH RSA Chapter 677 for more detail on rehearing and appeal procedures.



ALL DIRECT ABUTTERS

List name(s) and mailing addresses of the owner(s) of record of the property and all direct abutters as of the time of the last assessment of taxation made by the Town of Hudson, including persons whose property is either contiguous or separated from the subject tract of land by a street or stream. If at the time of your hearing any applicable property owner is found not to have been notified because your lists are incorrect or incomplete, the Zoning Board will defer your hearing to a later date, following notification of such abutters. (Use additional copies of this page if necessary)

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
243	009-000	Ovila Petrain Petrain Diane Petrain Family Trust	4 Richman Road Hudson NH 03051
236	024-000	Matthew Duncan	5 Greeley Street Hudson NH 03051
242	068-000	Elaine Bettencourt Joseph Bettencourt	5 Dunbar Drive Brookline NH 03033
243	001-000	Maureen MAINA Peter Kigone	30 Gowing Road Hudson NH 03051
242	067-000	Paul P. Plamondon Kathleen E. Plamondon	24 Gowing Road Hudson NH 03051
243	031-000	Noel K. Jones Diane M. Jones	1 Richmond Road Hudson NH 03051
242	041-000	Carol L. Williams	5 Somerset Drive Hudson NH 03051
242	069-000	William E. Fanjoy Susan M. Fanjoy	27 Gowing Road Hudson NH 03051

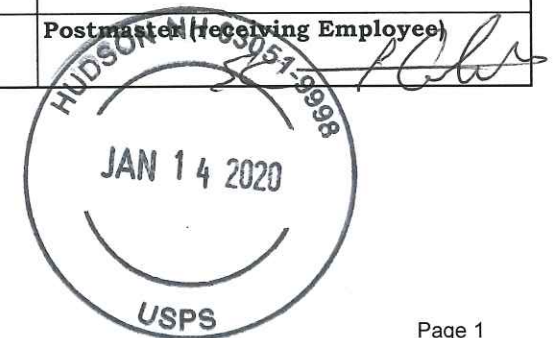
owner\*

**ALL INDIRECT ABUTTERS WITHIN 200 FEET**

List name(s) and mailing addresses of all indirect abutters (those whose property is not contiguous but is within 200 feet from the property in question) as of the time of the last assessment of taxation made by the Town of Hudson. If at the time of your hearing any applicable property owner is found not to have been notified because your lists are incorrect or incomplete, the Zoning Board will defer your hearing to a later date, following notification of such abutters. (Use additional copies of this page if necessary)

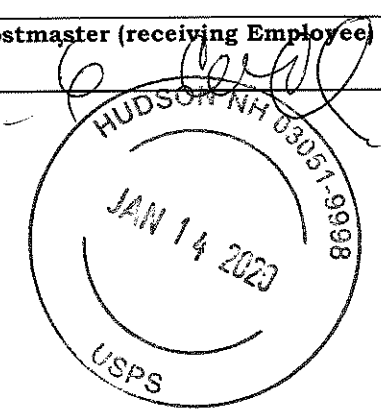
MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
242	066-000	Scott K. Mahaney Kyrra L. Mahaney	22 Gowling Road Hudson NH 03051
236	023-000	Christopher Gilman Susan Gilman Gilman Family Rev Trust	9 Somerset Drive Hudson NH 03051
242	042-000	Donald H. Manning Sandra L. Manning	3 Somerset Drive Hudson NH 03051
242	070-000	John L. Burke Lucille A. Burke	21 Gowling Road Hudson NH 03051
243	009-000	Paul V. Enond Anne Marie Enond Enond 2019 Trust	33 Gowling Road Hudson NH 03051
242	040-000	Dana D. Jarry Deborah A. Jarry	7 Somerset Drive Hudson NH 03051

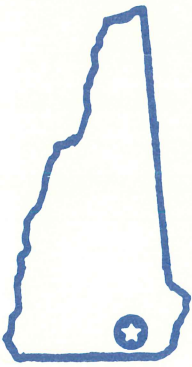
SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 242-068 Variance 26 Gowing Rd. Map 242/Lot 068-000
	<b>ARTICLE NUMBER</b>	<b>Name of Addressee, Street, and post office address</b>	<b>1/23/2020 ZBA Meeting</b>
1	7019 0700 0000 2993 5925	BETTENCOURT, ELAINE & JOSEPH 5 DUNBAR DR., BROOKLINE, NH 03033-2488	APPLICANT/OWNER-NOTICE SENT
2	7019 0700 0000 2993 5932	PETRAIN, OVILA D., TR.; PETRAIN, DIANE Y., TR.; PETRAIN FAMILY TRUST 4 RICHMAN ROAD, HUDSON, NH 03051	ABUTTER NOTICE SENT
3	7019 0700 0000 2993 5949	DUNCAN, MATTHEW	ABUTTER NOTICE SENT
4	7019 0700 0000 2993 5956	5 GREELEY ST., HUDSON, NH 03051 MAINA, MAUREEN F.; KIGOME, PETER M.	ABUTTER NOTICE SENT
5	7019 0700 0000 2993 5963	30 GOWING ROAD, HUDSON, NH 03051 PLAMONDON, PAUL P. & KATHLEEN E.	ABUTTER NOTICE SENT
6	7019 0700 0000 2993 5970	24 GOWING ROAD, HUDSON, NH 03051 JONES, NOEL K. & DIANE M.	ABUTTER NOTICE SENT
7	7019 0700 0000 2993 5987	1 RICHMAN ROAD, HUDSON, NH 03051 WILLIAMS, CAROL L.	ABUTTER NOTICE SENT
8	7019 0700 0000 2993 5994	5 SOMERSET DRIVE, HUDSON, NH 03051 FANJOY, WILLIAM E. & SUSAN M.	ABUTTER NOTICE SENT
		27 GOWING ROAD, HUDSON, NH 03051	
9			
10			
11			
	<b>Total Number of pieces listed by sender</b> 8	<b>Total number of pieces rec'vd at Post Office</b> 8	<b>Postmaster (Receiving Employee)</b>





<b>SENDER:</b>	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 242-068 Variance 26 Gowing Rd. Map 242/Lot 068-000 1 of 1
	<b>ARTICLE NUMBER</b>	<b>Name of Addressee, Street, and post office address</b>	<b>1/23/2020 ZBA Meeting</b>
1	N/A-mailed First Class	MAHANEY, SCOTT K. & KYRRA L. 22 GOWING ROAD, HUDSON, NH 03051	ABUTTER NOTICE SENT
2	N/A-mailed First Class	GILMAN, CHRISTOPHER, TR.; GILMAN, SUSAN, TR.; GILMAN FAMILY REV TRUST 9 SOMERSET DRIVE, HUDSON, NH 03051	ABUTTER NOTICE SENT
3	N/A-mailed First Class	MANNING, DONALD M. & SANDRA L. 3 SOMERSET DRIVE, HUDSON, NH 03051	ABUTTER NOTICE SENT
4	N/A-mailed First Class	BURKE, JOHN L. & LUCILLE A. 21 GOWING ROAD, HUDSON, NH 03051	ABUTTER NOTICE SENT
5	N/A-mailed First Class	EMOND, PAUL V., TR.; EMOND, ANNE MARIE, TR.; EMOND 2019 TRUST 33 GOWING ROAD, HUDSON, NH 03051	ABUTTER NOTICE SENT
6	N/A-mailed First Class	JARRY, DANA D.; JARRY, DEBORAH A. 7 SOMERSET DRIVE, HUDSON, NH 03051	ABUTTER NOTICE SENT
7			
8			
9			
10			
11			
	<b>Total Number of pieces listed by sender 6</b>	<b>Total number of pieces rec'vd at Post Office</b>	<b>Postmaster (receiving Employee)</b>





**TOWN OF HUDSON**  
ZONING BOARD OF ADJUSTMENT

**APPLICANT NOTIFICATION**



12 School Street

Hudson, New Hampshire 03051

603/886-6008

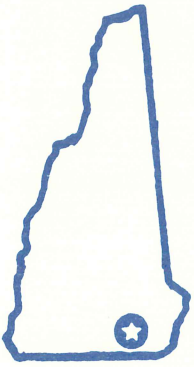
You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **01/23/20** starting at 7:00 P.M., Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

- 1. Case 242-068 (01-23-20): Elaine Bettencourt, 26 Gowing Rd., Hudson, NH requests a Use Variance to allow the construction of a 714 SF Accessory Dwelling Unit (ADU) in the lower level of a split level duplex where an ADU is not allowed in two family dwellings. [Map 242, Lot 068-000; Zoned Residential-Two (R-2); HZO Article XIII A, §334-73.3 A, Accessory Dwelling Units, Provisions].**

Please be advised, the above notice is being sent to all abutters listed on the application. You, or a representative, are expected to attend the hearing, and make a presentation.

Respectfully,

Bruce Buttrick  
Zoning Administrator



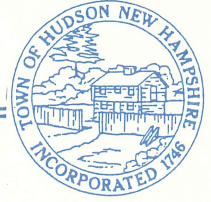
**TOWN OF HUDSON**  
ZONING BOARD OF ADJUSTMENT

**ABUTTER NOTIFICATION**

12 School Street

Hudson, New Hampshire 03051

603/886-6008



You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **01/23/20** starting at 7:00 P.M., Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

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Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting for the purpose of providing information or comments on the proposal.

A full copy of this Application is available for your review on the Hudson Town Hall website: [www.hudsonnh.gov](http://www.hudsonnh.gov) or in the Land Use Department located at Hudson Town Hall.

Respectfully,

Bruce Buttrick  
Zoning Administrator



APPLICATION FOR A VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article XIII A of HZO Section(s) 334-73.3 A in order to permit the following change or use:

I'm seeking relief from the zoning ordinance above to build a 750' ADU in the lower level of my split level home which is a duplex.

714 sq. ft.

EB

You must attach to this application a copy of some form of determination that the proposed change or use is not permitted without a variance, consisting of a denial in writing of a building permit or use authorization by the Zoning Administrator, with the reasons for the denial being cited thereon.

**FACTS SUPPORTING THIS REQUEST:**

The power to grant variances from the local zoning ordinances is established in NH RSA 674:33 I (b), as follows:

**I. "The Zoning Board of Adjustment shall have the power to: ....**

**(b) Authorize upon appeal in specific cases a variance from the terms of the zoning ordinance if:**

- (1) The variance will not be contrary to the public interest;**
- (2) The spirit of the ordinance is observed;**
- (3) Substantial justice is done;**
- (4) The values of surrounding properties are not diminished; and**
- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

**(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and**
- (ii) The proposed use is a reasonable one.**

**(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction of use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

New Hampshire case law has established, on the basis of the preceding statute and/or its precedent versions, that all of the following requirements must be satisfied in order for a Zoning Board of Adjustment to grant a variance. You must demonstrate by your answers in the following blanks that you do or will meet each and every requirement; do not presume or say that a requirement does not apply, or your request will be disqualified. Note that your answers here can be summary in nature, and you can provide additional testimony at the time of your hearing.

1. Granting of the requested variance will not be contrary to the public interest, because:  
(Explain why you feel this to be true—keeping in mind that the proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”)

Granting the request will not diminish or impair property values within the neighborhood because the changes requested are to be internal only.

2. The proposed use will observe the spirit of the ordinance, because:  
(Explain why you feel this to be true—keeping in mind that, as detailed above, the proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”)

The proposed use for the property will not change the spirit of the neighborhood nor infringe on a neighboring property owners rights, use or enjoyment of his own land because none of the renovations would be external.

3. Substantial justice would be done to the property-owner by granting the variance, because:  
(Explain why you believe this to be true—keeping in mind that the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

The purpose of the variance is based upon a desire to provide necessary and adequate living space to care for the needs of my mentally handicapped brother Norman who is sixty six years old and who requires constant supervision.

4. The proposed use will not diminish the values of surrounding properties, because:  
(Explain why you believe this to be true—keeping in mind that the Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

The proposed use will not diminish the values of surrounding properties in any way because the request does not involve any exterior changes. The exterior would continue to be well maintained as the owner of the proposed ADU would be residing in the home.

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

(Explain why you believe this to be true—keeping in mind that you must establish that, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a “fair and reasonable” way *and also* that you must establish that the special conditions of the property cause the proposed use to be reasonable. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance.)

The property being a split level home is essentially an open concept design that would make the proposed ADU feel more like an extension of the main living area rather than an added unit.

I live with my sister house and we as court appointed guardians share in the care of our Handicapped brother but would still like to have our own designated space. I understand that ADU's are prohibited with multiple single family dwellings unless allowed by the municipality. I'm sincerely hoping that this municipality would allow my request for an ADU.

Requests before the Zoning Board of Adjustment may require connection to the municipal sewer system. Please contact the Town Engineer's Office prior to submittal of this application to determine if connection is required or will be allowed, together with the procedure for such application.





# TOWN OF HUDSON

## Land Use Division



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

### **Zoning Determination #19-130 Building Permit application 2019-01231 denial**

December 3, 2019

John Brouillette  
Brouillette Building & Remodeling  
1512 Columbia Circle  
Merrimack, NH 03054

Re: 26-28 Gowling Rd Map 242 Lot 068-000  
**District: Residential Two (R-2)**

Dear John,

Your building permit application: to reconstruction (including new kitchen) as an ADU has been denied.

#### **Zoning Review / Determination:**

The submitted plan indicates the creation of an Accessory Dwelling Unit (ADU). This structure is a two family (duplex) and an ADU can only be created within a single family dwelling per Town Code - Chapter 334, Article XIII A, §334-73.3A: An ADU is allowed only in single-family dwellings. An ADU is not allowed in two- or multifamily dwellings or in any nonresidential uses.

You would need to apply for a variance from the Zoning Board of Adjustment, to proceed with your building permit application as proposed.

Sincerely,

Bruce Buttrick, MCP  
Zoning Administrator/Code Enforcement Officer  
(603) 816-1275  
[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

encl: B.P. application/support documents  
cc: Public Folder  
D. Hebert, Building Official  
B. Groth, Town Planner  
Owner  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*





COPY

RECEIVED

TOWN OF HUDSON

DEC 02 2019

FIRE DEPARTMENT - INSPECTIONAL SERVICES DIVISION

12 School Street · Hudson, New Hampshire 03051 · Tel: 603-886-6005 · Fax: 603-886-6042

BUILDING PERMIT APPLICATION - PLEASE PRINT

Address: 26 Gowling Rd Unit # \_\_\_\_\_

Site/Sub Plan: \_\_\_\_\_ HCRD \_\_\_\_\_

Office use:  
 Map 242 -  
 Lot 068-000  
 Zone R2  
 Permit # 2019-01231

**Residential**

Single family detached 30  
 Modular Homes  
 Duplex  
 3+ family dwelling (# of units \_\_\_\_\_)  
 Other \_\_\_\_\_

**Type of Improvement**

New Building  
 Addition  
 Alteration/Renovation  
 Repair/Replacement  
 Conversion of +/- dwelling units  
 Other ADU

Deck  
 Shed  
 Swim Pool  
 Garage  
 Carport

**Commercial**

Office/Bank/Professional  
 Hospital/Medical  
 Industrial/Warehouse  
 Restaurant  
 Other \_\_\_\_\_

Garage  
 School  
 Store  
 Utility

**Type of Improvement**

New Building  
 Addition  
 Alteration/Renovation  
 Repair/Replacement  
 Conversion from residential to commercial space  
 Other \_\_\_\_\_

Deck  
 Shed  
 Swim Pool  
 Interior Demo

Will the applicant/owner manufacture, assemble or produce any product, regardless of water use?

Yes  (Need IDA Form) No  (Need IDA Checklist) \*Please consult the Town Engineer at 886-6008 with any questions

**Total Cost of Project:** \$ \_\_\_\_\_

**General Description of Work and Use** Include dimensions of building, room, shed, pool, etc. List # of bedrooms and bathrooms if new home or added. If use of existing building is being changed, enter proposed use.  
Tear out existing plumbing & electrical  
Install Kitchen, ReFrame walls, insulation & Drywall  
Install New, install new flooring, install new exterior generator, replace existing electrical panel, replace 2 Hopper Windows

Square Footage \_\_\_\_\_ Footprint 740 Renovated/added \_\_\_\_\_ Number of stories \_\_\_\_\_

Living area of new home (exclude unfinished areas and garage) \_\_\_\_\_ Total area of bldg \_\_\_\_\_

**Principal Type of Frame**

Masonry (wall bearing)  Wood Frame  Structural steel

Reinforced-concrete  Other Specify \_\_\_\_\_

**Type of Sewage Disposal**

Town or private company (requires Town permit)  
 Private (septic tank, etc.)



## Unofficial Property Record Card - Hudson, NH

### General Property Data

Parcel ID 242-068-000	Account Number 2868
Prior Parcel ID 0009 -0019-0000	
Property Owner BETTENCOURT, ELAINE T. BETTENCOURT, JOSEPH W.	Property Location 26 - 28 GOWING RD
Mailing Address 5 DUNBAR DR.	Property Use RES-COMM
	Most Recent Sale Date 7/30/2010
City BROOKLINE	Legal Reference 8225-2825
Mailing State NH Zip 03033-2488	Grantor MAYNARD, EMILE J. , & DENISE,
ParcelZoning	Sale Price 370,000
	Land Area 1.386 acres

COPY

### Current Property Assessment

Card 1 Value	Building Value 209,300	Xtra Features Value 21,300	Land Value 135,600	Total Value 366,200
--------------	------------------------	----------------------------	--------------------	---------------------

### Building Description

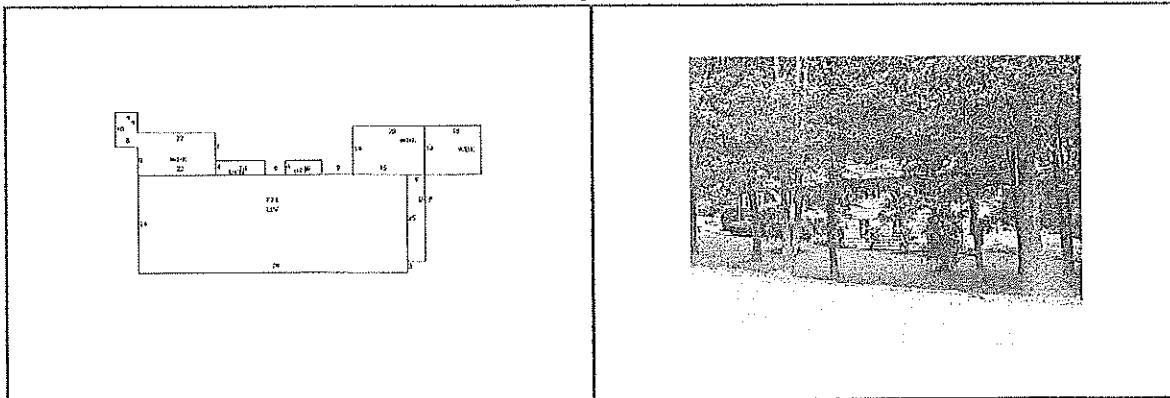
Building Style DUPLEX	Foundation Type CONCRETE	Flooring Type CARPET
# of Living Units 2	Frame Type WOOD	Basement Floor CONCRETE
Year Built 1972	Roof Structure GABLE	Heating Type FORCED HW
Building Grade AVERAGE	Roof Cover ASPH SHING	Heating Fuel GAS
Building Condition Avg-Good	Siding VINYL	Air Conditioning 0%
Finished Area (SF) 2128	Interior Walls DRYWALL	# of Bsmt Garages 0
Number Rooms 12	# of Bedrooms 6	# of Full Baths 2
# of 3/4 Baths 1	# of 1/2 Baths 1	# of Other Fixtures 0

### Legal Description

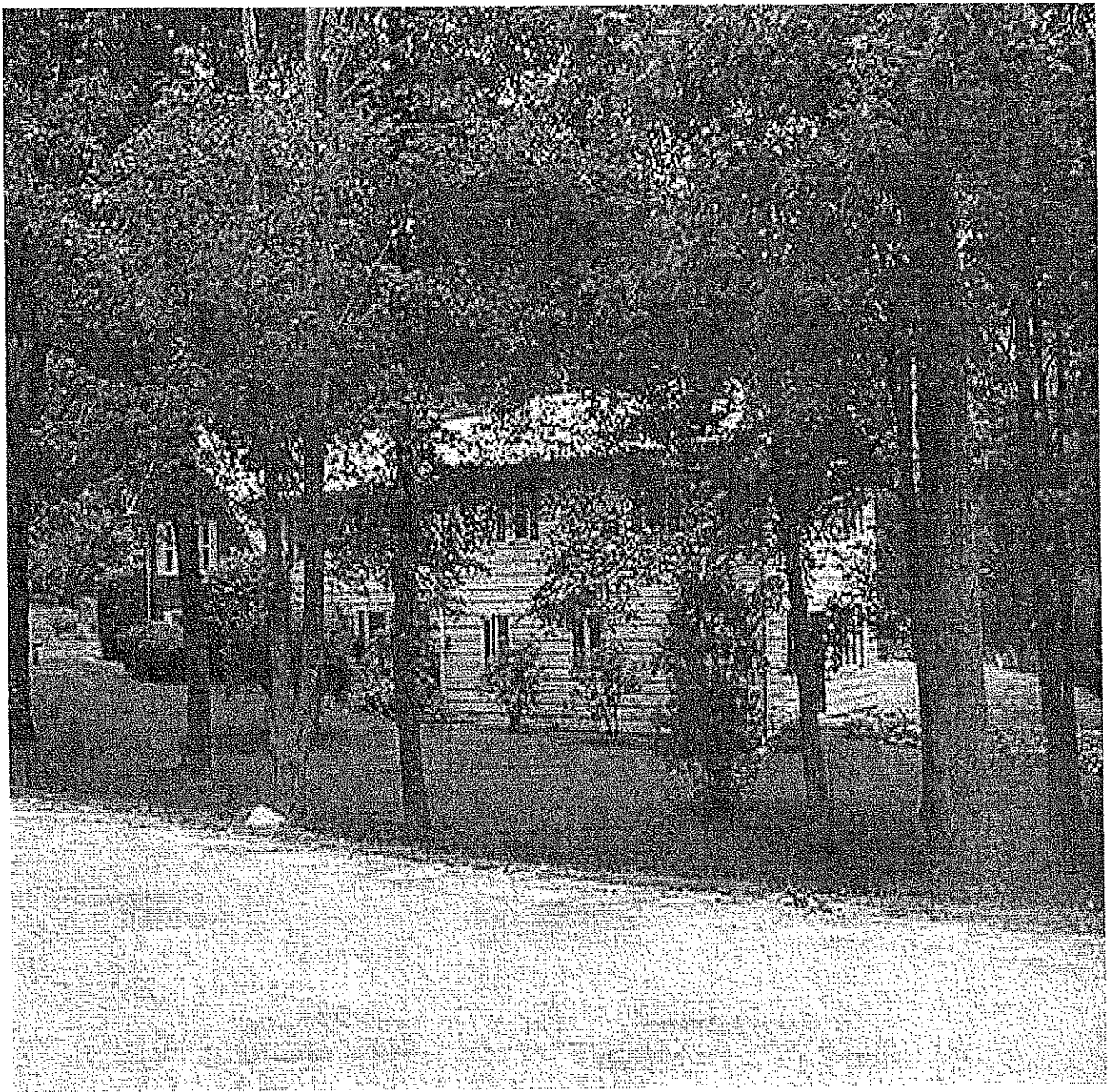
### Narrative Description of Property

This property contains 1.386 acres of land mainly classified as RES-COMM with a(n) DUPLEX style building, built about 1972 , having VINYL exterior and ASPH SHING roof cover, with 2 unit(s), 12 room(s), 6 bedroom(s), 2 bath(s), 1 half bath(s).

### Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.



242 068 000  
MAP LOT SUB

1 of 1 RESIDENTIAL  
CARD Hudson

Total Card / Total Parcel  
APPRAISED: 354,100/ 354,100  
USE VALUE: 354,100/ 354,100  
ASSESSED: 354,100/ 354,100



**Patriot**  
Properties Inc.

**PROPERTY LOCATION**

No	Alt No	Direction/Street/City
26	-28	GOWING RD, HUDSON

**OWNERSHIP**

Owner 1:	BETTENCOURT, ELAINE T.
Owner 2:	BETTENCOURT, JOSEPH W.
Owner 3:	
Street 1:	5 DUNBAR DR.
Street 2:	
Twn/City:	BROOKLINE
St/Prov:	NH Cntry
Postal:	03033-2488

**PREVIOUS OWNER**

Owner 1:	MAYNARD, EMILE J. & DENISE -
Owner 2:	-
Street 1:	28 GOWING ROAD
Twn/City:	HUDSON
St/Prov:	NH Cntry
Postal:	03051

**NARRATIVE DESCRIPTION**

This parcel contains 1.386 ACRES of land mainly classified as TWO FAM with a DUPLEX Building built about 1972, having primarily VINYL Exterior and 2128 Square Feet, with 2 Units, 2 Baths, 1 3/4 Bath, 1 HalfBath, 12 Rooms, and 6 Bdrms.

**OTHER ASSESSMENTS**

Code	Descrip/No	Amount	Com. Inf

**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
Z	R2	RESD TWO		water	9	PRIV WATER
o				Sewer	0	SEPTIC
n				Electri		
Census:				Exmpt		
Flood Haz:		C				
D				Topo	4	ROLLING
s				Street		
t				Gas:		

**LAND SECTION (First 7 lines only)**

Use Code	Description	LUC Fact	No of Units	Depth / Price/Units	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adj	Neigh	Neigh Infl	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %	Appraised Value	Alt Class	Spec Land %	J Code	Fact	Use Value	Notes
104	TWO FAM	1.1	1		SITE ACRE	SITE		0	110,000.	1.10	RE						121,000					121,000	
104	TWO FAM	1.1	0.386		ACRES	EXCESS		0	4,750.	1.37	RE						2,521					2,500	

**IN PROCESS APPRAISAL SUMMARY**

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value	Legal Description	User Acct
104	1.386	209,300	21,300	123,500	354,100		2868
Total Card						Entered Lot Size	
Total Parcel						Total Land: 1.386	
Source: Market Adj Cost						Land Unit Type: AC	
Total Value per SQ unit /Card: 166.40						/Parcel: 166.40	

**PREVIOUS ASSESSMENT**

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2019	013	FV	209,300	21300	1.386	135,600	366,200	366,200	Year End Roll	9/16/2019
2019	013	JB	209,300	21300	1.386	135,600	366,200	366,200	Year End Roll	5/8/2019
2018	013	FV	202,600	21300	1.386	135,600	359,500	359,500	Year End Roll	8/27/2018
2018	013	JB	202,600	21300	1.386	135,600	359,500	359,500	Year End Roll	5/9/2018
2017	013	FV	202,600	21300	1.386	135,600	359,500	359,500	Year End Roll	10/26/2017
2017	013	PV	202,600	21300	1.386	135,600	359,500	359,500	Year End Roll	8/28/2017
2017	013	JB	164,000	18000	1.386	118,400	300,400	300,400	Year End Roll	5/10/2017
2016	013	FV	164,000	18000	1.386	118,400	300,400	300,400	Year End Roll	8/30/2016

**SALES INFORMATION**

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes
MAYNARD, EMILE	8225-2825	1	7/30/2010		370,000	No	No		
maynard, emile	3854-35	1	12/22/1986	FAMILY TRANS		No	No		
	2205-159		4/7/1972			No	No		

**BUILDING PERMITS**

Date	Number	Descrip	Amount	C/O	Last Visit	Fed Code	F. Descr	Comment
6/12/2012	2012-00384	SHED	2,500	C				CONST 16x16 SHED

**ACTIVITY INFORMATION**

Date	Result	By	Name
12/2/2019	Other Change	1	CHIEF ASSESS
12/13/2018	Info At Door	18	KRT1
12/13/2018	Measured	18	KRT1
3/28/2013	Permit Visit	12	TECH ASMNT
8/31/2010	Sale Data V	14	APPR TECH 4
1/20/2007	Measured	6	RB
7/25/2006	New Maps	4	APPR TECH II
9/18/2003	Permit Visit	3	ASMNT TECH
3/4/2002	I&E Mailed	0	PATRIOT

Sign: \_\_\_\_\_

Total AC/HA: 1.38600	Total SF/SM: 60374	Parcel LUC: 104	TWO FAM	Prime NB Desc	RES AVG	Total: 123,521	Spl Credit	Total: 123,500
----------------------	--------------------	-----------------	---------	---------------	---------	----------------	------------	----------------



**EXTERIOR INFORMATION**

Type:	141 - DUPLEX
Sty Ht:	1 - ONE STY
(Liv) Units:	2 Total: 2
Foundation:	1 - CONCRETE
Frame:	1 - WOOD
Prime Wall:	04 - VINYL
Sec Wall:	%
Roof Struct:	1 - GABLE
Roof Cover:	1 - ASPH SHING
Color:	BEIGE
View / Desir:	

**GENERAL INFORMATION**

Grade:	C - AVERAGE
Year Bilt:	1972 Eff Yr Bilt:
Alt LUC:	Alt %:
Jurisdct:	Fact:
Const Mod:	
Lump Sum Adj:	

**INTERIOR INFORMATION**

Avg H/VFL:	STD
Prim Int Wal:	1 - DRYWALL
Sec Int Wall:	%
Partition:	T - TYPICAL
Prim Floors:	04 - CARPET
Sec Floors:	%
Bsmnt Flr:	12 - CONCRETE
Subfloor:	
Bsmnt Gar:	
Electric:	3 - TYPICAL
Insulation:	2 - TYPICAL
Int vs Ext:	S -
Heat Fuel:	2 - GAS
Heat Type:	3 - FORCED HW
# Heat Sys:	2
% Heated:	100 % AC: 0
Solar HW:	NO Central Vac: NO
% Com Wal:	% Sprinkled

**BATH FEATURES**

Full Bath:	2 Rating: AVERAGE
A Bath:	Rating:
3/4 Bath:	1 Rating: AVERAGE
A 3QBth:	Rating:
1/2 Bath:	1 Rating: AVERAGE
A HBth:	Rating:
Othr Fix:	Rating:

**OTHER FEATURES**

Kits:	1 Rating: AVERAGE
A Kits:	1 Rating: GOOD
Frpl:	1 Rating: GOOD
WSFlue:	Rating:

**CONDO INFORMATION**

Location:	
Total Units:	
Floor:	
% Own:	
Name:	

**DEPRECIATION**

Phys Cond:	AG - Avg-Good	30.0%
Functional:		%
Economic:		%
Special:		%
Override:		%
Total:		30.4%

**CALC SUMMARY**

Basic \$ / SQ:	100.00
Size Adj.:	0.92293233
Const Adj.:	0.98000002
Adj \$ / SQ:	90.447
Other Features:	29200
Grade Factor:	1.00
NBHD Inf.:	1.00000000
NBHD Mod:	
LUC Factor:	1.00
Adj Total:	300775
Depreciation:	91436
Depreciated Total:	209340

**COMMENTS**

2003 CHANGE = ADD COV PORCH AND DECK.  
12/2018: EXT=GOOD/SIDING/WINDOWS/ROOF.  
OLD INTERIOR./removed comm use description  
from card, old prior use/JM.

**RESIDENTIAL GRID**

1st Res Grid:	Desc: CONV	# Units: 2
Level:	FY LR DR D K FR RR BR FB HB L O	
Other:		
Upper:		
Lvl 2:		
Lvl 1:		
Lower:		
Totals:	RMs: 12 BRS: 6 Baths: 2 HB: 1	

**REMODELING**

Exterior:	
Interior:	
Additions:	
Kitchen:	
Baths:	
Plumbing:	
Electric:	
Heating:	
General:	

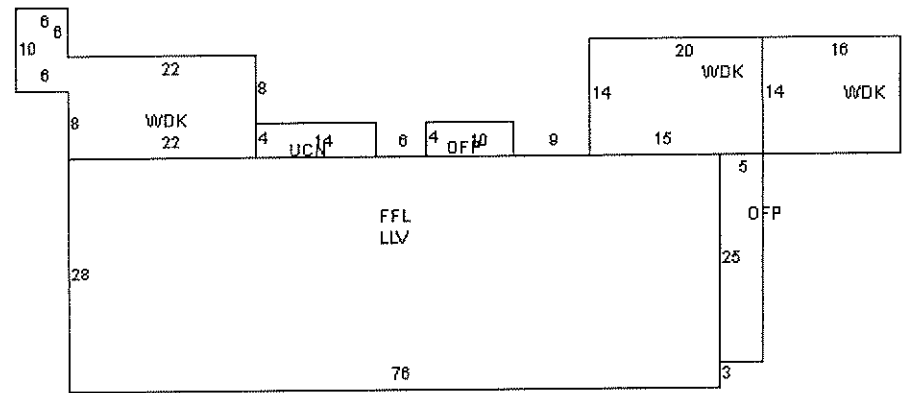
**RES BREAKDOWN**

No Unit:	RMS:	BRS:	FL:
2	12	6	3 M
Totals			
2	12	6	

**COMPARABLE SALES**

Rate	Parcel ID	Typ	Date	Sale Price
WtAv\$/SQ:				AvRate:
				Ind.Val:
Juris. Factor:				Before Depr: 90.45
Special Features:	0			Val/Su Net: 39.45
Final Total:	209300			Val/Su SzAd: 98.36

**SKETCH**



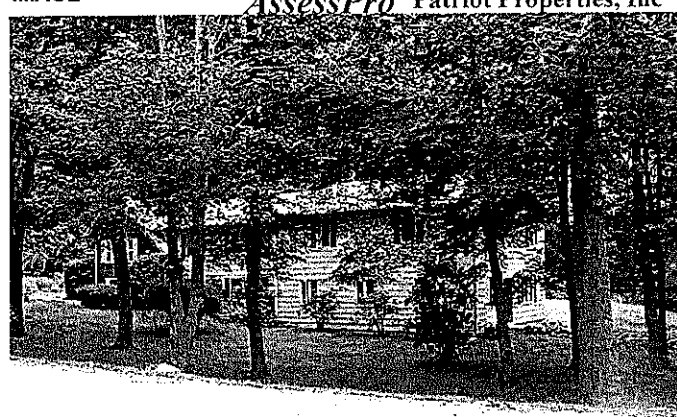
**SUB AREA**

Code	Description	Area - SQ	Rate - AV	Undepr Value	
FFL	FIRST FLOOR	2,128	90.450	192,472	
LLV	LOWER LEVEL	2,128	28.720	61,110	
WDK	WOOD DECK	828	12.090	10,008	
OFF	OPEN PCH	165	37.030	6,110	
UCN	UNF CANOPY	56	33.480	1,875	
Net Sketched Area:		5,305	Total:	271,575	
Size Ad	2128	Gross Area	5305	FinArea	2128

**SUB AREA DETAIL**

Sub Area	% Usbl	Descrip	% Type	Qu #	Ten
LLV	100	FLA	90	AV	

**IMAGE**



AssessPro Patriot Properties, Inc

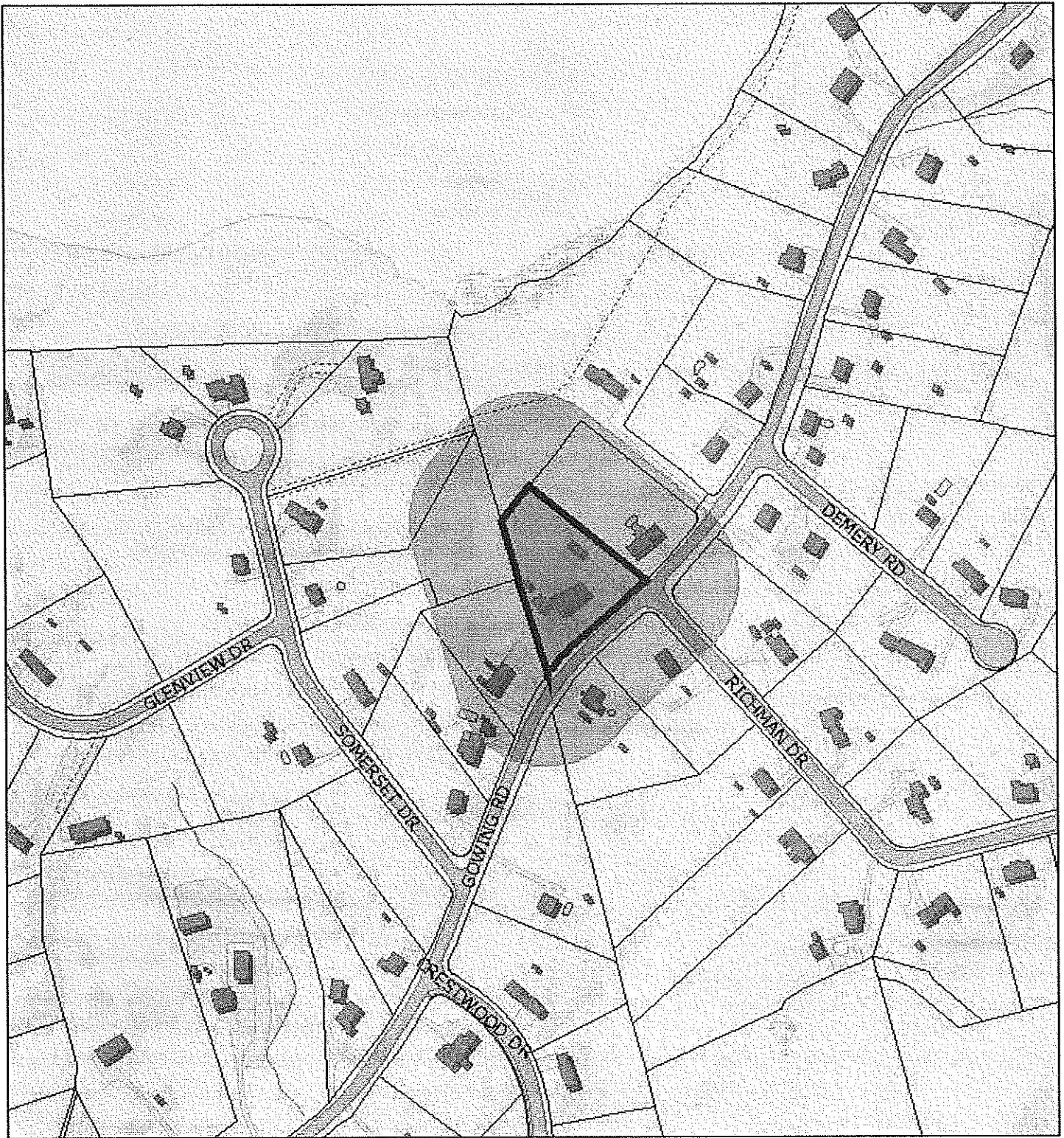
**MOBILE HOME**

Make:		Model:		Serial #:		Year:		Color:	
-------	--	--------	--	-----------	--	-------	--	--------	--

**SPEC FEATURES/YARD ITEMS**

Code	Description	A Y/S	Qty	Size/Dim	Qual	Con	Year	Unit Price	D/S	Dep	LUC	Fact	NB Fa	Appr Value	JCod	JFact	Juris. Value
2	SHED-WOOD	D Y	1	128	AV	AV	1972	23.46	T	67.5	104			1,000			1,000
3	GARAGE	D Y	1	24x30	AV	GD	1972	32.30	T	32	104			15,800			15,800
2	SHED-WOOD	D Y	1	16X16	AV	EX	2012	23.26	T	25	104			4,500			4,500

# 26 Gowing Rd (Map/Lot 242-068-000)



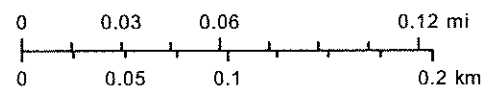
December 9, 2019

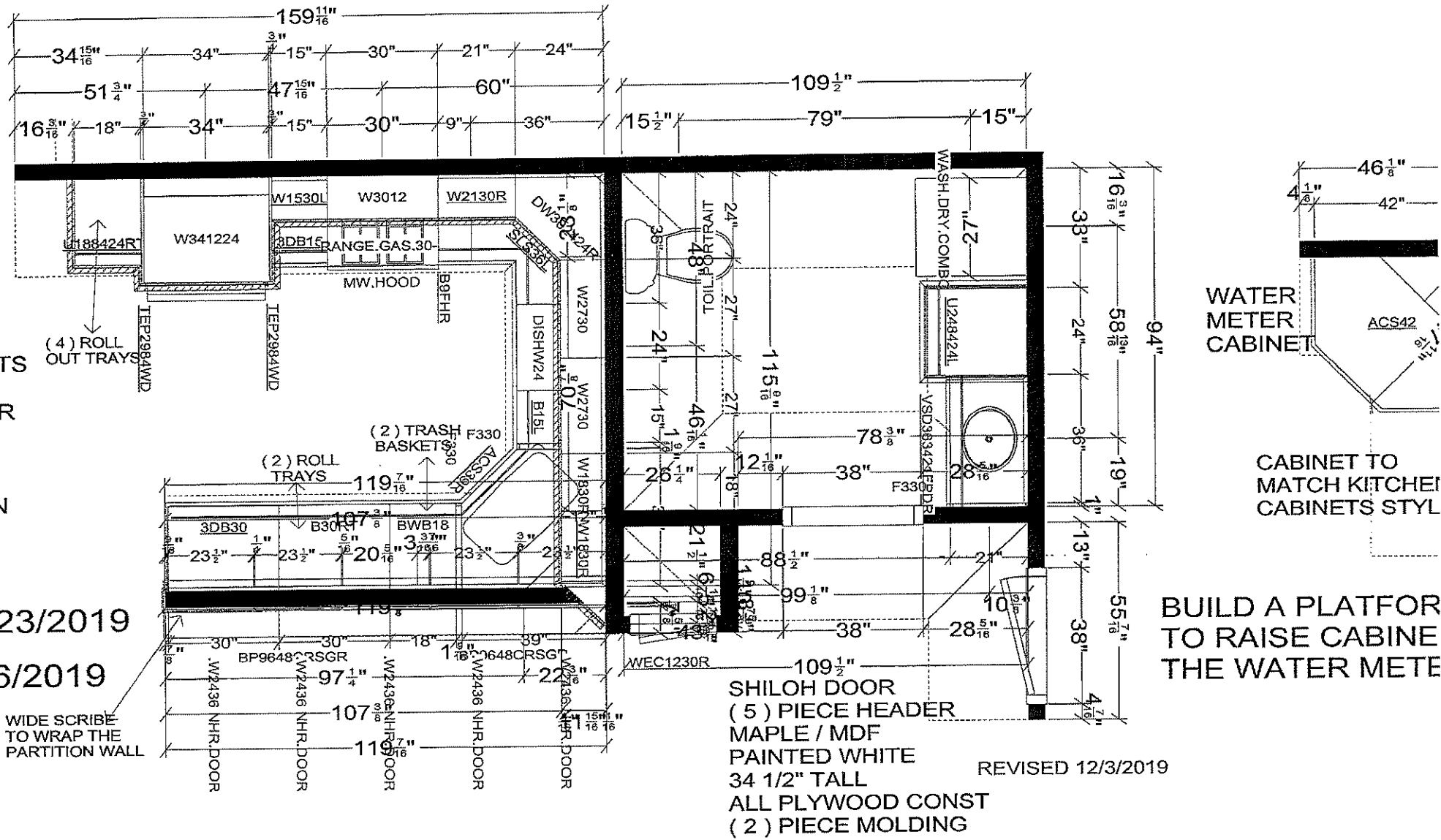
Legend

----- Easement\_Lines

▭ Parcels

1:3,653





BINETS  
 R  
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 )  
 ION

10/23/2019

1/26/2019

WIDE SCRIBE TO WRAP THE PARTITION WALL

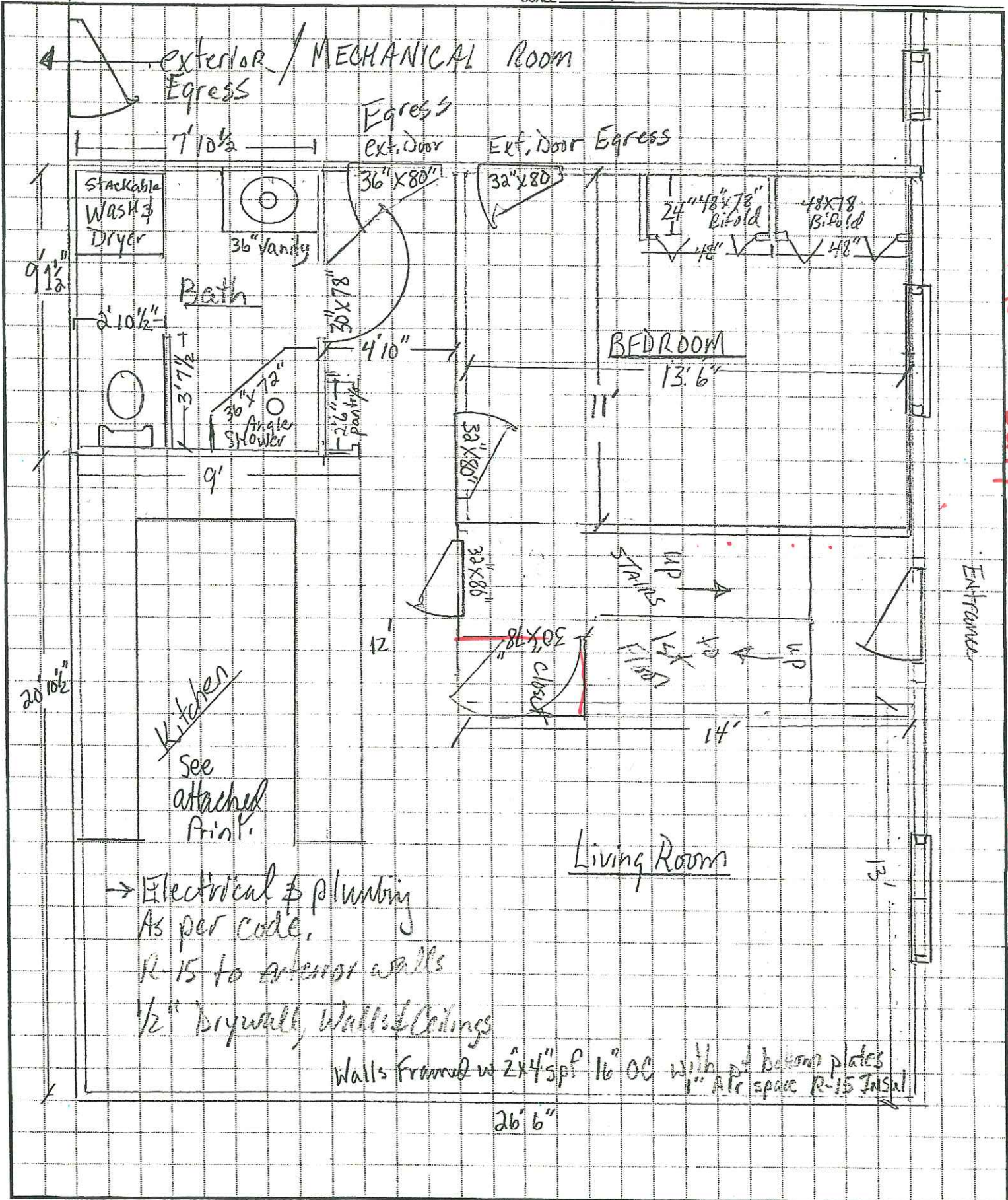
BUILD A PLATFORM  
 TO RAISE CABINET  
 THE WATER METER

SHILOH DOOR  
 (5) PIECE HEADER  
 MAPLE / MDF  
 PAINTED WHITE  
 34 1/2" TALL  
 ALL PLYWOOD CONST  
 (2) PIECE MOLDING

REVISED 12/3/2019

<p>All dimensions &amp; size designations given are subject to verification on job site and adjustment to fit job conditions.</p>	<p>2020</p>	<p>This is an original design and must not be released or copied unless applicable fee has been paid or job order placed.</p>	<p>Designed: 10/18/2019 Printed: 12/18/2019</p>
<p>GN J BROUILLETTE - E BETTENCOURT BASEMENT</p>		<p>All</p>	<p>Drawing #: 1 No Scale.</p>





795 - 81 = 714 ft ← UNIT  
 Less → 10 x 6.5 = 65 + 16 = 81 ft

→ Electrical & plumbing  
 As per code,  
 R-15 to exterior walls  
 1/2" drywall, walls & ceilings

Walls Framed w 2x4's @ 16" OC with 1/2" bottom plates  
 1" Air space R-15 Insul

26' 6"

Printed  
12/19/2019  
10:56AM  
Created  
12/19/2019  
10:43 AM

# Transaction Receipt

Receipt# 579,276  
tgoodwyn

**Town of Hudson, NH**  
12 School Street  
Hudson, NH 03051-4249

	<u>Description</u>	<u>Current Invoice</u>	<u>Payment</u>	<u>Balance Due</u>
1.00	ZBA Application-Fees 26 Gowing Rd (Duplex) Map/Lot 242-068-000 Use Variance	0.00	165.7000	0.00
			Total:	165.70

<u>Remitter</u>	<u>Pay Type</u>	<u>Reference</u>	<u>Tendered</u>	<u>Change</u>	<u>Net Paid</u>
Elaine T Bettencourt	CHECK	CHECK # 1472	165.70	0.00	165.70
			Total Due:		165.70
			Total Tendered:		165.70
			Total Change:		0.00
			Net Paid:		165.70



# TOWN OF HUDSON

## Land Use Division



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

### Zoning Administrator Staff Report

Meeting Date: January 23, 2020 BB 1-16-20

Case 147-016 (01-23-20): Alfred Sapochetti, 3B Yale Ct., Hudson, NH requests a Use Variance for 181 A Webster St., Hudson, NH to prepare food (hot & cold) on site for take-out and serve ice cream for take-out, a use not permitted. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V, §334-21, Table of Permitted Principal Uses].

#### Summary:

Applicant requests a Variance to allow the preparation of deli sandwiches/prepared meals (and serving ice cream) in an existing convenience store. The applicant/owner is requesting the variance at the direction of the Town's building permit denials, Zoning Determinations with administrative decisions and current Code Enforcement actions. The convenience store exists by variance granted in 1964 and further confirmed by a 1990 court consent decree.

This staff report & review will only address the variance request in the existing convenience store (unit A) at the building at 181 Webster Street and offer my comments with other town review comments below.

#### Property description:

This is an existing lot of record having 10.56 Acres and 562 ft of frontage. This lot is existing conforming as to area and frontage, as 1 Acre is required and 150 ft of frontage is required.

The current use of this building is as a mixed use. Unit A: (C7/C8) "retail food / retail sale of beer and wine" and Unit B: (C17) "business office" for the landscaping business on site. Both operations are existing non-conforming, and without any site plan approvals. The 1990 Superior Court consent decree confirmed the basis of the existing use as a non-conforming convenience store: "...and operation of the convenience store as it has been operated in the past, in the farmstand building."

#### In-house (Town) review/comments:

Fire Dept: Yes

Engineering: Yes

Town Planner: Yes



**HISTORY:**

Assessing: Property is listed as: Three family, Comm warehouse, Store, Auto repair and Office.

ZBA: Dec 21, 1964 Variance

Code Enforcement: 1990 consent decree; 2019 Code Enforcement activity (meetings etc)

**Attachments:**

“A” Assessing records.

“B” 1964 Variance.

“C” 1990 consent decree.

“D” 2018 compilation of building permits at convenience store.

“E” 2019 Code Enforcement documentation.

“F” Town Engineer in-house review/comments.

“G” Fire Chief / Inspectional Services Dept in-house review/comments.

“H” Town Planner in-house review/comments.

“I” Zoning Administrator’s review/comments.

## Previous Assessments

Year	Code	Building	Yard Items	Land Value	Acres	Special Land	Total
2019	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2019	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2019	316 - COMM WRHSE	71,600	0	0	0.00	0.00	71,600
2019	316 - COMM WRHSE	71,600	0	0	0.00	0.00	71,600
2019	325 - STORE	97,950	74,200	348,750	8.19	0.00	520,900
2019	325 - STORE	107,950	74,200	348,750	8.19	0.00	530,900
2019	332 - AUTO REPAIR	67,000	0	0	0.00	0.00	67,000
2019	332 - AUTO REPAIR	67,000	0	0	0.00	0.00	67,000
2019	340 - OFFICE	231,300	0	0	0.00	0.00	231,300
2019	340 - OFFICE	231,300	0	0	0.00	0.00	231,300
2018	340 - OFFICE	159,600	0	0	0.00	0.00	159,600
2018	340 - OFFICE	159,600	0	0	0.00	0.00	159,600
2018	332 - AUTO REPAIR	71,600	0	0	0.00	0.00	71,600
2018	332 - AUTO REPAIR	71,600	0	0	0.00	0.00	71,600
2018	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2018	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2018	325 - STORE	107,950	74,200	348,750	8.19	0.00	530,900
2018	325 - STORE	107,950	74,200	348,750	8.19	0.00	530,900
2018	316 - COMM WRHSE	67,000	0	0	0.00	0.00	67,000
2018	316 - COMM WRHSE	67,000	0	0	0.00	0.00	67,000
2017	316 - COMM WRHSE	67,000	0	0	0.00	0.00	67,000
2017	316 - COMM WRHSE	65,200	0	0	0.00	0.00	65,200
2017	316 - COMM WRHSE	67,000	0	0	0.00	0.00	67,000
2017	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2017	105 - THREE FAM	28,325	0	16,250	2.06	0.00	44,575
2017	105 - THREE FAM	32,650	0	16,250	2.06	0.00	48,900
2017	325 - STORE	107,950	74,200	348,750	8.19	0.00	530,900
2017	325 - STORE	94,875	42,900	348,750	8.19	0.00	486,525
2017	325 - STORE	107,950	74,200	348,750	8.19	0.00	530,900
2017	332 - AUTO REPAIR	71,600	0	0	0.00	0.00	71,600
2017	332 - AUTO REPAIR	79,800	0	0	0.00	0.00	79,800
2017	332 - AUTO REPAIR	71,600	0	0	0.00	0.00	71,600
2017	340 - OFFICE	159,600	0	0	0.00	0.00	159,600
2017	340 - OFFICE	171,900	0	0	0.00	0.00	171,900
2017	340 - OFFICE	159,600	0	0	0.00	0.00	159,600
2016	340 - OFFICE	171,900	0	0	0.00	0.00	171,900
2016	340 - OFFICE	171,900	0	0	0.00	0.00	171,900
2016	332 - AUTO REPAIR	79,800	0	0	0.00	0.00	79,800
2016	332 - AUTO REPAIR	79,800	0	0	0.00	0.00	79,800
2016	325 - STORE	94,875	42,900	348,750	8.19	0.00	486,525

A,

## Unofficial Property Record Card - Hudson, NH

### General Property Data

Parcel ID 147-016-000	Account Number 7257
Prior Parcel ID 0023 -0017-0002	Property Location 181 A-B WEBSTER ST
Property Owner DERRY & WEBSTER LLC	Property Use COMM-RES
Mailing Address 253 MAIN ST.	Most Recent Sale Date 2/7/2003
City NASHUA	Legal Reference 6834-1327
Mailing State NH Zip 03060	Grantor SECOND GENERATION PROPERTIES,
ParcelZoning	Sale Price 1,000,000
	Land Area 0.000 acres

### Current Property Assessment

Card 4 Value	Building Value 231,300	Xtra Features Value 0	Land Value 0	Total Value 231,300
Total Parcel Value	Building Value 500,500	Xtra Features Value 74,200	Land Value 365,000	Total Value 939,700

### Building Description

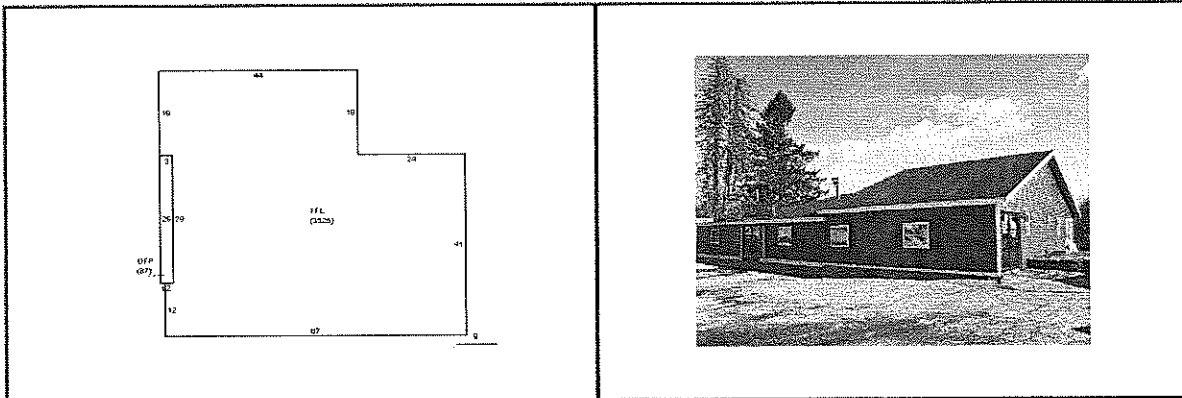
Building Style CONV MARKET	Foundation Type SLAB	Flooring Type CERAMIC TILE
# of Living Units 2	Frame Type WOOD	Basement Floor N/A
Year Built 1975	Roof Structure GABLE	Heating Type FORCED AIR
Building Grade FAIR	Roof Cover ASPH SHING	Heating Fuel OIL
Building Condition Excellent	Siding VINYL	Air Conditioning 0%
Finished Area (SF) 3525	Interior Walls DRYWALL	# of Bsmt Garages 0
Number Rooms 0	# of Bedrooms 0	# of Full Baths 0
# of 3/4 Baths 0	# of 1/2 Baths 2	# of Other Fixtures 1

### Legal Description

### Narrative Description of Property

This property contains 0.000 acres of land mainly classified as COMM-RES with a(n) CONV MARKET style building, built about 1975 , having VINYL exterior and ASPH SHING roof cover, with 2 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 2 half bath(s).

### Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.



# Garrison Farm

MARKET GARDENERS

187 WEBSTER STREET

HUDSON, NEW HAMPSHIRE

RES. TEL. TUXEDO 2-0491

December 5, 1964

Paul W. Buxton

Chairman of The Board of Adjustment  
1 School Street, Hudson, N.H.

Dear Mr Buxton:

This past Spring, we built a farm stand on our property to sell fruits and produce and other farm products and tried to build a stand that would be an asset to the town.

In as much as we would like to carry some things not grown here, we are requesting a variation in the town ordinance to sell the following products:

Garden seeds and plants, ciga~~r~~retts, soft drinks such as coca cola and pepsi cola, Dairy products, bread, fresh fruits, candy, homemade jams, jellies, preserves, cider, maple syrup, potatoe chips, cut flowers grown on farm, berries, and christmas trees and decorations.

Since we are the only stand on Webster Street in Hudson, we would like to carry this merchandise for the convenience of our customers.

We will close this month and open again in the Spring.

Sincerely Yours,

George W. Colby  
Garrison Fruit and Vegetable Stand

B,

December 21, 1964

Mr. George W. Colby, Jr.  
137 Webster Street  
Hudson, New Hampshire

Dear Mr. Colby:

With reference to your letter dated December 5, 1964 and the public hearing held at the library building on October 16, 1964 in regard to your request to offer for sale at your seasonal farm produce stand on the Litchfield Road in Hudson certain unrelated items:

The Board of Adjustment has approved your request to offer for sale during the seasonal operation of your stand the items enumerated in your letter mentioned above.

Yours very truly

Paul W. Buxton, Chairman  
Board of Adjustment  
Town of Hudson

JHP/h

cc: Mr. Richard Millard, Bd. of Adj.  
Mr. Kenneth Clark, Planning Bd.  
Mr. Frank Yutting, Jr., Bd. of Selectmen

B2

STATE OF NEW HAMPSHIRE

Hillsborough ss.

Superior Court

89-E-00727

TOWN OF HUDSON

V.

SAMUEL TAMPOSI, ET AL

CONSENT DECREE

NOW COME the parties and, subject to the approval of this Court, agree to entry of a decree as follows:

1. Surewood Excavation shall vacate the subject property by February 23, 1990, removing from the site all construction vehicles, equipment, materials, and other vehicles, equipment and materials, which Surewood Excavation has previously brought on to the the site or permitted others to bring on to the site.
2. Defendants shall commence eviction proceedings against their tenant, Levesque and, if necessary, Levesque's sub-tenants. Defendants shall serve an eviction notice on Levesque by Feb 15, 1990 and then shall pursue the eviction vigorously, in the courts if necessary, as quickly as the New Hampshire legal process for eviction allows.
3. Defendants shall not themselves or allow others to use the house located on the subject property as an office.
4. Defendants shall not themselves, or permit others, to use the property other than for residential purposes as permitted under the zoning ordinance and/or in accordance with the pre-

LAW OFFICE OF  
SCOTT LESLIE  
IZELN, SAWYARD  
& LOUGHMAN  
200 MAIN STREET  
SALEEM, NEW HAMPSHIRE  
03074

C1



existing non conforming use already established on the property and defined as follows:

"The growing, cultivation, and harvesting of crops, produce, nursery stock, flowers and other plants; the sale of same grown on the subject property; and operation of the convenience store as it has been operated in the past, in the farmstand building."

5. The parties agree that Tamarack Landscaping's use of the property for planting, growing and selling of nursery stock is included within the pre-established non conforming use.

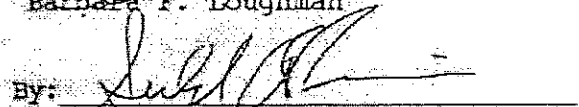
6. Defendants shall pay the Town of Hudson \$2,500 for the town's attorney's fees, costs, and expenses, said sum to become due and payable 30 days after the court approval of this decree.

Respectfully submitted,

TOWN OF HUDSON, by its attorneys  
SOULE, LESLIE, ZELIN, SAYWARD &  
LOUGHMAN

  
Barbara F. Loughman

Date: 3/22/90

By:   
Gerald Prunier, attorney for  
Samuel A. Tamposi  
Samuel A. Tamposi, Jr.  
Elizabeth M. Tamposi  
Celina M. Tamposi  
Michael A. Tamposi  
Nicholas E. Tamposi  
Tamposi Children Trust  
Sharon R. Tamposi, Trustee  
Michael A. Tamposi, Jr.  
d/b/a Surewood Excavation

Date: 3/30/90

Date: \_\_\_\_\_

\_\_\_\_\_  
Presiding Justice

LAW OFFICE OF  
SOULE, LESLIE,  
ZELIN, SAYWARD  
& LOUGHMAN  
220 MAIN STREET  
SALEM, NEW HAMPSHIRE  
03079

*Cr*

December 24, 2018

187 Webster St B.P. History

Map 147 Lot 016

Conv Store building

BP#	Description	Tenant	Date
	Temp Sign	Tamarack Landscaping	4/6/93
	Temp Sign	Tamarack Landscaping	3/30/94
2001-528	Sign: D&G Country Store	Patel (Conv Store)	5/3/01
2002-583	Temp Sign	Tamarack Landscaping	4/26/02
2005-528	Int renov	Lou Duhamel / Vatchie	5/23/05
" " " "	D&G floor plan pg 2 interior renov		4/19/05
	Fire Insp ltr: six seats ok/no cooking	Ijaz Mohammed / D&W country	7/18/08
2009-00413	New tenant; variety store	A & E Mart	9/04/09
2009-00454	Sign change of copy: A&E Mart	Patel	9/25/09

D



# TOWN OF HUDSON

## Land Use Division



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

### Minutes of meeting *BH 1-15-20*

**Date of Meeting:** January 15, 2020

**Attendees:** V. Manoukian, J. Manoukian, G. Prunier, T. Basso, D. LeFevre, and B. Buttrick

Re: **181- 189 Webster St Map 147 Lot 016-000**  
**District: Residential Two (R-2)**

The purpose of this meeting was as a status report/update of the Code Enforcement/violations (items) identified on Oct 9, 2019 and Dec 4, 2019 meetings. We continue to agree that the Town will withhold further code enforcement action at present as long as the property owner is willing to work with the Town to bring the property into compliance.

General property use and wetland buffer violations:

Tony Basso presented an undated/untitled "existing conditions" plan (Buttrick date stamped 1-15-2020). Tony explained where there are two small wetland/wetland buffer areas that will need to be addressed. Tony indicated they will do the wetland/buffer permitting process.

Junkyard/junk and Heavy commercial vehicles: There has been partial and slow progress as Vatche Manoukian has instructed all tenants to initiate the removal of offending violations immediately. This removal/remediation is currently ongoing. Obviously compliance inspection(s) with the Town, shall be performed no later than April 1, 2020.

Uses in large structures on property: Vatche Manoukian via Tony is going to produce documentation of Surewood Excavation/construction as a permitted use/ historical status.

Residential use 3<sup>rd</sup> dwelling unit: Vatche Manoukian via Tony is going to provide any proof in support of the 3<sup>rd</sup> dwelling unit is allowed.

Convenience Store status: Vatche has ZBA application for a variance for food preparation use of the property, Hearing is scheduled 1/23/20.

*E,*

Landscaping/contractor status:

Vatche Manoukian via Tony is going to produce documentation/history (court order?) of ? Tamarack being allowed to continue (as a nursery, then landscaper services as a permitted use/ historical status).

Bruce mentioned the recent code enforcement complaint about Regis "operations", and that he will respond to the complainant that their issues may be interconnected with the Town's "complaint".

Items to address:

Garage building has "cold storage" per Vatche Manoukian.

Is this a permitted use?

No one is using/living in the camper(s) per Vatche Manoukian.

Need a verification/inspection by Town.

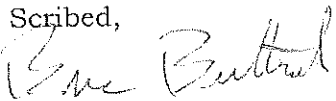
Vatche Manoukian to provide the approvals of the "driveway cut" off Derry Lane.

Still outstanding.

A further meeting was not scheduled, however Tony asked if Town would allow 1 month for preparation of documentation/history, thus Town can form/create answer as a Zoning Determination for a basis of an Administrative Decision.

Bruce agreed, 1 month should suffice, please provide by **February 18, 2020** the requested arguments and documentations in the form of a Request for Zoning Determination (enclosed).

Scribed,



*Bruce Buttrick, MCP*

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

encl: Oct 9, 2019 & Dec 4, 2019 mtg notes/minutes, and Request for Zoning Determination

cc: Public Folder

B. Groth - Town Planner

All attendees

File

E<sub>2</sub>





# TOWN OF HUDSON

## Land Use Division



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

### Minutes of meeting

**Date of Meeting:** December 4, 2019

**Attendees:** B. Groth, V. Manoukian, T. Basso, D. LeFevre, and B. Buttrick

Re: 181- 189 Webster St Map 147 Lot 016-000  
**District: Residential Two (R-2)**

The purpose of this meeting was as a status report/update of the Code Enforcement/violations (items) identified on Oct 9, 2019 meeting. We continue to agree that the Town will withhold further code enforcement action at present as long as the property owner is willing to work with the Town to bring the property into compliance. A further meeting has been scheduled for January 15, 2020.

General property use and wetland buffer violations:

Tony Basso will generate an existing conditions plan, which could (with variances etc.) possibly become the basis for a Site Plan going forward. During this preparation Tony will review the numerous uses on this property, any/all variances granted and Court decisions. Tony has delineated the wetland/wetland buffer. This shall be accomplished by December 13, 2019 and available to the Town prior to January 15, 2020 mtg.

Junkyard/junk and Heavy commercial vehicles: partial and slow progress as Vatche Manoukian to instructed all tenants to initiate the removal of offending violations immediately. Obviously compliance inspection(s) with the Town, shall be performed no later than April 1, 2020.

Uses in large structures on property: Vatche Manoukian to produce documentation of Surewood Excavation/construction as a permitted use, thus continuation of such allowed. Bring to January 15, 2020 mtg.

Residential use 3<sup>rd</sup> dwelling unit: Vatche Manoukian to provide any proof in support of his belief that the 3<sup>rd</sup> dwelling unit is allowed, with any records available in support. Bring to January 15, 2020 mtg.

Convenience Store status: Vatche to provide any documentation that food preparation is a permitted use of the property, and/or to proceed with a Variance request to do such use. Can we get a definite by January 15, 2020?

Landscaping/contractor status:

? Tamarack was allowed to continue (as a nursery), Regis's operation is not a nursery. Gerry Prunier was going to verify the Court Order allowing Tamarack's operation. This "use status" needs to be clarified, can Vatche provide such for January 15, 2020 mtg? Bruce introduced the new code enforcement complaint about Regis "operations", that had been circulated/forwarded to Vatche earlier. Bruce indicated this complaint is really a site plan issue, but hard to enforce correctly until the "current use establishment/standing" is determined.

Garage building has "cold storage" per Vatche Manoukian.

Is this a permitted use? Can Vatche provide documentation as to the legitimacy of any/all current use(s).

No one is using/living in the camper(s) per Vatche Manoukian.

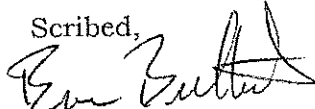
Need a verification/inspection by Town.

Vatche Manoukian to provide the approvals of the "driveway cut" off Derry Lane.

Still outstanding, bring to January 15, 2020 mtg.

Bruce Buttrick updated attendees as to the recent sign permits and the Conv Store C.O. w/stipulation "no on site food prep".

Scribed,



Bruce Buttrick, MCP

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

encl: Oct 9, 2019 mtg notes/minutes

cc: Public Folder

All attendees

File



# TOWN OF HUDSON

## Land Use Division



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

### Minutes of meeting

**Date of Meeting:** October 9, 2019.

**Attendees:** B. Groth, V. Manoukian, T. Basso, G. Prunier, J. Manoukian, D. LeFevre,  
and B. Buttrick

BB 10-10-19

**Re: 181-189 Webster St Map 147 Lot 016-000**  
**District: Residential Two (R-2)**

The consensus of the meeting was that the Town would withhold further code enforcement action at present as long as the property owner is willing to work with the Town to bring the property into compliance. A further meeting will be scheduled sometime during the first week of December. Specific items discussed include the following:

General property use and wetland buffer violations:

Tony Basso will generate an existing conditions plan, which could (with variances etc.) possibly become the basis for a Site Plan going forward. During this preparation Tony will review the numerous uses on this property, any/all variances granted and Court decisions; Tony will also delineate the wetland/wetland buffer. This shall be accomplished by December 2, 2019.

Junkyard/junk and Heavy commercial vehicles: Vatche Manoukian to instruct all tenants to initiate the removal of offending violations immediately, and schedule compliance inspection with the Town before December 2, 2019.

Uses in large structures on property: Vatche Manoukian to produce documentation of Surewood Excavation/construction as a permitted use, thus continuation of such allowed.

Residential use 3<sup>rd</sup> dwelling unit: Vatche Manoukian to provide any proof in support of his belief that the 3<sup>rd</sup> dwelling unit is allowed, with any records available in support. This to be accomplished by Dec 2, 2019.

Convenience Store status: Vatche to provide any documentation that food preparation is a permitted use of the property.

Landscaping/contractor status:

E5

Tamarack was allowed to continue (as a nursery), Regis's operation is not a nursery.  
Gerry Prunier was going to verify the Court Order allowing Tamarack's operation.

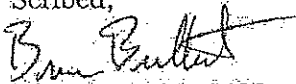
Garage building has "cold storage" per Vatche Manoukian.

No one is using/living in the camper(s) per Vatche Manoukian.

Vatche Manoukian to provide the approvals of the "driveway cut" off Derry Lane.

Bruce Buttrick explained the sign permitting process and various Zoning Ordinance requirements from the Ordinance, especially a lens replacement (change of copy).

Scribed,



Bruce Buttrick, MCP

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

cc: Public Folder  
All attendees  
File





# TOWN OF HUDSON

## Land Use Division



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

October 4, 2019

Certified 7016 2710 0000 0595 2476  
and USPS 1<sup>st</sup> class

Derry & Webster, LLC  
Attn: Vatche Manoukian, Manager  
253 Main Street  
Nashua, NH 03060

RE: Notice of Zoning Ordinance Violations  
Hudson Tax Map 147, Lot 016  
Property Addresses: 181 A-B, 185 A-C, 187 & 189 Webster Street

Dear Mr. Manoukian:

I received your e-mail of October 1, 2019. I appreciate your willingness to bring your property into compliance with the Town's Zoning Ordinance. In anticipation of our meeting on October 10, 2019, I would draw your attention to the following:

In addition to the items that I noted in my notice of violations letter of September 30, 2019, it has just come to my attention yesterday that signage related to the convenience store has been installed in violation of HZO § 334-58. Specifically: 1) the lens change on the existing freestanding sign and building (wall) sign are without a permit, and 2) the signage in the windows exceeds 25% of the total area of the windows, which therefore requires a permit, and no permit has been issued for the signs. You must immediately remove the signage or obtain a permit therefore. I cannot tell you whether or not the signage meets the criteria in the Zoning Ordinance until I have a proper permit application to review, but I will alert you to the possibility that the signage appears as though it may not be allowed, or would require a variance. Please note, this new violation is subject to the same civil fines, penalties, costs, and attorney fees as stated in my earlier letter.

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

In response to the items in your e-mail, numbered 1 through 3, I will need a commitment from you regarding a timeframe for compliance. Please provide me with dates when you believe these items will be addressed so that I may schedule an inspection.

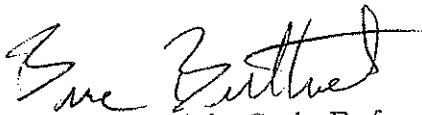
Regarding item number 4, I would direct your attention to the Town's GIS available for review by the public on the Town's website. If you look at the historical aerial photographs of the Property, it is very clear that the landscaping company's business has greatly expanded beyond the permissible scope of the permitted use as a nursery.

The residential use has never been permitted as a three (3) family. The Town's files on this are clear, and you are welcome to review them.

In terms of the warehouse and garage, I look forward to your elaboration. As I mentioned, I am glad to discuss with you the historical uses of these structures and the possibility that various uses may be grandfathered or permitted as nonconforming uses. However, as above, I do need a time commitment from you regarding when you will have that information available.

As far as the convenience store is concerned, I would remind you that the use was allowed by variance. It is not a grandfathered use. Thus, the fact that there may have been past violations of the Zoning Ordinance does not justify the current violations.

I look forward to meeting with you, your engineer, and your attorney on October 10, 2019.



Bruce Buttrick, Code Enforcement Officer/Zoning Administrator  
Town of Hudson

Cc: Public Folder  
S. Maliza – Town Administrator  
D. LeFevre – Town Counsel  
B. Groth – Town Planner  
D. Hebert – Building Official  
V. Manoukian - email  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

## Buttrick, Bruce

---

**From:** Buttrick, Bruce  
**Sent:** Friday, October 4, 2019 3:12 PM  
**To:** 'Vatche Manoukian'  
**Cc:** Gerald Prunier  
**Subject:** RE: 181 - 189 Webster St Notice of Violations  
**Attachments:** NOV 10-4-19.pdf

Vatche,  
Thank-you for your response, and I am looking forward to our meeting Thursday Oct 10, 2019 @ 9:30am, please see the attached letter.

Regards,

Bruce

*Bruce Buttrick, MCP*  
*Zoning and Code Enforcement*



**Town of Hudson**

Land Use Division  
12 School Street  
Hudson, NH 03051  
Ph: (603) 886-6008  
F: (603) 594-1142

**From:** Vatche Manoukian [mailto:vatcheoffice@gmail.com]  
**Sent:** Tuesday, October 1, 2019 2:50 PM  
**To:** Buttrick, Bruce <bbuttrick@hudsonnh.gov>  
**Cc:** Gerald Prunier <gprunier@prunierlaw.com>  
**Subject:** Re: 181 - 189 Webster St Notice of Violations

Hi Bruce,

In regards to your letter of 9/30/19, I met with Attorney Prunier today and he will be in touch regarding these matters. I would like to clarify that I was not aware of these violations as your letter insists.

1. I will notify the tenants to have this cleaned up.
2. I will engage Keech Nordstrom to address the buffer of the wetlands.
3. I will ask the tenants to see if any equipment exceeds 13,000 lbs and address if so.
4. To the best of my knowledge the previous landscaping company, Tamarak, has been doing this same exact operation as Regis and I will get a letter confirming so.
5. To the best of my knowledge since I purchased this property it has always been a residential 3 family. I will find out from the previous owner who his tenants were.

6. To the best of my knowledge since I purchased this property it has been utilized in this manner. In fact all but 2 of the tenants were existing when I purchased the property. I will do some additional investigation and get back to you.

7. As far as I know Sam and Anna's, who was the tenant during the time of the court order, prepared food on site. I am working with Attorney Prunier on getting more information regarding the past business of the store.

I would request the Town to grant additional time to gather all the information so we can resolve any disputed issues.

Thank you,  
Vatche

On Tue, Oct 1, 2019 at 2:40 PM Vatche Manoukian <[vatcheoffice@gmail.com](mailto:vatcheoffice@gmail.com)> wrote:

Hi Bruce,

Jessica will be in this week to get the sign permit taken care of. What is the fee? We did not know we needed a permit to just change the plastic insert and bulbs.

-Vatche

On Mon, Sep 30, 2019 at 2:09 PM Buttrick, Bruce <[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)> wrote:

Vatche,

Thank-you.

Please get the replacement lens (sign permit) application ASAP.

<https://www.hudsonnh.gov/sites/default/files/fileattachments/building/page/1551/is-signpermit.pdf>

Regards,

Bruce

*Bruce Buttrick, MCP*

*Zoning and Code Enforcement*



Land Use Division





# TOWN OF HUDSON

## Land Use Division



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

September 30, 2019

Certified 7016 2710 0000 0595 2469  
and USPS 1<sup>st</sup> class

Derry & Webster, LLC  
Attn: Vatche Manoukian, Manager  
253 Main Street  
Nashua, NH 03060

RE: Notice of Zoning Ordinance Violations  
Hudson Tax Map 147, Lot 016  
Property Addresses: 181 A-B, 185 A-C, 187 & 189 Webster Street

Dear Mr. Manoukian:

As I know you are well aware, the above referenced Property has numerous zoning violations which need to be resolved. The Town is now at a point where judicial action is imminent. However, before filing suit, I am writing to you one last time to address the specific violations of which I am aware in the hopes that you will voluntarily work with the Town to bring your property into compliance with the Hudson Zoning Ordinance ("HZO").

### Junk Yard Violations

The Property is littered with junk and debris. HZO § 334-13 (A) prohibits the operation of a junkyard in any district. HZO § 334-13 (B) expressly provides that the outdoor storage of any "quantity of waste, refuse, junk or ashes" is prohibited in any district. Among the specific types of junk that are not allowed are junked, dismantled or wrecked motor vehicles or motor vehicle parts, including unregistered motor vehicles and/or motor vehicles no longer intended or suitable for highway use. In order for the Property to comply with the HZO, the junk has to be removed from the Property. I would further note that these same issues are also violations of RSA § 236:111 *et seq.*

### Wetland Conservation District

The Property is located within the Wetland Conservation District, HZO 334-33 *et seq.* There are large stockpiles of earthen materials, motor vehicles, junk, and other personal property items possibly encroaching within the wetlands and wetland buffer on the Property. Please be mindful  
*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

E11

that if there are any encroachments, that these encroachments must be removed from the Wetland Conservation District. Further, any damage to the Wetland Conservation District must be remediated and the area within the Wetland Conservation District restored to its natural state. Prior to commencing any work within the Wetland Conservation District to remediate and restore the wetlands and wetland buffer, you will need to have a remediation plan approved by the Zoning Board of Adjustment. Can you please schedule with me a date and time to evaluate and determine if the Wetland Conservation District has been compromised.

#### Heavy Equipment and Commercial Equipment

HZO § 334-15 (B)(2) prohibits the parking and storage of vehicles or trailers with a gross vehicle weight in excess of 13,000 pounds. The parking and storage of commercial vehicles is not a permitted accessory use according to HZO § 334-22. The heavy equipment and commercial vehicles have to be removed from the Property.

#### Landscaping Business

The nonconforming business use of the Property for the "planting, growing, and selling of nursery stock" is an allowed use. *See Town of Hudson v. Samuel Tamposi, et al.*, Hillsborough County Superior Court 89-E-00727 (1989). However, the current landscaping business has expanded far beyond the permissible scope of the permitted use, including storage and stockpiling of landscape, hardscape, mulch and stone materials. Continuation of this business in its current capacity requires a variance from the Zoning Board of Adjustment and Site Plan approval from the Planning Board, in the absence of which, the existing use must be discontinued.

#### Residential Use

The existing nonconforming residential use is permitted, but only permitted as a two (2) family. I believe the residence currently has three (3) units. Expansion of the residential use will also require a variance from the Zoning Board of Adjustment and Site Plan approval from the Planning Board, in the absence of which, the third unit must be removed.

#### Warehouse and Garage

The existing warehouse and garage structures on the Property appear to have been utilized originally as part of the agricultural use of the Property. The Town has no records of any permissible commercial use ever having been authorized which was not part of the agricultural use when the Property may have been part of a working farm. As is, the commercial uses are not permitted and will require, as above, a variance from the Zoning Board of Adjustment and Site Plan approval from the Planning Board. We would be glad to discuss with you the historical uses of these structures and the possibility that various uses may be grandfathered or permitted as nonconforming uses. However, in order to do so, I will need to know how these structures are being utilized and by whom. Otherwise, I can only conclude that the existing uses are illegal and therefore must be discontinued.

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

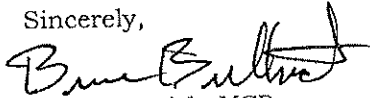
Convenient Store

The existing convenient store is an allowed use of the Property by virtue of a variance. However, the scope of that use is questionable, which appears to have evolved over the years from an agricultural farm stand with the sale of convenience items allowed by variance to its current state. Per my recent administrative decisions, the expansion of the convenient store to include a restaurant and/or food service establishment is not permitted and will require a variance from the Zoning Board of Adjustment and Site Plan approval from the Planning Board.

I recognize that these violations cannot be cured overnight. I want to provide you with the opportunity to either pursue the permits and approvals you do need, such as variances and site plan approval, or abate the violations. However, regardless of how you would like to proceed, I need you to communicate with me regarding your intentions, your plans for compliance, and we need to agree upon a reasonable timeframe, which I am glad to discuss. However, if I do not hear from you within the next ten (10) days, I will assume you have no desire to bring the Property into compliance, and I will have no other alternative than to proceed with an appropriate code enforcement action.

Please be further advised that in accordance with the HZO and RSA § 676:17, you are subject to a civil penalties of \$275.00 first offenses, and \$550.00 for subsequent offenses, for each day that your Property is found to continue in violation of the HZO after the date you receive this notice, with each day that the violations continue being a separate offense. If the Town must pursue legal action against you, the Town shall be entitled to recover its costs and reasonable attorney fees if it is found to be a prevailing party. Thus, I hope you will contact me to discuss a resolution.

Sincerely,



Bruce Buttrick, MCP

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

cc: Public Folder  
Brian Groth – Town Planner  
Dave LeFevre – Town Counsel  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*



# TOWN OF HUDSON

## Land Use Division



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

### Zoning Determination #19-019 Denial of Building Permit 2019-00137

March 12, 2019

Jessica Manoukian  
253 Main Street  
Nashua, NH 03060

Re: 181A Webster Street Map 147 Lot 016-000  
**District: Residential Two (R-2)**

Dear Ms. Manoukian,

**Your request:** Is this building able to continue as a convenience store which includes a new kitchen for take-out, as well as a new ice cream parlor.

#### **Zoning Review / Determination:**

This review will only address the existing convenience store (unit A) in the building at 181 Webster Street. This is an existing lot of record having 10.56 Acres and 562 ft of frontage. This lot is existing conforming as to area and frontage, as 1 Acre is required and 150 ft of frontage is required.

The current use of this building is as a mixed use. Unit A: (C7/C8) retail food / retail sale of beer and wine and Unit B: (C17) business office for the landscaping business on site. Both operations are existing non-conforming, and without any site plan approvals. The April 5, 1990 Superior Court consent decree confirmed the basis of the existing use as a non-conforming convenience store: "...and operation of the convenience store as it has been operated in the past, in the farmstand building."

Your proposed plans submitted with the building permit application do not depict what we discussed and agreed to at the site meeting 3/7/19: for the rebuild/fit-up for a convenience store as was. The plans show kitchen and food prep areas not approved or allowed.

Our interpretation this existing non-conforming convenience store is one that had off-site prepared deli sandwiches etc. available for retail sale. There have been attempts for onsite cooking of breakfast sandwiches but a July 18, 2008 letter from the Fire Dept. instructed the owner/tenant to cease such operation of cooking that produced smoke or grease (violation of NFPA 1, Chapter 50, Section 2.1). The store appears to also have had ice cream products for sale, according to proposed and approved sign

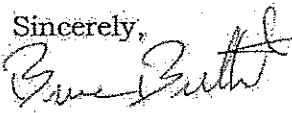
*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*



permits, but it is our understanding that it never constituted an expansion of the convenience store to include an ice cream parlor.

Any increase of the existing retail sale of off-site prepared foods, to on-site food preparation (restaurant, fast-food or drive-in) activity identified as D-16 in the Table of Permitted Principal Uses would constitute an expansion and change of use, and according to §334-29 Expansion or enlargement of nonconforming uses, which states: "A nonconforming use shall not be extended or enlarged, except by variance." The increased take-out activity/use with the installation of a kitchen, constitutes the preparation of the sandwiches and food on-site, thereby an expansion of the convenience store and would require a variance by the Zoning Board of Adjustment. The increased take-out activity/use would also require Site Plan Review by the Planning Board.

Sincerely,



Bruce Buttrick, MCP

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

cc: Public Folder  
Brian Groth – Town Planner  
J. Kennedy – Permit Technician  
Dep. O'Brien – Inspectional Services  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

**ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE**

**REQUEST FOR REVIEW/COMMENTS:**

Case: 147-016 (01-23-20)

Property Location: 181 A Webster Street

*For Town Use*

Plan Routing Date: 01/07/2020 Reply requested by: 01/13/2020 ZBA Hearing Date: 01/23/2020

I have no comments  I have comments (see below)

EZD Name: Elvis Dhima, P.E. Date: 01/07/2020  
(Initials)

DEPT:  Town Engineer  Fire/Health Department  Town Planner

I have the following comments:

1. Applicant shall provide a minimum 500 gallons grease trap.
2. Applicant shall provide adequate marked parking spaces, including handicap, dedicated to customers.

**ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE**

**REQUEST FOR REVIEW/COMMENTS:**

Case: 147-016 (01-23-20)

Property Location: 181 A Webster Street

*For Town Use*

Plan Routing Date: 01/07/2020 Reply requested by: 01/13/2020 ZBA Hearing Date: 01/23/2020

I have no comments

I have comments (see below)

RMB  
(Initials)

Name:

RM. TBA

Date: 01/14/2020

DEPT:

Town Engineer

Fire/Health Department

Town Planner

Fire and Health concerns will be need to be addressed with the Inspectional Services Area and the State of NH if the project is approved by the Zoning Board of Adjustment.

**ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE**

**REQUEST FOR REVIEW/COMMENTS:**

Case: 147-016 (01-23-20)

Property Location: 181 A Webster Street

*For Town Use*

Plan Routing Date: 01/07/2020 Reply requested by: 01/13/2020 ZBA Hearing Date: 01/23/2020

I have no comments  I have comments (see below)

Name: Brian Groth Date: 01/15/2020

(Initials)

DEPT:  
 Town Engineer  Fire/Health Department  Town Planner

If the variance is granted, it is recommended to be conditioned upon site plan approval prior to issuance of a Certificate of Occupancy for the requested use.

Direct input & background on the site from Attorney LeFevre is recommended, as we are currently working with the land owner to resolve several violations.

H

**ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW  
TOWN OF HUDSON, NEW HAMPSHIRE**

REQUEST FOR REVIEW/COMMENTS:

Case: 147-016 (01-23-20)

Property Location: 181 A Webster Street

*For Town Use*

Plan Routing Date: 01/07/2020 Reply requested by: 01/13/2020 ZBA Hearing Date: 01/23/2020

I have no comments     I have comments (see below)

BB Name: Bruce Buttrick **ZONING ADMINISTRATOR** Date: 01/15/2020  
(Initials)

DEPT:  Town Engineer     Fire/Health Department     Town Planner

As you are aware the subject property is under code enforcement for other "unrelated" code violations on this property. The Owner has been co-operating in bringing this property with longstanding issues to closure and abatement, such as the request for this variance. The focus for this Hearing should only be on the convenience store and the portion of the property utilized by the convenience store, i.e. parking, traffic entering and exiting, etc.

As for ice cream for "take out", that is generally consumed on the premises, so that would be the type of thing that the Planning Board should/would need to evaluate, I do think the ZBA can (and should) consider the bigger picture under the variance analysis, feasibility, effect on neighbors, etc., regarding where the customers will eat their ice cream, etc.

If the ZBA were inclined to grant the variance, the variance should be conditioned upon a site plan approval from the Planning Board.



TOWN OF HUDSON

JAN 06 2020

APPLICATION FOR A VARIANCE

To: Zoning Board of Adjustment  
Zoning Department  
Town of Hudson

Entries in this box are to be filled out by  
Land Use Division personnel

Case No. 147-016 (1-23-20)

Date Filed 1-6-20

Name of Applicant Alfred Sapochnik Map: 147 Lot: 016<sup>-000</sup> Zoning District: R-2

Telephone Number (Home) 603 964-5155 (Work) \_\_\_\_\_

Mailing Address 3 B Yale Hud NH 03051

Owner [Signature] MEMBER

Location of Property 181-A Webster St  
(Street Address)

Signature of Applicant [Signature] Date 1/3/2020

Signature of Property-Owner(s) [Signature] MEMBER Date 1-5-2020

NOTE: Fill in all portions of the Application Form(s) as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate. If you are not the property owner, you must provide written documentation signed by the property owner(s) to confirm that the property owner(s) are allowing you to speak on his/her/their behalf or that you have permission to seek the described variance.

Items in this box are to be filled out by Land Use Division personnel

<b>COST:</b>		Date received: <u>1/6/20</u>
Application fee:	\$130.00	
<u>12</u> Direct Abutters x \$4.05 =	<u>48.60</u>	
<u>3</u> Indirect Abutters x \$0.55 =	<u>1.65</u>	
<b>Total amount due:</b>	<u>\$180.25</u>	Amt. received: \$ <u>180.25</u>
		Receipt No.: <u>581,036</u>
Received by: <u>[Signature]</u>		
By determination of the Zoning Administrator or Building Inspector, the following Departmental review is required:		
<input checked="" type="checkbox"/> Engineering	<input checked="" type="checkbox"/> Fire Department	<input checked="" type="checkbox"/> Health Officer
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Planner

chk# 183  
0.25 cash.

# TOWN OF HUDSON, NH NOTICE TO APPLICANTS

The following requirements/checklist pertain to the Town of Hudson, NH, Zoning Board of Adjustment applications as applicable:

- | Applicant<br>Initials |  | Staff<br>Initials  |
|-----------------------|--|--|
| <u>AS</u>             | The applicant must provide 13 copies including the original of the filled-out application form, together with this checklist and any required attachments listed. (Paper clips, no staples)  | <u>TG</u>  |
| <u>AS</u>             | Before making the 13 copies, please review the application with the Zoning Administrator or staff.   | <u>TG</u>  |
| <u>AS</u>             | A separate application shall be submitted for each request, with a separate application fee for each request i.e. <u>Variance</u> , Special Exception, Home Occupation Special Exception, Wetland Special Exception, Appeal from an Administrative Decision, and Equitable Waiver but only one abutter notification fee will be charged for multiple requests. If paying by check, make the check payable to the Town of Hudson.   | <u>TG</u>  |
| <u>AS</u>             | If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.)  | *N/A<br>*owner(s)<br>to be @ZBA<br>1/23/20 mtg<br>per applicant. |
| <u>AS</u>             | Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) prepared by applicant, with the proper mailing addresses, must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained from the assessor's office. (NOTE: the Land Use Division cannot process your application without the abutter lists. It is the applicant's responsibility to ensure that the abutter lists are complete and correct. If at the time of the hearing any applicable property owner is found not to have been notified because the lists are incomplete or incorrect, the Zoning Board will defer the hearing to a later date, following notification of such abutters.) | <u>TG</u>  |
| <u>AS</u>             | A copy of both sides of the assessor's card shall be provided. (NOTE: these copies are available from the Assessor's Office)   | <u>TG</u>  |
| <u>AS</u>             | A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.   | <u>TG</u>  |
| <u>AS</u>             | For a Wetland Special Exception, a letter or a copy of the relevant decision from the Hudson Conservation Commission shall be attached to the application for existing single-family and duplex residential uses. All other Wetland Special Exceptions (multifamily, commercial, or industrial uses) must have letters both from the Conservation Commission and from the Planning Board.  | <u>N/A</u>   |

**PLOT PLAN-**

\* Site plan of existing conditions will be available @ 1/23/20 ZBA mtg per applicant.

Floor Plan

Except for requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a copy of a certified plot plan from a licensed land surveyor. The required plot plan shall include all of the items listed below. Pictures and construction plans will also be helpful. (NOTE: it is the responsibility of the applicant to make sure that all of the requirements are satisfied. The application may be deferred if all items are not satisfactorily submitted):

attached - TG

- a) AS The plot plan shall be drawn to scale on an 8 1/2" x 11" or 11" x 17" sheet with a North pointing arrow shown on the plan. \_\_\_\_\_
- b) \_\_\_\_\_ The plot plan shall be up-to date and dated, and shall be no more than three years old. \_\_\_\_\_
- c) \_\_\_\_\_ The plot plan shall have the signature and the name of the preparer, with his/her/their seal. \_\_\_\_\_
- d) \_\_\_\_\_ The plot plan shall include lot dimensions and bearings, with any bounding streets and with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property. (NOTE: copies of the GIS map can be obtained at the Land Use Division.) \_\_\_\_\_
- e) \_\_\_\_\_ The plot plan shall include the location and dimensions of existing or required services, the area (total square footage), all buffer zones, natural features, any landscaped areas, any recreation areas, any safety zones, all signs, streams or other wetland bodies, and any drainage easements. \_\_\_\_\_
- f) \_\_\_\_\_ The plot plan shall include all existing buildings or other structures, together with their dimensions and the distances from the lot lines, as well as any encroachments. \_\_\_\_\_
- g) \_\_\_\_\_ The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments. \_\_\_\_\_
- h) \_\_\_\_\_ The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance. \_\_\_\_\_
- i) \_\_\_\_\_ The plot plan shall indicate all parking spaces and lanes, with dimensions. \_\_\_\_\_

~~The applicant has signed and dated this form to show his/her awareness of these requirements.~~

[Signature]  
Signature of Applicant(s)

1-2-20  
Date

The Land Use Division will schedule a public hearing at the next available meeting of the Hudson Zoning Board of Adjustment for your properly-completed application. Applications are scheduled on a first-come, first-served basis. Public notice of the hearing will be posted on public bulletin boards in the Town Hall, the Post Office, and the Rogers Library and also printed in a newspaper, and a notice will be mailed to the applicant, all abutters, and any other parties whom the Board may deem to have an interest.

After the public hearing, the Board will deliberate and then reach a decision either to grant the request (perhaps with stipulations to make it palatable) or to deny the request—or to defer final action to another meeting, or perhaps to accept a request for withdrawal. You will be sent a Notice of Decision during the following week.

If you believe that the Board's decision is wrong, you have the right to appeal. In addition, any third party/parties affected by the decision also has/have the right to appeal the decision of your case. To appeal, you must first ask the Board for a rehearing; this motion for rehearing may be in the form of a letter to the Board. The rehearing request must be made in writing within thirty (30) days following the Board's decision, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The Board may grant such a rehearing if, in the Board's opinion, good reason is stated in the motion. In general, the Board will not allow a rehearing unless a majority of its sitting members conclude either that the protested decision was illegal or unreasonable or that the request for rehearing demonstrates the availability of new evidence that was not available at the original hearing. The Board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal the decision to the Court(s). When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters.

Please refer to NH RSA Chapter 677 for more detail on rehearing and appeal procedures.

**ALL DIRECT ABUTTERS**

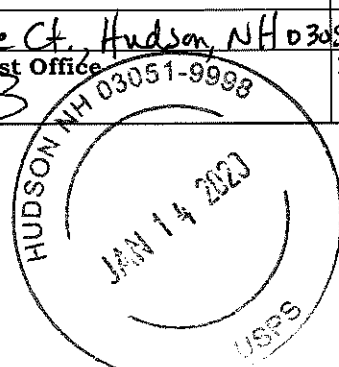
List name(s) and mailing addresses of the owner(s) of record of the property and all direct abutters as of the time of the last assessment of taxation made by the Town of Hudson, including persons whose property is either contiguous or separated from the subject tract of land by a street or stream. If at the time of your hearing any applicable property owner is found not to have been notified because your lists are incorrect or incomplete, the Zoning Board will defer your hearing to a later date, following notification of such abutters. (Use additional copies of this page if necessary)

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	013	Lionel + Kerianne St. Laurent	199 Webster St Hudson, NH 03051
156	007	Susan J. Aucoin	177 Webster St Hudson, NH 03051
147	001	Zhibo Zhao Jing Bai	1 Shoreline Dr Hudson, NH 03057
147	015	Michael Hagan	180 Hobbs St Pepperell, MA 01463
147	001	Florence Nicolas	1 Scenic Lane Hudson, NH 03051
147	001	Manuel E. Pintado Jr Karina E. Pintado	2 Scenic Lane Hudson, NH 03051
147	001	Jeffrey J. + Kate M. Trainsor	2 Shoreline Dr Hudson, NH 03051
147	016	Derm + Webster, LLC	253 Main St Nashua, NH 03060
147	017	Lexington Place Condo c/o Jack Joyce	24 Lexington Court Hudson, NH 03051
147	029	Abbeys Landing Condos c/o Alfred Salvi	32 Bowles Circle Hudson, NH 03051
156	008	Reeds Brook Homeowner Assoc c/o Sandra Pottle, Treasurer	8 Madeline Ct Hudson, NH 03051
156	006	Spur King River, LLC	PO Box 418 Amherst, NH 03031




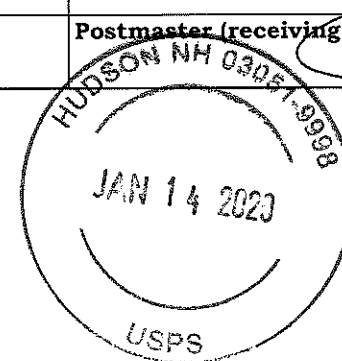


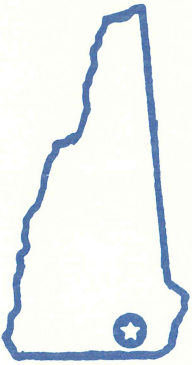
SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 Variance 181 A Webster St. Map 147/Lot 016-000	1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	1/23/2020 ZBA Meeting	
1	7019 0700 0000 2993 6014	LIONEL & KERIANNE ST. LAURENT 199 WEBSTER STREET, HUDSON, NH 03051	ABUTTER NOTICE SENT	
2	7019 0700 0000 2993 6021	SUSAN J. AUCOIN 177 WEBSTER ST., HUDSON, NH 03051	ABUTTER NOTICE SENT	
3	7019 0700 0000 2993 6038	ZHIBO ZHAO; JING BAI 1 SHORELINE DR., HUDSON, NH 03051	ABUTTER NOTICE SENT	
4	7019 0700 0000 2993 6045	MICHAEL J. HAGAN 180 HOLLIS ST., PEPPERELL, MA 01463	ABUTTER NOTICE SENT	
5	7019 0700 0000 2993 6052	FLORENCE NICOLAS 1 SCENIC LN., HUDSON, NH 03051	ABUTTER NOTICE SENT	
6	7019 0700 0000 2993 6069	MANUEL E. PINTADO JR; KARINA E. PINTADO 2 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOTICE SENT	
7	7019 0700 0000 2993 6076	JEFFREY J. & KATE M. TRAINOR 2 SHORELINE DR., HUDSON, NH 03051	ABUTTER NOTICE SENT	
8	7019 0700 0000 2993 6083	DERRY & WEBSTER LLC 253 MAIN ST., NASHUA, NH 03060	APPLICANT/OWNER-NOTICE SENT	
9	7019 0700 0000 2993 6090	LEXINGTON PLACE CONDOMINIUMS C/O JACK JOYCE 24 LEXINGTON COURT, HUDSON, NH 03051	ABUTTER NOTICE SENT	
10	7019 0700 0000 2993 6106	ABBIE'S LANDING HOMEOWNERS; C/O ALFRED SALVI 32 BOWES CIRCLE, HUDSON, NH 03051	ABUTTER NOTICE SENT	
11	7019 0700 0000 2993 6113	REEDS BROOK HOMEOWNERS ASSOC.; C/O SANDRA POTTLE - TREASURER 8 MADELEINE CT., HUDSON, NH 03051	ABUTTER NOTICE SENT	
12	7019 0700 0000 2993 6120	SPARKLING RIVER, LLC PO BOX 418, AMHERST, NH 03031	ABUTTER NOTICE SENT	
13	7019 0700 0000 2993 6137	Alfred Sapochetti, 38 Yale Ct., Hudson, NH 03051	Applicant notice sent	
	Total Number of pieces listed by sender 13	Total number of pieces rec'vd at Post Office 13	Postmaster (receiving Employee)	



Direct Certified

<b>SENDER:</b>	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 147-016 Variance 181 A Webster St. Map 147/Lot 016-000 1 of 1
	<b>ARTICLE NUMBER</b>	<b>Name of Addressee, Street, and post office address</b>	<b>1/23/2020 ZBA Meeting</b>
1	N/A-mailed First Class	PAUL & KIMBERLY MOCERI 6 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOTICE SENT
2	N/A-mailed First Class	BRIAN D. PIGEON 197 WEBSTER STREET, HUDSON, NH 03051	ABUTTER NOTICE SENT
3	N/A-mailed First Class	WESTCHESTER PLACE CONDOMINIUMS 7 WESTCHESTER COURT, HUDSON, NH 03051	ABUTTER NOTICE SENT
4			
5			
6			
7			
8			
9			
10			
11			
	<b>Total Number of pieces listed by sender 3</b>	<b>Total number of pieces rec'vd at Post Office</b> 5	<b>Postmaster (receiving Employee)</b> 





**TOWN OF HUDSON**  
ZONING BOARD OF ADJUSTMENT

**APPLICANT NOTIFICATION**

12 School Street

Hudson, New Hampshire 03051

603/886-6008



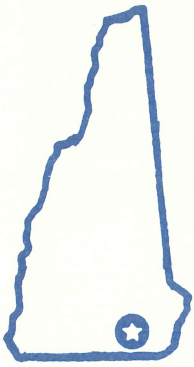
You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **01/23/20** starting at 7:00 P.M., Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

- 1. Case 147-016 (01-23-20): Alfred Sapochetti, 3B Yale Ct., Hudson, NH requests a Use Variance for 181 A Webster St., Hudson, NH to prepare food (hot & cold) on site for take-out and serve ice cream for take-out, a use not permitted. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V, §334-21, Table of Permitted Principal Uses].**

Please be advised, the above notice is being sent to all abutters listed on the application. You, or a representative, are expected to attend the hearing, and make a presentation.

Respectfully,

Bruce Buttrick  
Zoning Administrator



**TOWN OF HUDSON**  
ZONING BOARD OF ADJUSTMENT

**ABUTTER NOTIFICATION**

12 School Street

Hudson, New Hampshire 03051

603/886-6008



You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **01/23/20** starting at 7:00 P.M., Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

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Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting for the purpose of providing information or comments on the proposal.

A full copy of this Application is available for your review on the Hudson Town Hall website: [www.hudsonnh.gov](http://www.hudsonnh.gov) or in the Land Use Department located at Hudson Town Hall.

Respectfully,

Bruce Buttrick  
Zoning Administrator

APPLICATION FOR A VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article ✓ of HZO Section(s) 334-21 in order to permit the following change or use:

Prepare food on site for take out, hot + cold  
serve ice cream for take out  
use not permitted in table of permitted principal  
uses

You must attach to this application a copy of some form of determination that the proposed change or use is not permitted without a variance, consisting of a denial in writing of a building permit or use authorization by the Zoning Administrator, with the reasons for the denial being cited thereon.

**FACTS SUPPORTING THIS REQUEST:**

The power to grant variances from the local zoning ordinances is established in NH RSA 674:33 I (b), as follows:

- I. "The Zoning Board of Adjustment shall have the power to: ....
  - (b) Authorize upon appeal in specific cases a variance from the terms of the zoning ordinance if:
    - (1) The variance will not be contrary to the public interest;
    - (2) The spirit of the ordinance is observed;
    - (3) Substantial justice is done;
    - (4) The values of surrounding properties are not diminished; and
    - (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
      - (A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
        - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
        - (ii) The proposed use is a reasonable one.
      - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction of use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.



New Hampshire case law has established, on the basis of the preceding statute and/or its precedent versions, that all of the following requirements must be satisfied in order for a Zoning Board of Adjustment to grant a variance. You must demonstrate by your answers in the following blanks that you do or will meet each and every requirement; do not presume or say that a requirement does not apply, or your request will be disqualified. Note that your answers here can be summary in nature, and you can provide additional testimony at the time of your hearing.

1. Granting of the requested variance will not be contrary to the public interest, because:  
(Explain why you feel this to be true—keeping in mind that the proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”)

THE NEIGHBORHOOD SUPPORTS THE FOOD TAKE OUT OF THE STORE IN THE PAST THIS STORE USED TO PREPARE FOOD ON SITE & SELL IT FOR TAKE OUT AND ACCORDING TO THE TOWN THEY NEVER PULLED A PERMIT SO THEREFORE THE NEW OWNERS ARE DOING EVERYTHING LEGALY

2. The proposed use will observe the spirit of the ordinance, because:  
(Explain why you feel this to be true—keeping in mind that, as detailed above, the proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”)

THIS STORE WAS AT ITS PRESENT LOCATION PRIOR THE NEIGHBORHOOD WAS BUILT & WAS SELLING PREPARED FOOD ON SITE THE NEW OWNER SPENT IN EXCESS OF \$100,000 TO REBUILD THE ENTIRE STORE TO MATCH THE NEIGHBORHOOD

3. Substantial justice would be done to the property-owner by granting the variance, because:  
(Explain why you believe this to be true—keeping in mind that the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

BY GRANTING THIS VARIANCE FOR FOOD PREPARATION WILL CONVINCE THE NEIGHBORHOOD FOR BUYING PREPARED FOOD & ICE CREAM WITHOUT TRAVELING FAR

4. The proposed use will not diminish the values of surrounding properties, because:  
(Explain why you believe this to be true—keeping in mind that the Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

THE PROPERTY VALUES SHOULD NOT BE EFFECTED IF THE CONTRARY IT WILL ENHANCE THE VALUE BECAUSE OF THE CONVENIENCE

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

(Explain why you believe this to be true—keeping in mind that you must establish that, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a “fair and reasonable” way *and also* that you must establish that the special conditions of the property cause the proposed use to be reasonable. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance.)

The current permitted use is being limited due to the restrictions of not being able to prepare food on site. The proposed use is a reasonable use and will not cause any harm or detriment to the abutters. Due to not being able to prepare food on site it is causing a hardship to the full potential of the store.

Requests before the Zoning Board of Adjustment may require connection to the municipal sewer system. Please contact the Town Engineer's Office prior to submittal of this application to determine if connection is required or will be allowed, together with the procedure for such application.



# TOWN OF HUDSON

3/13/19 (TC)



## Land Use Division

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

### Zoning Determination #19-019 Denial of Building Permit 2019-00137

March 12, 2019

Jessica Manoukian  
253 Main Street  
Nashua, NH 03060

Re: 181A Webster Street Map 147 Lot 016-000  
**District: Residential Two (R-2)**

Dear Ms. Manoukian,

**Your request:** Is this building able to continue as a convenience store which includes a new kitchen for take-out, as well as a new ice cream parlor.

#### **Zoning Review / Determination:**

This review will only address the existing convenience store (unit A) in the building at 181 Webster Street. This is an existing lot of record having 10.56 Acres and 562 ft of frontage. This lot is existing conforming as to area and frontage, as 1 Acre is required and 150 ft of frontage is required.

The current use of this building is as a mixed use. Unit A: (C7/C8) retail food / retail sale of beer and wine and Unit B: (C17) business office for the landscaping business on site. Both operations are existing non-conforming, and without any site plan approvals. The April 5, 1990 Superior Court consent decree confirmed the basis of the existing use as a non-conforming convenience store: "...and operation of the convenience store as it has been operated in the past, in the farmstand building."

Your proposed plans submitted with the building permit application do not depict what we discussed and agreed to at the site meeting 3/7/19: for the rebuild/fit-up for a convenience store as was. The plans show kitchen and food prep areas not approved or allowed.

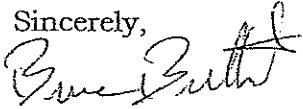
Our interpretation this existing non-conforming convenience store is one that had off-site prepared deli sandwiches etc. available for retail sale. There have been attempts for onsite cooking of breakfast sandwiches but a July 18, 2008 letter from the Fire Dept. instructed the owner/tenant to cease such operation of cooking that produced smoke or grease (violation of NFPA 1, Chapter 50, Section 2.1). The store appears to also have had ice cream products for sale, according to proposed and approved sign

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

permits, but it is our understanding that it never constituted an expansion of the convenience store to include an ice cream parlor.

Any increase of the existing retail sale of off-site prepared foods, to on-site food preparation (restaurant, fast-food or drive-in) activity identified as D-16 in the Table of Permitted Principal Uses would constitute an expansion and change of use, and according to §334-29 Expansion or enlargement of nonconforming uses, which states: "A nonconforming use shall not be extended or enlarged, except by variance." The increased take-out activity/use with the installation of a kitchen, constitutes the preparation of the sandwiches and food on-site, thereby an expansion of the convenience store and would require a variance by the Zoning Board of Adjustment. The increased take-out activity/use would also require Site Plan Review by the Planning Board.

Sincerely,



*Bruce Buttrick, MCP*

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

cc: Public Folder  
Brian Groth – Town Planner  
J. Kennedy – Permit Technician  
Dep. O'Brien – Inspectional Services  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*

Town of Hudson, NH  
**Certificate of Occupancy**



Hudson Fire - Inspectional Services Division  
12 School Street  
Hudson, NH 03051  
603-886-6005

**Owner, Lessee or Occupant:** DERRY & WEBSTER LLC

**Location of Work:** 181 WEBSTER ST  
(No. and Street)

A  
(Unit or Building)

**Desc of Work:** Renovations of a convenience store (2,207 sq.ft.)

**Map\Lot:** 147-016-000

**District:** R-2

**Permit(s):** 2019-00201, 2019-00201-1-EL, 2019-00201-2-PL

**Use Group:**

**Fire Sprinkler System Required:** NO

**Fire Alarm System Required:** NO

---

This is to certify that DERRY & WEBSTER LLC  
has\have obtained all final inspections and has been found to substantially conform to all regulations  
and codes and is hereby approved for occupancy and use, as limited or otherwise noted below.

This Certificate of Occupancy is issued prior to occupancy. Any change of occupant, use or modification to the structure shall require a  
new Certificate of Occupancy.

**THIS CERTIFICATE OF OCCUPANCY IS APPROVED FOR A CONVENIENCE STORE ONLY, NO ON-SITE FOOD  
PREPARATION**

**Date of Issue:** 11/14/2019

**Signed:**



147 016 000  
 MAP LOT SUB

4 of 4 COMMERCIAL  
 CARD Hudson

Total Card / Total Parcel  
 APPRAISED: 256,000 / 964,400  
 USE VALUE: 256,000 / 964,400  
 ASSESSED: 256,000 / 964,400

PROPERTY LOCATION

No	Alt No	Direction/Street/City
181	A-B	WEBSTER ST, HUDSON

OWNERSHIP

Owner 1:	DERRY & WEBSTER LLC
Owner 2:	
Owner 3:	
Street 1:	253 MAIN ST.
Street 2:	
Twn/City:	NASHUA
St/Prov:	NH Cntry
Postal:	03060

PREVIOUS OWNER

Owner 1:	
Owner 2:	
Street 1:	
Twn/City:	
St/Prov:	
Postal:	

NARRATIVE DESCRIPTION

This parcel contains 10.256 ACRES of land mainly classified as COMM-RES with a CONV MARKET Building built about 1975, having primarily VINYL Exterior and 3525 Square Feet, with 2 Units, 0 Bath, 0 3/4 Bath, 2 HalfBaths, 0 Rooms, and 0 Bdrm.

OTHER ASSESSMENTS

Code	Descrip/No	Amount	Com. Int

PROPERTY FACTORS

Item	Code	Description	%	Item	Code	Description
Z	R2	RESD TWO		water	3	TOWN WATE
o				Sewer	2	TOWN SEWE
n				Electri		
Census:				Exmpt		
Flood Haz:						
D				Topo		
s				Street		
t				Gas:		

IN PROCESS APPRAISAL SUMMARY

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value
340	0.000	256,000			256,000
Total Card		0.000	256,000		256,000
Total Parcel		10.256	525,200	74,200	365,000
Source:		Market Adj Cost	Total Value per SQ unit /Card:		72.62
			/Parcel:		52.16

PREVIOUS ASSESSMENT

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes

BUILDING PERMITS

Date	Number	Descrip	Amount	C/O	Last Visit	Fed Code	F. Descrp	Comment
11/5/2019	2019-01099	SIGNS		C				
11/4/2019	2019-01098	SIGNS		C				
8/23/2019	2019-00280	PLUMBING		C				
5/28/2019	2019-00280	ADDITION		O				
4/22/2019	2019-00280	INT RENO		O				
3/27/2019	2019-00201	ELECTRIC		C				
3/27/2019	2019-00201	PLUMBING		C				
3/22/2019	2019-00201	INT RENO		O				
1/24/2019	2019-00012	INT RENO	600	C				

ACTIVITY INFORMATION

Date	Result	By	Name
4/2/2019	Permit Visit	12	TECH ASMNT
1/25/2019	Permit Visit	12	TECH ASMNT
6/11/2017	Field Review	9	PVA
5/10/2012	Field Review	9	PVA
1/7/2010	Permit Visit	10	APPRAISER II
7/10/2007	Other Change	9	PVA
10/17/2001	Meas/Inspect	0	PATRIOT
12/7/1990	Inspected	2	AVITAR

LAND SECTION (First 7 lines only)

Use Code	Description	LUC Fact	No of Units	Depth / PriceUnits	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adj	Neigh	Neigh Infl	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %	Appraised Value	Alt Class	%	Spec Land	J Code	Fact	Use Value	Notes
340	OFFICE		0		SITE ACRE SITE			0	0.	0.00	RD													



Patriot Properties Inc.

USER DEFINED

Prior Id # 1:	0023
Prior Id # 2:	0017
Prior Id # 3:	0002
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
ASR Map:	
Fact Dist:	
Reval Dist:	
Year:	
Land Reason:	
Bld Reason:	
Civil District:	
Ratio:	

PRINT

Date	Time
01/02/20	13:25:29

LAST REV

Date	Time
12/03/19	11:58:49

amym	2569
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Total AC/HA:	0.00000	Total SF/SM:	0	Parcel LUC:	031	COMM-RES	Prime NB Desc	RES AV/FR	Total:		Spl Credit:		Total:	
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**EXTERIOR INFORMATION**

Type:	65 - CONV MARKET		
Sty Ht:	1 - ONE STY		
(Liv) Units:	2	Total:	9
Foundation:	6 - SLAB		
Frame:	1 - WOOD		
Prime Wall:	04 - VINYL		
Sec Wall:		%	
Roof Struct:	1 - GABLE		
Roof Cover:	1 - ASPH SHING		
Color:	RED		
View / Desir:			

**GENERAL INFORMATION**

Grade:	D - FAIR		
Year Bilt:	1975	Eff Yr Bilt:	
Alt LUC:		Alt %:	
Jurisdic:		Fact:	
Const Mod:			
Lump Sum Adj:			

**INTERIOR INFORMATION**

Avg Ht/FL:	STD		
Prim Int Wal:	1 - DRYWALL		
Sec Int Wall:		%	
Partition:	T - TYPICAL		
Prim Floors:	06 - CERAMIC TILE		
Sec Floors:	12 - CONCRET	10%	
Bsmnt Flr:			
Subfloor:			
Bsmnt Gar:			
Electric:	3 - TYPICAL		
Insulation:	2 - TYPICAL		
Int vs Ext:	S		
Heat Fuel:	1 - OIL		
Heat Type:	1 - FORCED AIR		
# Heat Sys:	2		
% Heated:	100	% AC:	
Solar HW:	NO	Central Vac:	NO
% Com Wal:		% Sprinkled:	

**BATH FEATURES**

Full Bath:		Rating:	
A Bath:		Rating:	
3/4 Bath:		Rating:	
A 3QBth:		Rating:	
1/2 Bath:	2	Rating:	AVERAGE
A HBth:		Rating:	
OthrFix:	1	Rating:	FAIR

**OTHER FEATURES**

Kits:		Rating:	
A Kits:		Rating:	
Frpl:		Rating:	
WSFlue:		Rating:	

**CONDO INFORMATION**

Location:	
Total Units:	
Floor:	
% Own:	
Name:	

**DEPRECIATION**

Phys Cond:	EX - Excellent	20%
Functional:		%
Economic:		%
Special:		%
Override:		%
Total:		20%

**CALC SUMMARY**

Basic \$ / SQ:	103.00
Size Adj.:	1.02695036
Const Adj.:	0.99764001
Adj \$ / SQ:	105.526
Other Features:	9000
Grade Factor:	0.80
NBHD Inf:	1.00000000
NBHD Mod:	
LUC Factor:	1.00
Adj Total:	308628
Depreciation:	61726
Depreciated Total:	246902

**COMMENTS**

NC = RENOV FORMER MRKT SPACE.

**RESIDENTIAL GRID**

1st Res Grid	Desc:	# Units			
Level	FY LR DR D K FR RR BR FB HB L O				
Other					
Upper					
Lvl 2					
Lvl 1					
Lower					
Totals	RMs:	BRs:	Baths:	HB:	2

**REMODELING**

Exterior:	2019
Interior:	2019
Additions:	
Kitchen:	
Baths:	
Plumbing:	
Electric:	
Heating:	
General:	

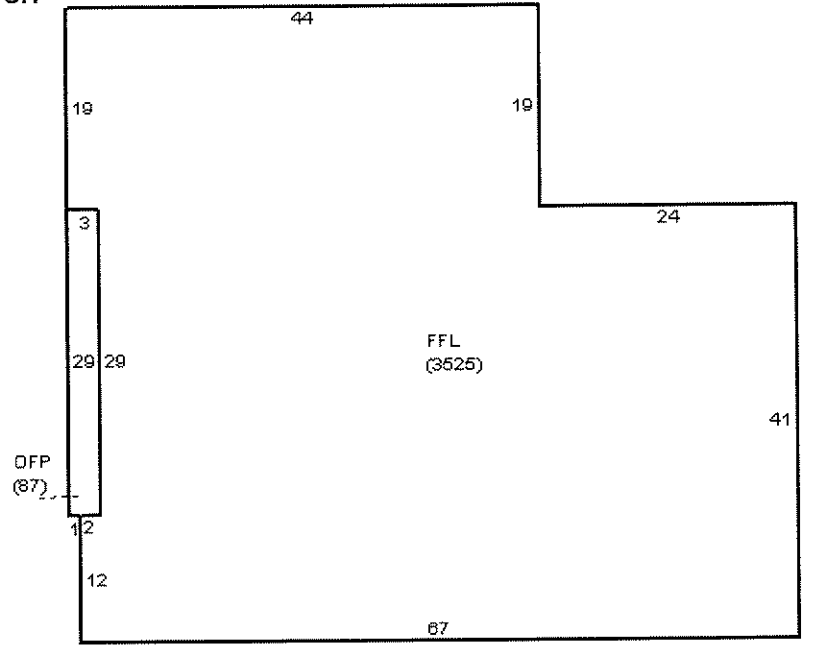
**RES BREAKDOWN**

No Unit	RMS	BRS	FL
Totals			

**COMPARABLE SALES**

Rate	Parcel ID	Typ	Date	Sale Price
WtAv\$/SQ:		AvRate:		Ind.Val
Juris. Factor:		Before Depr:		84.42
Special Features:	9100	Val/Su Net:		70.87
Final Total:	256000	Val/Su SzAd		72.62

**SKETCH**



**SUB AREA**

Code	Description	Area - SQ	Rate - AV	Undepr Value
FFL	FIRST FLOOR	3,525	105.530	371,980
OFFP	OPEN PCH	87	55.220	4,804

**SUB AREA DETAIL**

Sub Area	% Usbl	Descr	% Type	Qu	# Ten
FFL	100	OFC		30	AV
OFFP					2

Net Sketched Area:	3,612	Total:	376,784		
Size Ad	3525	Gross Area	3612	FinArea	3525

**MOBILE HOME**

Make:		Model:		Serial #:		Year:		Color:	
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**SPEC FEATURES/YARD ITEMS**

Code	Description	A	Y/S	Qty	Size/Dim	Qual	Con	Year	Unit Price	D/S	Dep	LUC	Fact	NB Fa	Appr Value	JCod	JFact	Juris. Value
81	COOLER	D	S		1 300	AV	AV	1975	50.42	T	40	340			9,100			9,100

PARCEL ID 147-016-000

**IMAGE**



AssessPro Patriot Properties, Inc

147 016 000  
MAP LOT SUB

1 of 4 RESIDENTIAL  
CARD Hudson

Total Card / Total Parcel  
APPRaised: 569,800/ 964,400  
USE VALUE: 569,800/ 964,400  
ASSESSed: 569,800/ 964,400

PROPERTY LOCATION

No	Alt No	Direction/Street/City
185	A, B, C	WEBSTER ST, HUDSON

OWNERSHIP

Owner 1:	DERRY & WEBSTER LLC
Owner 2:	
Owner 3:	
Street 1:	253 MAIN ST.
Street 2:	
Twn/City:	NASHUA
St/Prov:	NH
Postal:	03060

PREVIOUS OWNER

Owner 1:	SECOND GENERATION PROPERTIES -
Owner 2:	CMP PROPERTIES -
Street 1:	20 TRAFALGAR SQ. SUITE #602
Twn/City:	NASHUA
St/Prov:	NH
Postal:	03063

NARRATIVE DESCRIPTION

This parcel contains 10.256 ACRES of land mainly classified as COMM-RES with a MULTI-CONVER Building built about 1920, having primarily ALUMINUM Exterior and 2483 Square Feet, with 3 Units, 3 Baths, 0 3/4 Bath, 0 Half Bath, 7 Rooms, and 4 Bdrms.

OTHER ASSESSMENTS

Code	Descrip/No	Amount	Com. Int

PROPERTY FACTORS

Item	Code	Description	%	Item	Code	Description
Z	R2	RESD TWO		water	3	TOWN WATE
				Sewer	2	TOWN SEWE
				Electri		
Census:				Exmpt		
Flood Haz:				C		
D				Topo	1	LEVEL
s				Street		
t				Gas:		

IN PROCESS APPRAISAL SUMMARY

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value	
325	8.192	97,950	74,200	348,750	520,900	
105	2.064	32,650		16,250	48,900	
Total Card		10.256	130,600	74,200	365,000	569,800
Total Parcel		10.256	525,200	74,200	365,000	964,400
Source:		Market Adj Cost	Total Value per SQ unit /Card:		229.48	/Parcel: 52.16

PREVIOUS ASSESSMENT

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2019	031	FV	500,500	74200	10.256	365,000	939,700	939,700	Year End Roll	9/16/2019
2019	031	JB	510,500	74200	10.256	365,000	949,700	949,700	Year End Roll	5/8/2019
2018	031	FV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	8/27/2018
2018	031	JB	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	5/9/2018
2017	031	FV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	10/26/2017
2017	031	PV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	8/28/2017
2017	031	JB	440,100	42900	10.256	365,000	848,000	848,000	Year End Roll	5/10/2017
2016	031	FV	440,100	42900	10.256	365,000	848,000	848,000	Year End Roll	8/30/2016

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes
SECOND GENERATI	6834-1327	2	2/7/2003		1,000,000	No	No		
	5686-1423		1/17/1996	UNCLASSIFIED		No	No		
TAMPOSI, SAMUEL	5542-902		4/25/1994	UNCLASSIFIED	167,000	No	No		
TAMPOSI, ET AL	5437-1452		5/28/1993	UNCLASSIFIED		No	No		
	5078-0788		12/23/1988			No	No		

BUILDING PERMITS

Date	Number	Descrip	Amount	C/O	Last Visit	Fed Code	F. Descrip	Comment
11/1/2018	2018-01109	EXT RENO	20,000	C				
1/22/2018	2018-00052	ELECTRIC		C				
10/2/2009	2009-454	SIGNS	1,500	C				
6/21/2005	2005-528	INT RENO	1,800	C				
8/1/2001	2002-58	SIGNS		C				
6/26/2001	2001-528	SIGNS		C				

LAND SECTION (First 7 lines only)

Use Code	Description	LUC Fact	No of Units	Depth / Price/Units	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adj	Neigh	Neigh Infl	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %	Appraised Value	Alt Class	%	Spec Land	J Code	Fact	Use Value	Notes
325	STORE		2		SITE ACRE SITE			0	150,000.	1.00	MG						300,000						300,000 USE	
325	STORE		8.256		ACRES EXCESS			0	15,000.	0.53	MG			TOPO		-25	65,016	105	25				65,000 TOPO	

Legal Description	User Acct
	7257
	GIS Ref
	GIS Ref
Entered Lot Size	
Total Land: 10.256	
Insp Date	12/07/90
Land Unit Type: AC	



USER DEFINED

Prior Id # 1:	0023
Prior Id # 2:	0017
Prior Id # 3:	0002
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
ASR Map:	
Fact Dist:	
Reval Dist:	
Year:	
Land Reason:	
Bld Reason:	
Civil District:	
Ratio:	

PRINT

Date	Time
01/02/20	13:25:16

LAST REV

Date	Time
08/29/19	14:35:39

mikep 2569

Parcel ID 147-016-000

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2019	031	FV	500,500	74200	10.256	365,000	939,700	939,700	Year End Roll	9/16/2019
2019	031	JB	510,500	74200	10.256	365,000	949,700	949,700	Year End Roll	5/8/2019
2018	031	FV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	8/27/2018
2018	031	JB	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	5/9/2018
2017	031	FV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	10/26/2017
2017	031	PV	438,800	74200	10.256	365,000	878,000	878,000	Year End Roll	8/28/2017
2017	031	JB	440,100	42900	10.256	365,000	848,000	848,000	Year End Roll	5/10/2017
2016	031	FV	440,100	42900	10.256	365,000	848,000	848,000	Year End Roll	8/30/2016

PAT ACCT.

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes
SECOND GENERATI	6834-1327	2	2/7/2003		1,000,000	No	No		
	5686-1423		1/17/1996	UNCLASSIFIED		No	No		
TAMPOSI, SAMUEL	5542-902		4/25/1994	UNCLASSIFIED	167,000	No	No		
TAMPOSI, ET AL	5437-1452		5/28/1993	UNCLASSIFIED		No	No		
	5078-0788		12/23/1988			No	No		

ACTIVITY INFORMATION

Date	Result	By	Name
6/11/2017	Field Review	9	PVA
2/24/2017	I&E Mailed	7	DC
8/5/2014	Abate Denied	1	CHIEF ASSESS
5/10/2012	Field Review	9	PVA
1/20/2010	Permit Visit	10	APPRAISER II
7/10/2007	Other Change	9	PVA
5/31/2006	Other Change	1	CHIEF ASSESS
4/27/2006	Permit Visit	1	CHIEF ASSESS
6/27/2005	New Maps	1	CHIEF ASSESS

Sign: \_\_\_\_\_





147 016 000  
MAP LOT SUB

2 of 4 COMMERCIAL  
CARD Hudson

APPAISED: 71,600/ 964,400  
USE VALUE: 71,600/ 964,400  
ASSESSED: 71,600/ 964,400

Total Card / Total Parcel



**Patriot**  
Properties Inc.

**USER DEFINED**

Prior Id # 1:	0023
Prior Id # 2:	0017
Prior Id # 3:	0002
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
Prior Id # 1:	
Prior Id # 2:	
Prior Id # 3:	
ASR Map:	
Fact Dist:	
Reval Dist:	
Year:	
LandReason:	
BldReason:	
CivilDistrict:	
Ratio:	

**PROPERTY LOCATION**

No	Alt No	Direction/Street/City
189		WEBSTER ST, HUDSON

**IN PROCESS APPRAISAL SUMMARY**

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value	
316	0.000	71,600			71,600	
Total Card		0.000	71,600		71,600	
Total Parcel		10.256	525,200	74,200	365,000	964,400
Source: Market Adj Cost		Total Value per SQ unit /Card: 8.14		/Parcel: 52.16		

**Legal Description**

Entered Lot Size
Total Land: 10.418
Land Unit Type: AC

**OWNERSHIP**

Unit #
Owner 1: DERRY & WEBSTER LLC
Owner 2:
Owner 3:
Street 1: 253 MAIN ST.
Street 2:
Twn/City: NASHUA
St/Prov: NH Cntry Own Occ:
Postal: 03060 Type:

**PREVIOUS ASSESSMENT**

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date

**PREVIOUS OWNER**

Owner 1:
Owner 2:
Street 1:
Twn/City:
St/Prov: Cntry
Postal:

**NARRATIVE DESCRIPTION**  
This parcel contains 10.256 ACRES of land mainly classified as COMM-RES with a GARAGE Building built about 1975, having primarily METAL PANEL Exterior and 8800 Square Feet, with 2 Units, 0 Bath, 0 3/4 Bath, 2 HalfBaths, 0 Rooms, and 0 Bdrm.

**SALES INFORMATION**

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes

**OTHER ASSESSMENTS**

Code	Descrip/No	Amount	Com. Int

**TAX DISTRICT**

--

**PRINT**

Date	Time
01/02/20	13:25:21

**LAST REV**

Date	Time
01/25/19	07:59:57
jmichaud	
2569	

**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
Z	R2	RES2 TWO		water	3	TOWN WATE
o				Sewer	2	TOWN SEWE
n				Electri		
Census:				Exmpt		
Flood Haz:						
D				Topo		
s				Street		
t				Gas:		

**BUILDING PERMITS**

Date	Number	Descrip	Amount	C/O	Last Visit	Fed Code	F. Descrip	Comment

**ACTIVITY INFORMATION**

Date	Result	By	Name
6/11/2017	Field Review	9	PVA
5/10/2012	Field Review	9	PVA
7/10/2007	Other Change	9	PVA
10/14/2001	Measured	0	PATRIOT
12/7/1990	Inspected	2	AVITAR

Sign: \_\_\_\_\_

**LAND SECTION (First 7 lines only)**

Use Code	Description	LUC Fact	No of Units	Depth / Price/Units	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adj	Neigh	Neigh Infl	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %	Appraised Value	Alt Class	%	Spec Land	J Code	Fact	Use Value	Notes
316	COMM WRH:		0		SITE ACRE SITE			0	0.	0.00	RD													

Total AC/HA: 0.00000	Total SF/SM: 0	Parcel LUC: 031	COMM-RES	Prime NB Desc: RES AV/FR	Total:	Spl Credit:	Total:
----------------------	----------------	-----------------	----------	--------------------------	--------	-------------	--------





147 016 000  
MAP LOT SUB

3 of 4 INDUSTRIAL  
CARD Hudson

Total Card / Total Parcel  
APPRAISED: 67,000/ 964,400  
USE VALUE: 67,000/ 964,400  
ASSESSED: 67,000/ 964,400



**PROPERTY LOCATION**

No	Alt No	Direction/Street/City
187		WEBSTER ST, HUDSON

**OWNERSHIP**

Owner 1:	DERRY & WEBSTER LLC
Owner 2:	
Owner 3:	
Street 1:	253 MAIN ST.
Street 2:	
Twn/City:	NASHUA
St/Prov:	NH Cntry
Postal:	03060

**PREVIOUS OWNER**

Owner 1:	
Owner 2:	
Street 1:	
Twn/City:	
St/Prov:	
Postal:	

**NARRATIVE DESCRIPTION**  
This parcel contains 10.256 ACRES of land mainly classified as COMM-RES with a WAREHOUSE Building built about 1975, having primarily CORR STEEL Exterior and 3680 Square Feet, with 2 Units, 0 Bath, 0 3/4 Bath, 1 HalfBath, 0 Rooms, and 0 Bdrm.

**OTHER ASSESSMENTS**

Code	Descrip/No	Amount	Com. Int

**PROPERTY FACTORS**

Item	Code	Description	%	Item	Code	Description
Z	R2	RESD TWO		water	3	TOWN WATE
o				Sewer	2	TOWN SEWE
n				Electri		
Census:				Exmpt		
Flood Haz:						
D				Topo		
s				Street		
t				Gas:		

**LAND SECTION (First 7 lines only)**

Use Code	Description	LUC Fact	No of Units	Depth / PriceUnits	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adj	Neigh	Neigh Infl	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %	Appraised Value	Alt Class	% Spec Land	J Code	Fact Use Value	Notes	
332	AUTO REPAI		0		SITE ACRE SITE			0	0.	0.00	RD												

**IN PROCESS APPRAISAL SUMMARY**

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value
332	0.000	67,000			67,000
<b>Total Card</b>	0.000	67,000			67,000
<b>Total Parcel</b>	10.256	525,200	74,200	365,000	964,400
Source: Market Adj Cost		Total Value per SQ unit /Card:		18.21	/Parcel: 52.16

**PREVIOUS ASSESSMENT**

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date

**SALES INFORMATION**

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Notes

**BUILDING PERMITS**

Date	Number	Descrip	Amount	C/O	Last Visit	Fed Code	F. Descrip	Comment

**Legal Description**

Entered Lot Size	10.418
Total Land	10.418
Land Unit Type	AC

**Parcel ID** 147-016-000

Date	Time
01/02/20	13:25:25
Date	Time
01/25/19	08:00:23
jmichaud	
2569	

**PAT ACCT.**

Year	Land Reason	Bld Reason	Civil District	Ratio

**ACTIVITY INFORMATION**

Date	Result	By	Name
6/11/2017	Field Review	9	PVA
5/10/2012	Field Review	9	PVA
7/10/2007	Other Change	9	PVA
10/14/2001	Measured	0	PATRIOT
12/7/1990	Inspected	2	AVITAR

Sign: \_\_\_\_\_





# 181 A Webster St

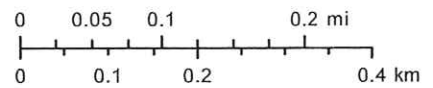


January 2, 2020

Legend

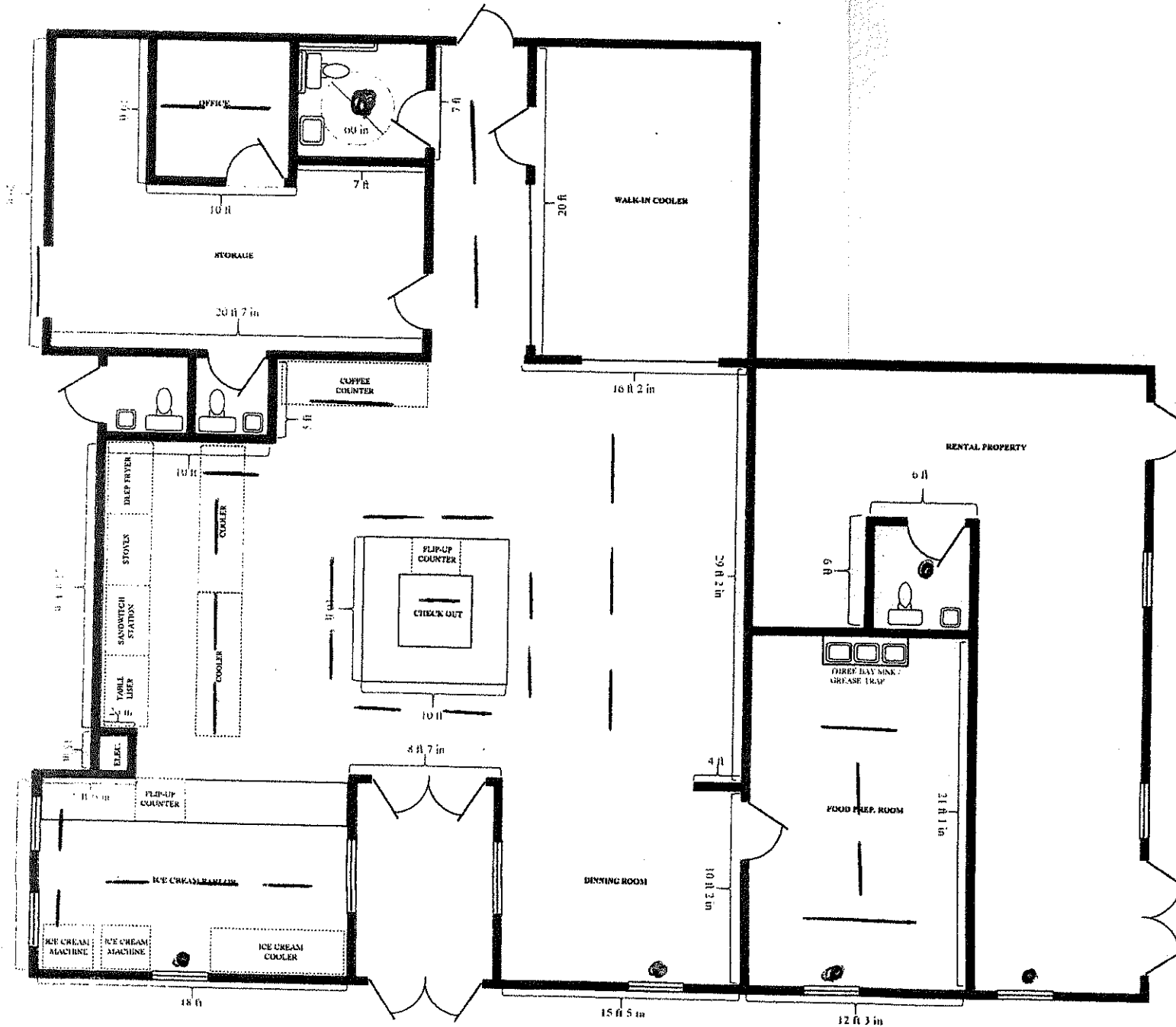
 Parcels

1:8,527





181 A Webster St







Printed  
1/06/2020  
3:15PM  
Created  
1/06/2020  
3:11 PM

# Transaction Receipt

Receipt# 581,036  
tgoodwyn

**Town of Hudson, NH**  
12 School Street  
Hudson, NH 03051-4249

	<u>Description</u>	<u>Current Invoice</u>	<u>Payment</u>	<u>Balance Due</u>
1.00	ZBA Application Fee-1/23/20 ZBA Mtg 181 A Webtser Street Map/Lot 147-016-000 Variance Application	0.00	180.2500	0.00
			<b>Total:</b>	<b>180.25</b>

Remitter	Pay Type	Reference	Tendered	Change	Net Paid
Fatima Silva Minkin	CHECK	CHK 183	180.00	0.00	180.00
Fatima Silva Minkin	CSH	CASH-TG	0.25	0.00	0.25

Total Due:	180.25
Total Tendered:	180.25
Total Change:	0.00
<b>Net Paid:</b>	<b>180.25</b>



# TOWN OF HUDSON

## Zoning Board of Adjustment

Charlie Brackett, Chairman      Marilyn E. McGrath, Selectmen Liaison

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

### MEETING MINUTES – December 12, 2019 - edited

The Hudson Zoning Board of Adjustment met on December 12, 2019, in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall at 7:00 PM.

#### **I. CALL TO ORDER**

#### **II. PLEDGE OF ALLEGIANCE**

Chairman Brackett called the meeting to order at 7:00 PM and invited everyone to stand for the Pledge of Allegiance.

Selectman Marilyn McGrath went to the podium and announced that a longstanding Member of the Board has decided not to renew her term and expressed appreciation for all the years of service and dedication to the Town and confirmed that she would always be welcomed back. Ms. McGrath presented Maryellen Davis a Certificate of Appreciation signed by all the Selectmen and a bouquet of flowers. The sentiment of appreciation was shared by the Board.

Vice Chair Dearborn read the Preamble into the record, identified as Attachment A of the Board's Bylaws, that included the procedure and process for the meeting, that copies of the Agenda and Application for Rehearing are on the shelf by the door, the importance of the 30-day time period as well as housekeeping items regarding cell phones, smoking and talking.

Clerk Davis took the roll call. Members present were Charlie Brackett (Regular/Chair), Maryellen Davis (Regular/Clerk), Gary Dearborn (Regular/Vice Chair), Brian Etienne (Alternate) and Jim Pacocha (Regular). Also present were Bruce Buttrick, Zoning Administrator and Louise Knee, Recorder and Marilyn McGrath, Selectman Liaison. Excused was Gary Daddario (Regular). For the record, Alternate Etienne was appointed to vote. Ms. McGrath addressed the public and stated that even though she may participate in the discussions with the Board, she does not vote.

~~Attachment A of the Board's Bylaws, that included the procedure and process for the meeting, that copies of the Agenda and Application for Rehearing are on~~

~~the shelf by the door, the importance of the 30-day time period as well as housekeeping items regarding cell phones, smoking and talking.~~

**III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**

1. Case 165-155 (12-12-19): Keri Demers, 23 Dexter St., Nashua, NH requests a Special Exception for 77 Derry Street, Hudson, NH to allow a Dog Daycare and Boarding facility which will have uses of retail grooming, training, community pet education and kennel/boarding of dogs (day & overnight). [Map 165, Lot 155-000; Zoned Business(B); HZO Article VI, §334-23, Special Exceptions, General Requirements].

Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning Determination dated October 24, 2019 and his Staff Report signed December 3, 2019, noted the need for the Special Exception and that comments were received from the Fire Chief and the Town Planner.

Robert Buxton, Fire Chief, questioned whether there is a plan for noise control especially with active businesses on both sides of the proposed facility, the ventilation requirements and the need for review by the Inspectional Services Division. Brian Groth, Town Planner, confirmed need for Site Plan amendment and shared three (3) issues requiring resolution from his preliminary observations: (1) access/loading as it relates to other uses in the plaza and how the outdoor play area will affect loading and circulation for the site as a whole; (2) safety as it relates to (1) and necessary safety precautions around the outdoor area; and (3) nuisance mitigation – sound and smell – and impact onto other business in the plaza and abutting cemetery.

Keri Demers introduced herself and stated that she would like to establish a dog daycare and boarding facility in Hudson and distributed additional material for the Board to consider regarding sanitation and cleaning product, “Rescue” that she would be using, the list of bacteria, viruses, fungi and mold/mildew it combats as well as the type of flooring she would install, commercial Polyflor, a poly-safe mosaic flooring that performs better than resin flooring and is used in animal hospitals.

Ms. Demers stated that the name of her facility is Dewey & Friends, a state of the art Dog Daycare and Boarding facility that will also have grooming, training, retail and pet education inside the building. The kennel aspect is the overnight and day boarding of dogs. She is in negotiations to rent two (2) units, Unit A-2A in the front where the retail aspect of her business will be located and adjoining Unit #A-1D with access to the rear. There will be an outdoor area for use of eliminations at the rear. It is her hope to expand and include grooming, training, pet massages, client education and offer dogs and cats for adoption. Ms. Demers read her application into the record that addressed the Special Exception criteria. With regards to the concerns of the

89 Fire Chief, Ms. Demers stated that the Rescue solution will address the odor,  
90 that she is investigating a HVAC system and that she will monitor the barking.  
91 Ms. Demers stated that she is aware that if ZBA approves the Special  
92 Exception that she then needs to go to the Planning Board  
93

94 Public testimony opened at 7:17 PM. The following individuals addressed the  
95 Board:

- 96 (1) Lisa DiBernardo, 100 Derry Street, stated that she has three (3)  
97 concerns: (a) noise with barking day and night added to the already  
98 existing noise of racing cars and teenagers parked by Auto Zone  
99 playing their music loud; (b) sanitation and waste management; and  
100 (c) traffic as there are already 28,000 cars that go by every day, it is  
101 congested often times backed up to the front of her home, there are  
102 3-6 accidents every day and asked if a traffic light is proposed. Mr.  
103 Brackett noted that the location is proposed to be in the mall plaza  
104 next to Auto Zone and not on the nearby vacant lot and that  
105 appeared to mitigate some of Ms. DiBernardo's traffic concern.  
106 (2) Robin Lawrence stated that he is the property owner of 100 Derry  
107 Street and is opposed to this project and the noise it will bring.  
108

109 Being no one else to address the Board, public testimony closed at 7:23 PM.  
110

111 Ms. Demers stated that the plan is to fence in an area at the back of the  
112 building away from traffic, that she will install special "pee on" grass that is  
113 cleanable, that the poo will be double bagged and placed in the dumpster at  
114 the rear of the building and that the dogs will be screened and excessive  
115 barking dogs will not be allowed.  
116

117 Public testimony reopened at 7:25 PM. No one addressed the Board.  
118

119 Ms. McGrath asked how long dogs would/could be boarded and Ms. Demers  
120 stated that it would be determined on a case-by-case basis and added that it  
121 would generally be to cover the owner's vacation schedules. Ms. McGrath  
122 asked where the dogs would exercise, play and have access to fresh air while  
123 there, whether during boarding or day care. Ms. Demers responded that the  
124 retail space is approximately four thousand square feet (4K SF) at the front of  
125 the location and boarding/day care would be in the back area that is  
126 approximately three thousand five hundred square feet (3.5K SF) along with  
127 the outside section and added that it is her plan to add ventilation to the back  
128 space. Ms. McGrath asked about the number of dogs planned and about snow  
129 removal, especially considering that Hudson has received almost two feet (2') of  
130 snow already this year, and noted that the abutting cemetery is a quiet place  
131 and barking could interfere with a burial service. In response to the number of  
132 dogs Ms. Demers stated that on average it is approximately fifteen to twenty  
133 square feet per dog (15-20 SF) per dog, that the dogs will rotate to the outdoor  
134 section but would be inside the majority of time.



135

136 Mr. Brackett asked about the meeting with the Animal Control Officer and Mr.  
137 Buttrick confirmed that two (2) meetings were held with Jana McMillan, Animal  
138 Control Officer, and the applicant prior to this meeting. Ms. Demers added  
139 that they decided that all animals would not only have to have the core  
140 vaccines for rabies, distemper, leptospirosis and kennel cough but also a  
141 negative stool check every six (6) months and added that most facilities only  
142 require the test annually.

143

144 Ms. McGrath asked if the dogs would be crated and Ms. Demers responded  
145 that her facility is a crate-free environment and that beds would be laid out at  
146 night and that there would also be luxury suites available.

147

148 Mr. Dearborn asked if there were any hours where a human being would not  
149 be on premise and Ms. Demers responded that there will always be a human  
150 on the premise when the animals are present. Mr. Dearborn asked if that also  
151 applied to the green space outside and asked specifically where the green space  
152 is intended to be located and its dimensions. Mr. Etienne asked if the outdoor  
153 space was included in the lease. Ms. Davis asked if any parking spaces would  
154 need to be eliminated/converted for the outdoor green space. Mr. Etienne  
155 asked if there was a plan for walking the dogs. Ms. Dexter stated that she has  
156 not yet signed a lease but has received verbal agreement that it would not be a  
157 problem to have an outdoor grass area. Ms. Davis noted that there was a letter  
158 in the file authorizing Ms. Demers to pursue the Special Exception but that it  
159 was signed by the Manager, Daniel Gordon, of Hudson Vickerry, LLC, not the  
160 Property Owner. It was also noted that Daniel Gordon signed the application.

161

162 Mr. Brackett stated that a commitment from the property owner is important.  
163 Mr. Dearborn stated that lease and any lease restrictions would also be  
164 beneficial. Ms. Davis suggested reaching out to other mall neighbors as they  
165 would not have been notified and could possibly have concerns or conflicting  
166 issues. Ms. McGrath stated outdoor space specifics should also be finalized,  
167 that confirmation that NH State Licensing requirements have been met and  
168 how, and asked if the operation is restricted to only dogs. Ms. Demers  
169 responded that she would like to include cats as part of the rescue & adoption  
170 component of her business. Mr. Brackett suggested that the applicant pursue  
171 the issues raised at this meeting, by the Fire Chief and Town Planner and  
172 present a succinct plan to the Board. Ms. Demers agreed.

173

174 Motion made by Mr. Dearborn, seconded by Mr. Etienne and unanimously  
175 voted 5:0 to continue the hearing to the January meeting (1/23/2020) for the  
176 applicant to meet with the Zoning Administrator and Animal Control Officer  
177 (Jana McMillan) to ascertain that the State regulations are to be met, how to  
178 incorporate any recommendations from the ACO, to get a letter from the  
179 Property Owner that her proposal (including outdoor green space) is authorized  
180 in the lease, to meet with other in-mall neighbors regarding her proposal and

181 how to address any of their concerns, to address the concerns from the Fire  
182 Chief and Town Planner and present a succinct plan to the Board.

183

184 Ms. McGrath asked Ms. Demers if she has checked out other properties,  
185 possible locations. Ms. Demers stated that she has, that she has been looking  
186 for over a year now.

187

188 2. Case 199-027 (12-12-19): Maria Sousa, 63 Pelham Rd., Hudson, NH  
189 requests a Variance to allow the construction of an Accessory  
190 Dwelling Unit (ADU) with 896 sqft. which exceeds the 750 sqft.  
191 maximum for ADU's. [Map 199, Lot 027; Zoned General (G); HZO  
192 Article XIII A, §334-73.3 H, Accessory Dwelling Units, Provisions].

193

194 Clerk Davis read the Case into the record. Mr. Buttrick referenced his Zoning  
195 Determination dated 11/25/2019, his Staff Report signed 12/5/2019 and  
196 stated that the intent is to convert the existing detached garage into an ADU  
197 (Accessory Dwelling Unit) that would be connected to the main house with the  
198 construction of a four-season breezeway and that a variance is needed with  
199 regard to the square footage of the proposed ADU being eight hundred ninety  
200 six square feet (896 SF) when the maximum is seven hundred fifty square feet  
201 (750 SF) for an ADU. Mr. Buttrick noted that duplexes are allowed in the G  
202 (General) Zone and that the lot is 2.259 acres where only one acre is required  
203 and that comments were received from the Town Engineer.

204

205 Town engineer, Elvis Dhima, PE, comments provided on 11/26/2019 were: (1)  
206 applicant shall provide an approved septic system design that will handle the  
207 proposed ADU; (2) existing driveway is non-conforming (within building  
208 setback); and (3) applicant shall determine existing well flows and if it can  
209 accommodate the proposed ADU.

210

211 Maria Sousa introduced herself as the property owner, noted that she has no  
212 relationship to the developer of the same name, and stated that her daughter is  
213 buying the house and she would like to convert her existing garage into a  
214 dwelling unit where she plans to live. Ms. Sousa<sup>ae</sup> stated that it is financially  
215 feasible to convert the garage into an ADU than build onto the house.  
216 Architectural plans have been prepared by DM Designs.

217

218 Ms. Sousa addressed the variance criteria. The information shared included:

219

- 220 1. *not contrary to public interest*
- 221 • house will remain a single family structure and not a duplex
  - 222 • there are already existing ADUs in the neighborhood
- 223 2. *spirit of Ordinance observed*
- 224 • there will be no change to the existing characteristics of the house,  
225 it will remain to appear as a single family home

- 226                   • the garage is currently detached and a permanent four-season  
227                   breezeway will be constructed to connect the house to the ADU  
228           3. *substantial justice done*  
229                   • they have been part of this community for fourteen (14) years and  
230                   the granting of this variance will allow them to remain part of the  
231                   community for the rest of their lives  
232                   • all other ADU requirements will be met  
233           4. *will not diminish surrounding property values*  
234                   • there's would not be the first ADU in the neighborhood  
235                   • it would continue to be a single family home  
236           5. *hardship*  
237                   • it is financially beneficial to them to use the existing garage  
238                   • the existing garage is greater than 750 SF  
239                   • it would pose an unnecessary hardship to them to not utilize the  
240                   existing garage and would not benefit the neighborhood to do  
241                   otherwise  
242

243 Ms. Sousa addressed the Town Engineer's comments. The following  
244 information was shared: (1) the ADU would utilize the same existing septic  
245 system, that they would be adding a fourth bedroom to their approved and  
246 installed four-bedroom septic system; (2) according to the well-water people she  
247 contacted, their well produces ten gallons of water per minute (10 gals/min)  
248 and that exceeds the requirement of five gallons per minute (5 gals/min); and  
249 (3) the driveway is where it was when she bought her home fourteen (14) years  
250 ago and there is no plan to change it for the ADU. Mr. Buttrick stated that he  
251 found the Driveway Permit Application that was issued in 1997 and the  
252 driveway was not installed according to that plan.  
253

254 Public testimony opened at 8:03 PM. Nicole Martin introduced herself as the  
255 daughter who would be purchasing the home, stated that she just lost her  
256 grandmother to Alzheimer's and it would bring her peace of mind to have her  
257 mom close by – just across the breezeway – and allow her mom to stay in the  
258 neighborhood. Being no one else to address the Board, public testimony closed  
259 at 8:04 PM.  
260

261 Ms. McGrath noted that there was no abutter presence and asked Ms.  
262 Sousa if she contacted her neighbors. Ms. Sousa stated that she did speak  
263 and shared the plans with two of her neighbors and they were not opposed and  
264 glad she would be staying in the neighborhood.  
265

266 Ms. Davis stated that it is logical to keep the existing garage footprint and  
267 hoped the ADU would have wheelchair accessibility. Mr. Dearborn stated that  
268 a hardship would be imposed to downsize the existing garage.  
269

270 ~~M~~Mr. e Etienne made the motion to grant the variance as requested and with  
271 no stipulations. Ms. Davis seconded the motion. Mr. Etienne stated that the  
272 garage already exists and the granting of the variance is both fair and fantastic  
273 and embraces the intent of ADUs. Ms. Davis concurred. Mr. Brackett stated  
274 that a hardship would be to reconstruct the garage, that the ADU would be  
275 connected to the home with the construction of the four-season breezeway,  
276 that the spirit of the Ordinance is met and there is no diminution of property  
277 values. Vote was 5:0. Motion passed. Variance granted. The 30-day appeal  
278 period was noted.

#### 279 **IV. REQUEST FOR REHEARING:**

280 There were no requests presented for Board consideration.  
281

#### 282 **V. REVIEW OF MINUTES:**

283 11/14/19 Minutes  
284

285 Board reviewed the edited version presented and made minor corrections to  
286 pages 2 and 7. Motion made by Mr. Dearborn, seconded by Ms. Davis and  
287 unanimously voted (5:0) to approve the 11/14/2019 Minutes as edited and  
288 amended.  
289

#### 290 **VI. OTHER: Proposed Zoning Amendments**

291 Mr. Buttrick stated that the Planning Board met and proposed to move three  
292 (3) Zoning Amendments to Public Hearing: (1) Wetland Conservation Overlay  
293 District; (2) Duplexes; and (3) Industrial Zone Building Height. Draft Zoning  
294 Ordinance amendments and a printout of the presentation made to the  
295 Planning Board were distributed and discussed.  
296

297 Discussion focused primarily on the Wetland Conservation Overlay District  
298 with a review of the current process, recognition that the ZBA inclusion created  
299 an unnecessary step in the review process and that Conservation Commission  
300 should be the major driver and that it was a major strike-out in the Zoning  
301 Ordinance eliminating the need for a Special Exception to requiring a CUP  
302 (Conditional Use Permit) from the Planning Board.  
303

304 A better definition of Duplexes and the closure of the current loop-hole was  
305 recognized along with the need to standardize the building heights in the  
306 Industrial Zone.  
307

308 Motion made by Ms. Davis, seconded by Mr. Bartlett and unanimously voted to  
309 adjourn the meeting. The 12/12/2019 ZBA meeting adjourned at 8:50 PM.  
310

311 Respectfully submitted,  
312

317 Louise Knee, Recorder  
318

AS EDITED



**ELECTION OF NEW OFFICERS FOR CALENDAR YEAR 2020**

**Chairman, Charlie Brackett shall address the need to elect new officers for reorganization of the Board, and shall first ask for a nomination for the position of Chairman.**

**DRAFT MOTIONS FOR ELECTION OF OFFICERS:**

**MOTION FOR CHAIRMAN:**

**I move to nominate \_\_\_\_\_ to be Chairman.**

**Second: \_\_\_\_\_.**

**If there are no other nominations for this office, the next motion is:**

**MOTION:**

**There being no other nominations, I move to close the nominations and to elect \_\_\_\_\_ as Chairman by acclamation.**

**Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Motion carried/failed: \_\_\_\_\_.**

**MOTION FOR VICE-CHAIRMAN:**

**I move to nominate \_\_\_\_\_ to be Vice-Chairman.**

**Second: \_\_\_\_\_.**

**If there are no other nominations for this office, the next motion is:**

**MOTION:**

**There being no other nominations, I move to close the nominations and to elect \_\_\_\_\_ as Vice-Chairman by acclamation.**

**Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Motion carried/failed: \_\_\_\_\_.**

**ELECTION OF NEW OFFICERS FOR CALENDAR YEAR 2020  
(CONTINUED)**

**MOTION FOR CLERK:**

I move to nominate \_\_\_\_\_ to be Clerk.

Second: \_\_\_\_\_.

If there are no other nominations for this office, the next motion is:

**MOTION:**

There being no other nominations, I move to close the nominations and to elect

\_\_\_\_\_ as Clerk by acclamation.

Motion by: \_\_\_\_\_ Second: \_\_\_\_\_ Motion carried/failed: \_\_\_\_\_.

## **DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

Proposed deletions in ~~striketrough~~, additions in **underline & bold**

§ 334-14 **Building height.**

**[Amended 3-8-2016 by Amdt. No. 4; 3-16-2017 by Art. No. 3; 2-2-2019 ATM, Art. 04, adopted 3-12-2019]**

No occupiable structure may exceed 38 feet in height in any district, except as provided in Subsection A below. Height is measured from the average elevation of the finished grade within five feet of the structure to the highest point of the roof, excluding accessory, unoccupied protuberances such as antennas, flagpoles and the like. Nonoccupiable structures such as church spires, steeples, smokestacks, flagpoles, lightpoles and other similar structures may not exceed 100 feet in height in any district, except as provided for in Article **VI**, Special Exceptions. In all cases, a nonoccupiable structure shall not be capable of falling or collapsing beyond the bounds of the property on which it is situated. The maximum heights and special exception conditions for communications towers, masts and antennas are separately addressed within Article **XVIII**, Commercial Wireless Telecommunication, Radio Service and Receive-Only Facilities.

- A. In the following described zoning districts/parcels, the maximum allowed occupiable building height shall be 50 feet, and said maximum height shall be restricted to those areas of buildings used exclusively for manufacturing, warehouse, distribution and office space ancillary to said principal uses: Sagamore Industrial Park (IP), located in an Industrial (I) Zoning District, bordered by Sagamore Bridge Road to the south, the Merrimack River to the west, the existing General (G) District to the north and the existing Business (B) District, abutting Lowell Road. (Rte. 3A) to the east, and including all parcels located within this I Zoning District. The General (G) Zoning District abutting to the north of the above-described Sagamore IP, and known locally as the "Friar Property," having frontage off Friars Drive ~~and 161 Lowell Road (Map 209/Lot 001)~~. The portion of the General-One (G-1) Zoning District located to the south of Sagamore Bridge Road and exclusive to the following parcels: Green Meadow Golf Club, 43 Steele Road (Map 239/Lot 001), 11 Steele Road (Map 234/Lot 005), 2 Friel Golf Road (Map 234/Lot 001), 267 Lowell Road (Map 234/Lot 035) and 273 Lowell Road (Map 234/Lot 034). The Industrial (I) Zoning District located along the south border of Central Street (NH Rte. 111), starting at the westernmost border of this I District (i.e., just west of Hudson Park Drive), running along said south border of Central Street to the west border of Sullivan Road and including all parcels located within this I Zone. The Industrial (I) Zoning District located along the north side of Derry Street (NH Rte. 102), at the intersection of West Street, and including all parcels located within this I Zone. **The Industrial (I) Zoning District located at 65 River Road (Map 251-001).**

**DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

**REVISED DEFINITION OF DUPLEX**

*Recommendation: Replace current definition of DUPLEX*

Current:

**§334-6 Definitions**

**DUPLEX**

~~Two DWELLING UNITS attached by any portion of one or more floors, walls or roofs.~~

Proposed:

**DUPLEX**

A residential principal building with two DWELLING UNITS, separated either vertically or horizontally, by a fire wall, and with each unit having its own separate entrance.

**DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

Table of Minimum Dimensional Requirements

**CURRENT:** (DELETION IN ~~STRIKETHROUGH~~)

	<b>Zoning District</b>						
	<b>R-1</b>	<b>R-2</b>	<b>TR</b>	<b>B</b>	<b>I</b>	<b>G</b>	<b>G-1</b>
Minimum lot area (square feet)							
With Town water and sewer	30,000	43,560	10,000	30,000 <sup>2</sup>	30,000	43,560	87,120
Without Town water or sewer	43,560	60,000 ( <del>43,560 for single- family</del> )	10,000 <sup>1</sup>	43,560	43,560	43,560	87,120

**PROPOSED:** (IN UNDERLINE & BOLD)

	<b>Zoning District</b>						
	<b>R-1</b>	<b>R-2</b>	<b>TR</b>	<b>B</b>	<b>I</b>	<b>G</b>	<b>G-1</b>
Minimum lot area (square feet)							
With Town water and sewer	30,000	<b>43,560<sup>3</sup></b>	10,000	30,000 <sup>2</sup>	30,000	<b>43,560<sup>3</sup></b>	<b>87,120<sup>3</sup></b>
Without Town water or sewer	43,560	<b>43,560<sup>3</sup></b>	10,000 <sup>1</sup>	43,560	43,560	<b>43,560<sup>3</sup></b>	<b>87,120<sup>3</sup></b>

Notes:

- <sup>1</sup> Must obtain proper state/municipal permits.
- <sup>2</sup> Multifamily developments with both Town water and sewer shall require 53,560 square feet of buildable lot area for the building of three attached dwelling units of a multifamily complex, with each additional dwelling unit requiring a minimum of 5,000 square feet of additional buildable lot area.
- <sup>3</sup> **The minimum lot size for a Duplex shall be 50% larger.**



§334-6. Definitions (deletions in ~~striketrough~~, additions in underline)

**~~WETLAND CONSERVATION DISTRICT~~**

~~All wetland areas, surface water bodies and areas of poorly drained or very poorly drained soils and the associated wetland buffers, as defined above. The "Wetland Conservation DISTRICT" is an overlay DISTRICT which adds requirements and restrictions to those of the underlying zone in order to preserve the function of a wetland area.~~

Why?

1. This definition is not necessary with the adoption of the Wetland Conservation Overlay District.

Article IX  
**Wetland Conservation Overlay District**

**§ 334-33 Authority and purpose.**

The title of this district shall be the Wetlands Conservation Overlay District. This ordinance is adopted under authority granted pursuant to RSA 674:16, Grant of Power and 674: 21, Innovative Land Use Controls. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation District is subject to this ordinance.

The purpose of the Wetland Conservation District is to protect the health, safety and general welfare of the public by promoting both the most appropriate use of land and by protecting wetland and surface water ecosystems and water quality in accordance with the goals and objectives of Hudson's Master Plan.

All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation Overlay District is subject to this Article.

The wetlands and buffers in the Town of Hudson are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The Town of Hudson finds that wetlands and buffers:

- A. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
- B. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other water- courses.
- C. Provide for nutrient attenuation and augmentation of stream flow during dry periods.
- D. Preserve and protect important wildlife habitat and maintain ecological balance.
- E. Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.
- F. Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the Town from degradation.
- G. Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

**§ 334-34 Definitions.**

Reference shall be made to §334-6 - Definitions of this ordinance for the definition of words and terms used throughout this Wetland Conservation Overlay District Ordinance.

*[The terms below would be added/amended to Article II, or can remain within this article if it presents conflicts elsewhere]*

**BEST MANAGEMENT PRACTICES**

The standard described in the current of Erosion and Sediment Control Design Handbook

## **DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

for Developing Areas of New Hampshire prepared by United States Department of Agriculture Soil Conservation Services.

### **BOG**

A wetland distinguished by stunted evergreen trees and shrubs, the presence of peat deposits and/or highly acidic soil and/or water conditions as defined in the New Hampshire Code of Administrative Rules issued by the New Hampshire Wetlands Board.

*[existing definition – not used]*

### **BUFFER**

The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District.

### **CERTIFIED SOILS SCIENTIST**

A professional soils scientist currently certified by the state of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.

### **CERTIFIED WETLANDS SCIENTIST**

A person qualified to delineate wetland boundaries and prepare wetland maps who is currently certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.

### **MARSH**

A wetland where the vegetation is distinguished by the absence of trees and shrubs and dominated by soft-stemmed herbaceous plants and other emergent vegetation, such as grasses, reeds and sedges. The water table is at or above the surface throughout the year but can fluctuate seasonally.

*[existing definition – not used]*

### **POORLY DRAINED SOILS**

Soils where the water is removed so slowly that the soil is saturated periodically during the growing season or remains wet for long periods of time as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition).

### **SURFACE WATER**

Those portions of waters of the state, as defined by RSA 485-A:2.XIV, which have standing or flowing water at or on the surface of the ground. This includes, but is not limited to, perennial and seasonal streams, lakes, ponds, and tidal waters.

### **SWAMP**

A wetland that is dominated by trees and/or shrubs.

*[existing definition – not used]*

### **VERY POORLY DRAINED SOILS**

Soils where the water is removed so slowly that free water remains at or on the surface

## **DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

during most of the growing season as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition).

### **WETLAND**

Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

### **§334-35 Boundaries**

- A. The Wetlands Conservation Overlay District includes all of the following:
1. Surface waters.
  2. Wetlands of any size.
  3. A 50-foot wide buffer around:
    - a. Wetlands over 500 square feet in area.
    - b. Wetlands of any size adjacent to surface water.
    - c. Surface waters.
- B. For the purposes of this ordinance, the reference line of all wetlands and surface waters shall be established by an on-ground delineation performed by a Certified Wetland Scientist. All wetlands, surface waters, and vernal pools shall be field delineated and defined by a Certified Wetland Scientist.
- C. The Wetland Conservation Overlay District shall not include those wetlands which have developed as a result of the construction of storm water treatment and/or detention facilities, agricultural use, waste treatment, or other water dependent structures or uses, and manmade facilities. In the case of beaver activity, the reference line shall be determined by those areas that meet the jurisdiction of the NH Department of Environmental Services.
- D. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Town of Hudson or an applicant, the Conservation Commission, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation District limit. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The independent Certified Wetland Scientist shall transmit their findings to the applicant who shall add said findings to the project plan. This revised plan, showing both wetland delineation boundaries, shall be presented to the Planning Board who shall make the final determination regarding District boundaries.
- E. The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities. The applicant may also be required to place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines which intersect with the upland limit of the Wetlands Conservation Overlay District prior to such activities. These monuments shall be shown on the site plan submitted with the application. The

## **DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

applicant may also be required to affix tags to trees or other durable objects (e.g., 4" x 4" wood posts) at 50 foot intervals along the upland boundary of the Wetlands Conservation Overlay District, and maintain said tags as needed to provide evidence of the upland side buffer boundary. Tags shall be obtained from the municipality at the applicant's cost.

### **§ 334-36 Uses within Wetland Conservation District.**

- A. Permitted uses: The following uses shall be permitted in the Wetland Conservation District, subject to review by the Conservation Commission and the Planning Board. This review is intended to assure that best management practices are used to prevent degradation of the Wetland Conservation District by slope erosion, sedimentation and chemical and thermal pollution. These uses will not: require the erection or construction of any structure; alter the natural surface configuration by re-contouring or grading of the land, involve filling, dredging, or draining of the wetland; change the flow of water; result in the pollution of the wetlands, surface water, or groundwater; or involve substantial clearing of vegetation, except for the purposes of agriculture or forest management as described below.
1. Forest management in the wetland buffer, consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative Extension, or their successors.
  2. Agriculture, including grazing, cultivation and harvesting of crops, consistent with Best Management Wetland Practices published by the NH Department of Agriculture, Markets and Food or its successor.
  3. Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating. Trails shall have minimal impact on drainage, flora and fauna.
  4. Wildlife or fisheries management.
  5. Water supply wells, public and private.
  6. Rehabilitation, repair or replacement of stormwater management facilities or other structures that lawfully existed prior to March \_\_\_\_, 2020.
- B. Prohibited Uses: Any use that is not expressly permitted in §334-36.A, or by conditional use in §334-36.C is prohibited. Prohibited uses that may not be established or expanded within the Wetlands Conservation Overlay District include, but are not limited to, the following:
1. Structures, except as provided in §334-36.C.
  2. Salt storage.
  3. Automobile junkyards.
  4. Solid or hazardous waste facilities.
  5. Use of fertilizer on lawns, except lime or wood ash.
  6. Bulk storage or handling of chemicals, petroleum products or hazardous materials.
  7. Sand and gravel excavations.



## DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020

8. Processing of excavated materials.
9. Impervious surfaces, except as provided in §334-36.C.
10. Activities which result in soil compaction such as parking vehicles or heavy equipment, except as provided in §334-36.C.
11. Underground tanks.

C. Conditional Uses: Any use not identified as a permitted use listed in §334-36.A is presumed to impair the wetland functions and values unless proven otherwise by an applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board in accordance with §334-37:

1. Accessory structures associated with a legally existing primary structure, provided the applicant demonstrates that no practicable alternative exists elsewhere on the lot and outside of the Wetland Conservation Overlay District.
2. Construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize the potential for detrimental impact to the District and be planned, designed, and constructed in a manner consistent with applicable State and local standards. Such construction may be permitted within the District only when no viable alternative is available.
3. Water impoundments for the purposes of creating a water body for wildlife, fire protection, stormwater management, or recreational use. Construction of impoundments for on-site detention and/or treatment of stormwater runoff in the Wetland Conservation Overlay District, provided the Planning Board finds that it is not practical or possible to locate them outside of the District.
4. Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this ordinance; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:
  - a. Compensatory mitigation is provided such that those Wetland Conservation Overlay District functions and values to be impacted will be off-set in whole. Such mitigation may be located on or off site. As a guide to the type and extent of compensatory mitigation considered, reference shall be made to the New England District Compensatory Mitigation Guidance, US Army Corps of Engineers, New England District, Regulatory Division, 7-22010 as amended.
  - b. The applicant has demonstrated avoidance and minimization to the fullest extent practical.

## **DRAFT FOR PLANNING BOARD PUBLIC HEARING 1/8/2020**

D. Non-Conforming Uses: In addition to Article VIII of the Zoning Ordinance, existing, non-conforming uses are subject to the following in the Wetland Conservation Overlay District:

1. Expansion of a non-conforming use or structure may be allowed by the Zoning Board of Adjustment in the wetland buffer provided that the encroachment upon the wetland is not increased and review by the Conservation Commission finds that any potential increased impact upon the wetland functions will be mitigated.
2. Where an existing, non-conforming use or structure within the Wetland Conservation Overlay District is destroyed or in need of extensive repair, it may be replaced or rebuilt, provided that the provisions of Article VIII of this chapter are met.
3. The replaced or rebuilt use shall not have a greater impact on the Wetland Conservation District than the impact of the original use.

### **§ 334-37 Conditional Use Permit Criteria**

- A. The Planning Board shall, in addition to referencing the findings referenced in the preceding section, consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find that the proposed project is consistent with the stated Purpose of this ordinance; and find, that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:
1. The proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters, and vernal pools including but not limited to their capacity to:
    - a. Support fish and wildlife;
    - b. Attenuate flooding;
    - c. Supply and protect surface and ground water resources;
    - d. Remove sediments;
    - e. Remove pollutants;
    - f. Support wetland vegetation;
    - g. Promote public health and safety; and
    - h. Moderate fluctuations in surface water levels.
  2. The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water and/or wetland resources, including:
    - a. Increased potential for erosion, siltation, and turbidity of surface waters;
    - b. Loss of fish and wildlife habitat;
    - c. Loss of unique habitat having demonstrable natural, scientific, or educational value;
    - d. Loss or decrease of beneficial aquatic organisms and wetland plants and their habitat;
    - e. Increased danger of flooding and/or transport of pollutants; and
    - f. Destruction of the economic, aesthetic, recreational, and other public and

private uses and values of the wetland to the community.

3. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce impact to the Wetland Conservation Overlay District.
  4. The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other State agencies having jurisdiction.
  5. All applicable Federal and/or State permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules - Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
  6. Where applicable, proof of application to all required State and/or Federal permits.
  7. Prior to making a decision on any Conditional Use Permit pursuant to the Wetland Conservation Overlay District, the Planning Board shall receive a written comment from the Conservation Commission. The Conservation Commission may recommend the Planning Board impose conditions of approval is deemed necessary to mitigate the potential for adverse effects of the proposed activity or use.
- B. Application requirements for this Conditional Use Permit are set forth in §276 – Administrative Requirements and Definitions.

§ 334-38 [Reserved]

§ 334-39 [Reserved]



# TOWN OF HUDSON

## Land Use Division



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

### Zoning Administrator Staff Report

Meeting Date: January 23, 2020 *3/1-15-20*

**Case 134-025 (09/24/09):** 35 Hazelwood Road release of \$2,500 bond as a requirement of ZBA 9/24/09 NOD stipulations.

**Address:** 35 Hazelwood Road

**Zoning district:** Residential One (R-1)

#### **Summary:**

Town (ZBA) Staff has received request from other Town Dept for release of the Bond (10 yrs). There has been complete compliance with the ZBA NOD (and stipulations), and all the supporting documentation is summarized below. It appears the owner is attempting to redesign the current septic system to handle more bedrooms, as they have purchased the adjacent property and merged it into the existing parcel to increase the lot loading capacity for effluent etc. I would recommend a motion from the Board to release the Bond.

#### **Property description:**

This is an existing developed lot of record recently merged (5/17/19) with #33 Hazelwood Rd, for a total of 0.68 Acres (1.0 Acres required) and 177.033ft of frontage (120ft required). The existing structure appears to satisfy all required building setbacks.

#### **In-House review/comments:**

N/A

#### **HISTORY:**

ZBA: 9/24/09 ZBA Notice of Decision (with stipulations)

#### **Attachments:**

“A” 9/24/09 ZBA Notice of Decision.

“B” 9/24/09 ZBA mtg minutes.

“C” Pre lot merger (GIS).

“D” 05/17/19 lot merger official recorded plan.

“E” 01/15/19 Septic system evaluation and report.

“F” 12/27/19 Engineering Dept email.

A 43

Hudson Town Hall  
Hudson Zoning Board  
12 School Street  
Hudson, NH 03051

FEES:	14.44
SURCHARGE:	2-
CASH:	8

Town of Hudson

Zoning Board of Adjustment

### Decision to Grant a Use Variance

On **9/24/09**, the members of the Hudson Zoning Board of Adjustment, as part of its regular public meeting for that date, heard **Case 134-025**, concerning a request by **Eric Van Singel, Indymac Mortgage Services, One West Bank, 2900 Esperanza Crossing, Third Floor, Austin TX**, for a Use Variance to change the previously granted variance, which had a stipulation that the house on property located at **35 Hazelwood Road, Hudson** shall be limited to two bedrooms and a maximum of 1,000 square feet of living space excluding garage and porches, to allow the existing 2,766 square-foot dwelling with a provision that occupancy shall be limited to a maximum of four residents. [Map 134, Lot 025, Zoned R-1; HZO Article VII, Section 334-29, Extension or enlargement of nonconforming uses.]

Following review of the testimony and deliberation, a majority of the members of this Zoning Board voted that the variance should be granted with the following stipulations:

1. Septic system shall be pumped every odd-numbered year, with the receipt filed in the property folder in Town Hall.
2. If septic system fails, it shall be replaced with a system that is appropriate to a house having four bedrooms or to the maximum load of the land, whichever is lower.
3. The property owner shall post a bond with the Town for ten years in the amount of \$2,500.00 to cover the cost of any expenses occurred as the result of failure to comply with these stipulations.

A.



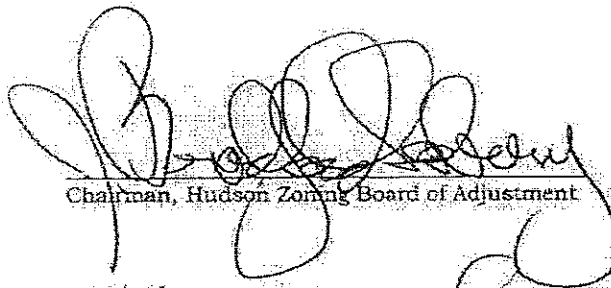
4. Property owner shall have septic system tested by a third-party septic system designer, witnessed by the Town Health Officer every three years to ensure proper function.
5. Any violation of these stipulations shall result in the revocation of the Certificate of Occupancy.
6. The house is to remain as a two-bedroom single-family residence.

For details of specific discussion relative to this decision, please consult the public minutes recorded during this hearing.

All representations of fact or intention made by the applicant or any applicant's representative(s) during testimony before the Zoning Board of Adjustment relative to the obtaining of this Variance permit shall be considered conditions of the Variance, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion to grant.

In the event that the requested use subsequently is found by the Hudson Zoning Administrator to demonstrate deliberate or preventable lack of compliance with any applicable stipulation or restriction, including the verbally specified restrictions described in the preceding paragraph, such use shall be held to be in violation of the covenant made with the Board, and corrective action(s) will be enforced under N.H. R.S.A. 676:17, Fines and Penalties, which allows a civil penalty of \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue, as well as recovery of costs and reasonable attorney's fees.

Signed:



Chairman, Hudson Zoning Board of Adjustment

Date:

09-30-09

Signed:



Zoning Administrator

Date:

10-1-09

A<sub>2</sub>

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

Chairman Seabury declared that the decision having been four votes to approve the request for a one-year extension of an un-activated Area Variance, and one vote to deny the request, the motion had carried.

Ms. Davis stated for the record that she had voted to deny the request because she did not feel that the applicant met the criteria for an Area Variance, there were no special conditions on the property, the lots were very small, and she felt the lots being created were non-conforming and there could have been a better alternative. (Ms. Davis noted that this was the same way she had voted one year prior.)

**4. Case 134-025 (9/24/09): Eric Van Singel, Indymac Mortgage Services, One West Bank, 2900 Esperanza Crossing, Third Floor, Austin, TX, requests the following:**

- A. An Equitable Waiver to allow the existing 2,766 square-foot dwelling to remain for property located at 35 Hazelwood Road, Hudson, NH. A variance granted in 1994 stipulated that the house shall be limited to two bedrooms and a maximum of 1,000 square feet of living space excluding garage and porches; this request asks that the excessive as-built size be allowed with a provision that occupancy shall be limited to a maximum of four residents. [Map 134, Lot 025, Zoned R-1, HZO Article VII, Section 334-29, Extension or enlargement of non-conforming uses.]
- B. A Use Variance to change the previously granted variance, which had a stipulation that the house on property located at 35 Hazelwood Road, Hudson, NH, shall be limited to two bedrooms and a maximum of 1,000 square feet of living space excluding garage and porches, to allow the existing 2,766 square-foot dwelling with a provision that occupancy shall be limited to a maximum of four residents. [Map 134, Lots 025, Zoned R-1, HZO Article VII, Section 334-29, Extension or enlargement of non-conforming uses.]

Clerk Martin read aloud the posted notice as above.

Prior to hearing the case, Chairman Seabury declared Part A of the case, the request for an Equitable Waiver, to be moot. He explained that he had suggested that an Equitable Waiver also be requested when the request for a Use Variance was received, but that it had since been suggested that an Equitable Waiver would not be appropriate in this case because the Board was not authorized to change its own stipulations by that method.

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

Chairman Seabury asked who was present that wished to speak in favor with regard to the application.

**B. Discussion with regard to the Use Variance**

Attorney John J. Ratigan, representing the applicants, addressed the Board, stating that his clients, Ms. Margery Harris and Mr. Bruce Atwood were present at the meeting.

Attorney Ratigan stated that a Wetland Special Exception was originally granted for the property located at 35 Hazelwood Road on March 10, 1994.

Attorney Ratigan also stated that, at the time, the Conservation Commission suggested a stipulation that there should be no more than two bedrooms and which limited the square footage to a maximum of 1,000 square feet of living space, excluding the garage and porches.

Attorney Ratigan commented that a succession of owners, over a period of the last 10 years, received permits to build substantially more than 1,000 square feet. He also commented that the septic system on the property was only suitable to accommodate a two-bedroom dwelling.

Attorney Ratigan stated that upon doing research into the title, his clients had come across the old Wetland Special Exception. He further stated that they were concerned that there might be difficulties with the re-sale of the property because of the stipulation that limited the square footage to a maximum of 1,000 square feet.

Attorney Ratigan stated that the applicants would be happy to accept a stipulation stating that no more than four occupants would live in the home.

Chairman Seabury read aloud a letter dated September 14, 2009, addressed to the Zoning Board of Adjustment, from Mr. Janos Kovacs, Real Estate Advisor, summarized as follows:

*I have been asked to draw upon my experience as a real estate broker to offer an opinion about whether the value of properties surrounding the 35 Hazelwood Drive, Hudson, NH, property will be diminished if a variance is granted without the existing square foot structure limitation that burdens the property, or if that condition is otherwise released, or released and a condition is substituted in its place that limits the number of occupants to the existing septic capacity.*

B<sub>2</sub>

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

*I have been in the real estate brokerage profession for over fifteen years, and I have a very good understanding of the circumstances and conditions that can influence property values. One of the biggest depressing effects on residential property values can come from a home that stands unoccupied for a considerable period of time and that is not maintained to the standards that one would expect of an occupied home.*

*It is my understanding that the 35 Hazelwood Road property has been unoccupied for years, even though it is in a lovely neighborhood. If the Board grants the requested relief of lifting the square footage limitation that presently exists on the property, it is my opinion that this relief will not have the effect of diminishing the value of surrounding properties. In fact, if this relief allows the property to be transferred out of the bank's ownership to new owners, such as Mr. Atwood and Ms. Harris, their occupancy and maintenance of the home will enhance the values of surrounding properties.*

Chairman Seabury also read aloud a letter dated September 19, 2009, addressed to the Zoning Board of Adjustment, from Mr. Edward Duffett, an abutter, as summarized as follows:

*I met the folks who are trying to buy the property.*

*They seemed like nice folks and that they wanted to do the right thing with the land. They were concerned about the overall environment.*

*I have mixed feelings as I do not want to see an empty house sitting there, but at the same time, the house sits in a very critical area as it relates to the pond. There is drainage right in front of the property and there is a stream that leads into the pond on the other side of the fire lane. This spot will be critical during our monthly water sampling if it is approved.*

*I am unable to attend your meeting on September 24, 2009, but I have the following concerns.*

*What is the mechanism that will be used to ensure that no more than four people live in the house? Who will monitor that not more than four people live in the house? What will happen if more than four people are found to be living in the house? Is there a fine? Is the house condemned? What could be done?*

*B<sub>3</sub>*

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

*If it is approved, add something that says that the septic tank is pumped "X" times a year and the leach field is checked every "X" years and identify who will be responsible for ensuring that this is done.  
If the leach field fails, who will be responsible for the resultant damages?  
Will the town be responsible for the resultant damages if the home owners are unable to take care of the damages?*

*The big questions is how did this happen? And, who was asleep at the wheel when this house was being built? How do we prevent this from happening in the future?*

Attorney Ratigan noted that he had distributed a two-page document to the Board signed by Mr. Mitchell Albanese and Ms. Mary Joyce, abutters, expressing favorable recommendations.

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application.

Ms. Margery Harris, the applicant, addressed the Board, stating that the problems with the property went back at least 20 years.

Ms. Harris stated that the original owner, Gerard Bergeron, was granted a Wetland Special Exception from the Zoning Board of Adjustment on March 10, 1994. She further stated that one of the stipulations limited the total number of bedrooms not to exceed two and limited the maximum living area to 1,000 square feet.

Ms. Harris said that the previous owner had obtained the necessary permits to effectively increase the size of his house by finishing off a spacious attic, as well as an enclosed porch, resulting in a house whose tax assessment card now indicates 2,766 square feet of finished living space. The house is therefore in violation of the 1,000 square foot restriction of the original approval, presenting a legal dilemma to any future owner of this home.

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application. No one else came forward.

Chairman Seabury asked if there were anyone present who wished to speak in opposition or neutrally with regard to the application.

Mr. Alfred Langguth, 31 Hazelwood Drive, an abutter, addressed the Board, stating that he was there to speak neutrally with regard to the application. He said that he had attended



**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

many ZBA meetings over the years regarding the property and he was concerned that the septic system from the oversized home might overflow into Robinson Pond.

Chairman Seabury asked if there were any members of the Board who had questions or comments.

Ms. Davis asked Mr. Oleksak if he knew what building activity had been happening on the property in 2005. Mr. Oleksak replied that the previous owner, Mr. Gerald Bizzarro, had finished the kitchen and the bathroom, and had installed a heating system. Mr. Oleksak further replied that he informed Mr. Bizzarro that the room above the garage, the loft above the garage, as well as the porch (which were not included in the allowable living space) could not be finished. He said that at the time of inspection for a Certificate of Occupancy, he walked through the home and the door to the garage was closed and it appeared that only 1,100 square feet was finished at the time. Mr. Oleksak commented that any work done after May of 2006, was done without the town's knowledge.

Ms. Davis commented that the town had no control over people doing "work" inside their own home. She further commented that the town could not go into a private citizen's home and police it. Ms. Davis also noted that a person could have one big party on a weekend that could max out a septic system.

Attorney Ratigan read aloud a portion of the Application for a Use Variance as summarized as follows:

1. *The zoning restriction of the cited ordinance(s) interferes with the plaintiff's reasonable use of the property because the house as built has almost 2,800 square feet of living space. Removal of the extra area would be expensive and wasteful.*
2. *No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction(s) on the property because a living area restriction only indirectly protects the two bedroom septic system. Our proposed occupancy limit directly protects the septic system, reflecting the original intent of the ZBA.*
3. *The variance would not injure the public or private rights of others because it affects only the interior of the dwelling, not the footprint which is already in compliance with the Zoning Ordinance.*



**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
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4. *No diminution in the value of surrounding properties would occur because a larger and more useful house is more valuable, which increases the value of surrounding properties.*
5. *The proposed use would be compatible with the spirit of the ordinance because it directly protects the septic system.*
6. *The proposed use will not be contrary to the public interest because a protected septic system is less likely to leak into Robinson Pond.*
7. *Granting the variance would do substantial justice because the present owner obtained the house through foreclosure and was not responsible for the enlarged living area.*

Chairman Seabury noted that he was concerned that the town would not be able to enforce the residential restriction.

Attorney Ratigan suggested that the applicant put up a bond. He further stated that, if the applicant did not follow the town's instructions, then money could be taken from that bond.

Mr. Pacccha asked if the bond would be part of the package if the property were to sell. Attorney Ratigan replied that it could be part of the title, which would notify any future potential owners of the bond.

Ms. Davis commented that there were other lots in the neighborhood that had comparable sized lots with three and four bedrooms.

Attorney Ratigan mentioned that those lots may have larger septic systems.

Ms. Davis asked Mr. Oleksak if there was any way to put a reminder in the system to ensure that the septic system was pumped every year or two and that the applicant would be required to provide proof of that.

Mr. Pitre commented that he felt there was no way to keep track of the activity inside the home.

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application for the second and final time. No one else came forward.

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

Chairman Seabury asked if there were anyone else present who wished to speak in opposition or neutrally with regard to the application for the second and final time. No one else came forward.

Chairman Seabury declared the matter before the Board.

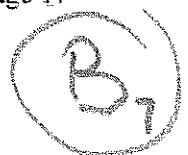
Mr. Oleksak suggested that the applicant have a new septic system designed under current standards and keep it on file.

Ms. Davis made a motion to approve the request for a Use Variance with the following stipulations:

1. The property owner will have the septic system pumped every odd year with the receipt filed in the property folder in the Town Hall.
2. If the septic system fails, it shall be replaced with a system that is appropriate to a house having four bedrooms or to the maximum load of the land – whichever is lower.
3. The property owner will post a bond with the Town of Hudson for 10 years in the amount of \$2,500.00 to cover any expenses incurred as a result of failure to comply with these stipulations.
4. The property owner will have the septic system inspected/tested by a third party designer witnessed by the town health officer every 3 years to ensure proper function.
5. Any violation of these stipulations will result in the revocation of the Certificate of Occupancy.
6. That the house is to remain as a two-bedroom single-family residence.

Mr. Pacocha seconded the motion.

Ms. Davis, speaking on her motion, stated that she felt the case was one of the hardest cases she had ever heard, because it had both pros and cons and it was tough to protect the abutters as well as the applicant. Ms. Davis also said she felt that the decision along with the noted stipulations would protect the ZBA's original intent, it was in the spirit of the ordinance, it would be an expensive burden to retrofit the dwelling, and granting the request would do substantial justice to the applicant.



**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes  
September 24, 2009**

Mr. Pacocha, speaking on his motion, stated that he agreed with Ms. Davis' commentary and the proposed use would not be contrary to the public's interest.

**VOTE:** Chairman Seabury asked the Clerk to poll the Board on the motion to approve the request for a Use Variance with the noted stipulations, and to record the members' votes, which were as follows:

Ms. Davis	To approve
Mr. Pacocha	To approve
Mr. Pitre	To approve
Ms. Shuman	To approve
Mr. Seabury	To deny

Chairman Seabury declared that the decision having been four votes to approve the request for a Use Variance, and one vote to deny the request, the motion had carried.

**IV. OTHER BUSINESS**

Chairman Seabury stated that there was an upcoming case scheduled to be heard on October 7, 2009, regarding 8 Derry Lane, Hudson, NH. He further stated that the property owner had requested that the Board perform a site-walk prior to the meeting.

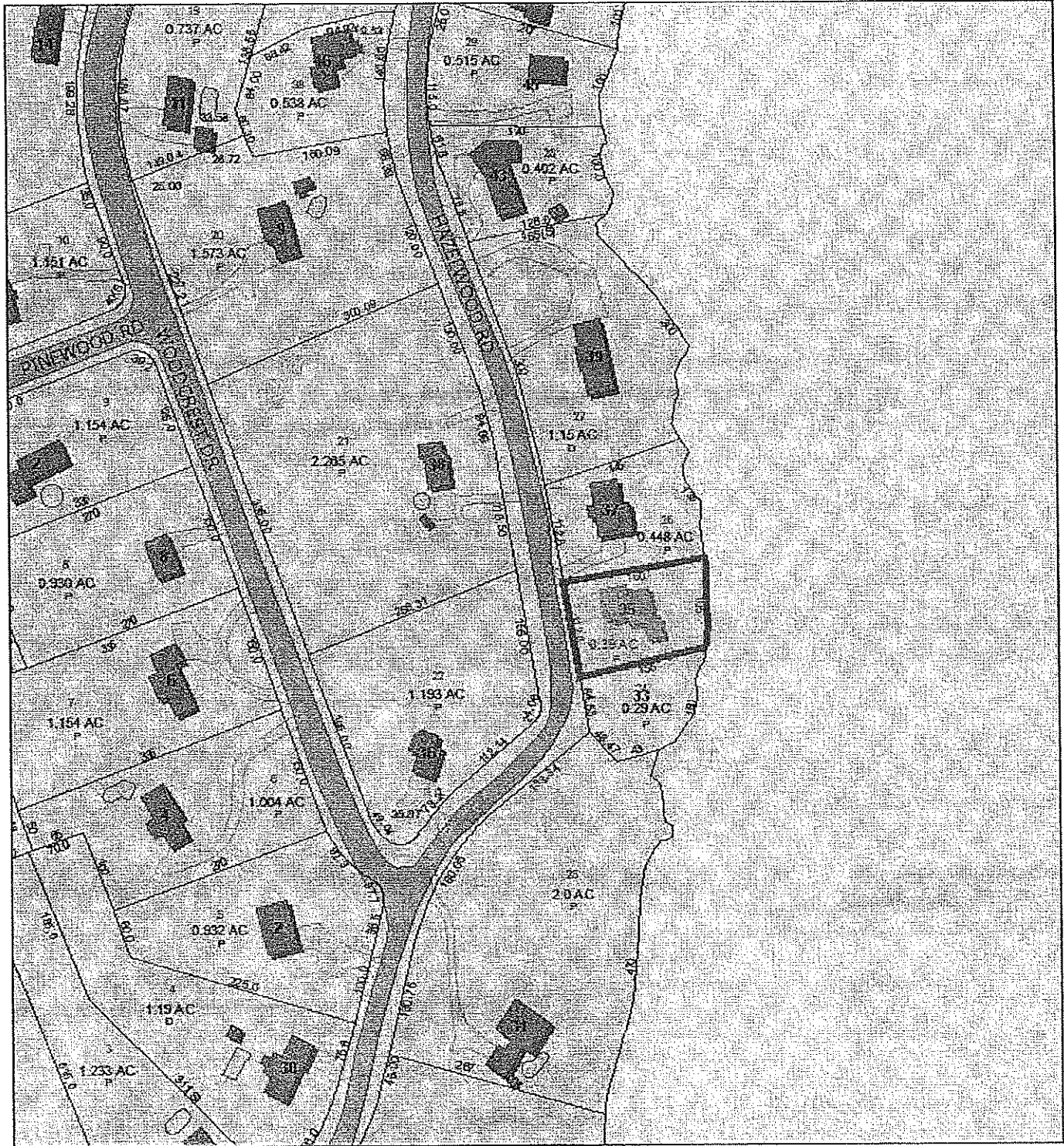
Mr. Oleksak stated that he agreed with the property owner's request.

The Board collectively decided to perform the site-walk on Monday, September 28, 2009, at 6:00pm.

Chairman Seabury stated that the request for a re-hearing regarding 49 Burns Hill Road would be discussed at the October 8, 2009, meeting, due to the fact that this meeting had already gone past the curfew.


8.

# #35 Hazelwood Rd

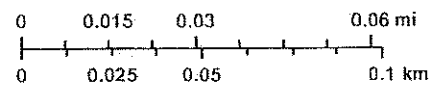


December 30, 2019

Legend

 Parcels

1:1,988

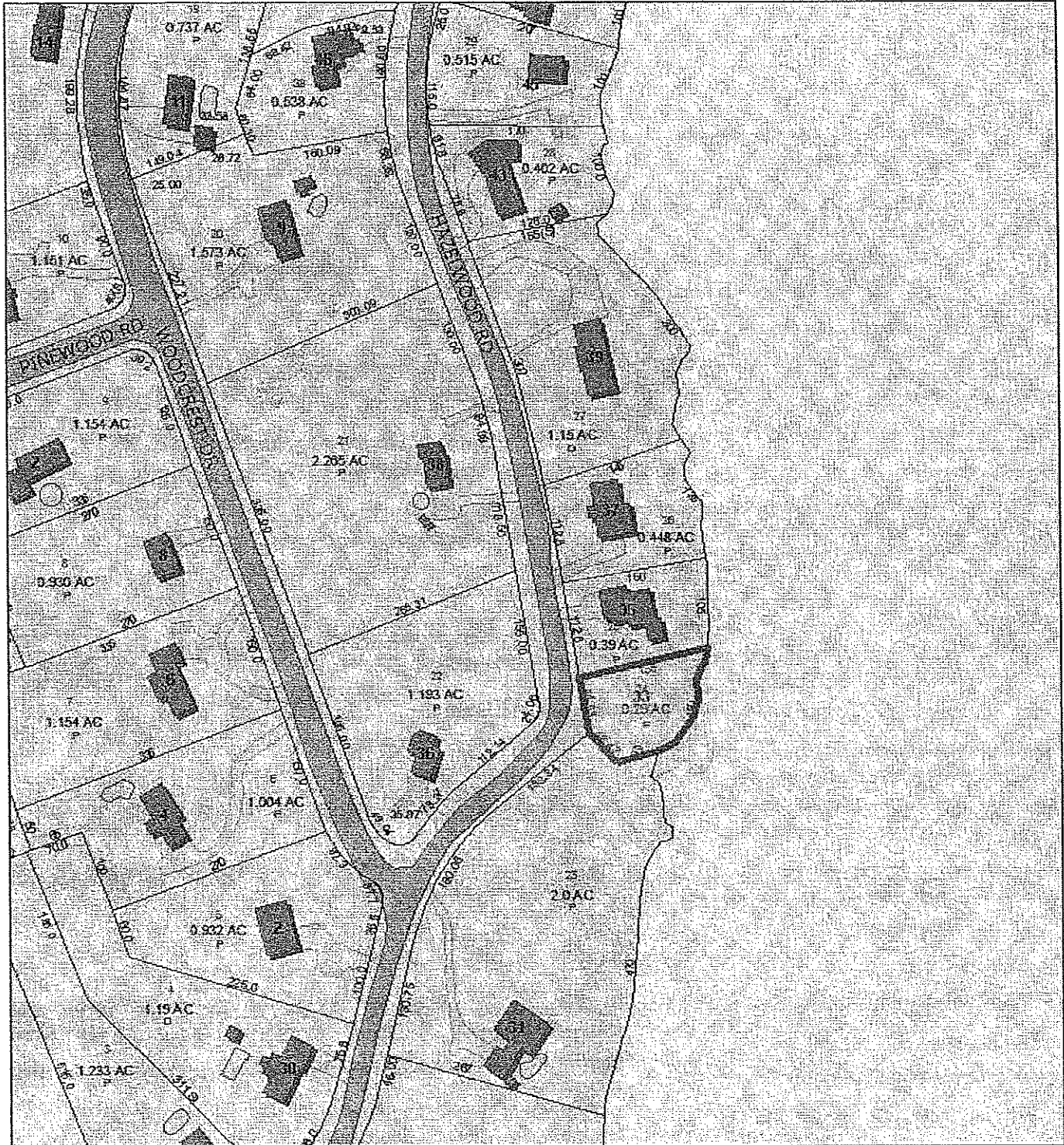


C1






# #33 Hazelwood Rd merged into #35

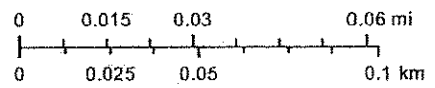


December 30, 2019

Legend

 Parcels

1:1,988



C<sub>2</sub>



Hudson Planning  
546

FEES:	10.50
SURCHARGE:	2
CASH:	—

APPLICATION TO MERGE LOTS FOR TAX ASSESSMENT AND LAND USE PURPOSES

TOWN OF HUDSON, NEW HAMPSHIRE

The undersigned, Margery Harris & Bruce Atwood (type or print name here) is / are the owner(s) of lots or parcels shown on the Town Tax Maps as follows:

Tax Map <u>134</u>	Lot <u>24</u>
Tax Map <u>134</u>	Lot <u>25</u>
Tax Map _____	Lot _____

The undersigned requests that the Town of Hudson Planning Board combine the above described parcels or lots into one parcel or one lot to be known as, Tax Map 134, Lot 25 for tax assessment, and land use purposes.

The undersigned acknowledges and agrees that the merged lots or parcels shall be shown as a single lot or single parcel on the Town Tax map and shall be one lot or one parcel for land use purposes. The Town of Hudson will assess the merged lots or merged parcels as a single lot or a single parcel.

If at any time the undersigned, or its heirs, legatees, successors and assigns of the undersigned wish to subdivide the merged lot or merged parcel, subdivision approval must be obtained from the Town of Hudson Planning Board under the Town of Hudson Subdivision of Land Regulations.

The undersigned agrees that the approval of this application shall be filed at the expense of the undersigned in the Hillsborough County Registry of Deeds.

Dated this 31 day of March, 2019.

<u>Margery Harris</u> LANDOWNER (SIGN HERE)	<u>Bruce Atwood</u> LANDOWNER (SIGN HERE)
--	--

Margery Harris  
(TYPE OR PRINT NAME)

Bruce Atwood  
(TYPE OR PRINT NAME)

This application for the merger of lots for tax assessment and land use purposes is approved by action of the Town of Hudson Planning Board. This application shall be recorded in the Hillsborough County Registry of Deeds.

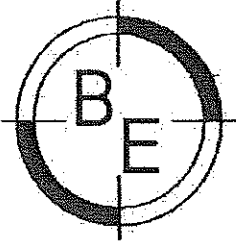
Dated this 17<sup>th</sup> day of May, 2019.

Town of Hudson, NH Planning Board

[Signature]  
Chairperson, Timothy Malley







## Septic System Evaluation Report

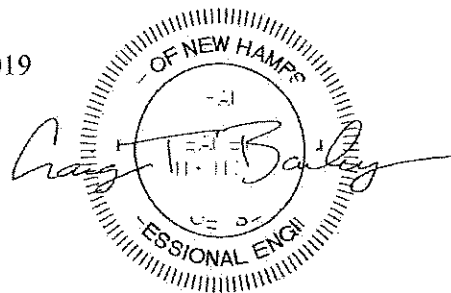
For Tax Map 135 Lot 25  
Located at 35 Hazelwood Rd.  
Hudson, NH

As Prepared for:  
Bruce Atwood & Margery Harris  
35 Hazelwood Rd.  
Hudson, NH 03051

Prepared by:

Bailey Engineering  
217 Cotton Hill Rd.  
Gilford, NH 03249

Date: 11/05/2015  
Last Revised: 01/15/2019



B<sub>1</sub>

### III. Recommendations

#### *Future work needed*

This septic system has been performing admirably since the first site visit by Bailey Engineering in 2009. It is the professional opinion of this office that the septic system as designed could technically support a three-bedroom load as is, due to the excellent soil directly under the leach field. In accordance with the State of New Hampshire subsurface rules, however... the lot by itself could not support a three-bedroom septic load, because it was too small. There's only one way to increase the size of a lot... buy the lot next door!

Since the initial purchase of Tax Map 135 Lot 25, the land owners have since gained clear title to Tax Map 135 Lot 24, the vacant lot to the south of the residence property. Upon a future merging the two lots, the NHDES lot loading calculations show that the lot could indeed support even a 4-bedroom septic load.

A Lot that will support a three-bedroom septic system would no longer be considered sub-standard, and the Restrictions placed on the lot would no longer be necessary. Justice will have been done, since the land owner has been faithfully meeting the letter of the decision, and would have improved the lot such that the restriction should be lifted by the Hudson Zoning Board of Adjustment.



**TOWN OF HUDSON  
LOCAL APPROVAL FOR CONSTRUCTION OF  
AN INDIVIDUAL SEWAGE DISPOSAL SYSTEM**

**WORK NUMBER:** 201900855

**I. PROPERTY INFORMATION**

Address: 35 HAZELWOOD ROAD  
HUDSON NH 03051  
Subdivision Approval No.: PRE-1967  
Subdivision Name: WOODCREST PARK  
County: HILLSBOROUGH  
Tax Map/Lot No.: 134/24

**II. OWNER INFORMATION**

Name: MARGERY HARRIS  
Address: 35 HAZELWOOD RD.  
HUDSON NH 03051

**III. APPLICANT INFORMATION**

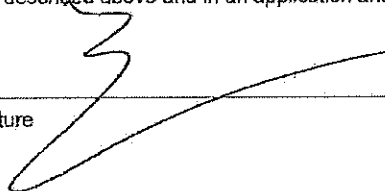
Name: CRAIG T BAILEY  
Address: 13 TRAVERS ST  
HUDSON NH 03051

**IV. DESIGNER INFORMATION**

Name: CRAIG T BAILEY  
Address: 13 TRAVERS ST  
HUDSON NH 03051  
Permit No.: 01482

In accordance with RSA 485-A:32, IIa, the Town of Hudson grants local approval to construct the Individual Sewage Disposal system described above and in an application and plans dated 6/13, 2019.

Signature



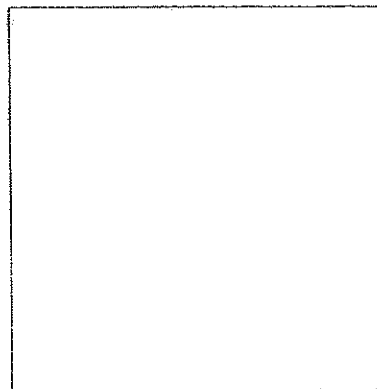
Title

*Town Engineer*

Date

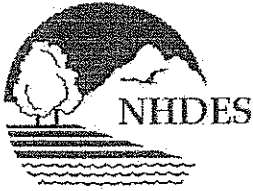
*6/24/19*

- OR -



Town Stamp





The State of New Hampshire  
Department of Environmental Services



Robert R. Scott, Commissioner

REQUEST FOR MORE INFORMATION

JUNE 12, 2019

CRAIG T BAILEY  
13 TRAVERS ST  
HUDSON NH 03051

RE: Subsurface Systems Bureau, Application for Approval of Individual Sewage Disposal System (RSA 485:A)  
Work Number: 201900855  
Subject Property: 35 HAZELWOOD ROAD  
HUDSON NH 03051  
TAX MAP: 134, TAX LOT: 24

Dear Applicant:

The Department of Environmental Services (DES) has reviewed the above referenced application and has determined that additional information is needed to clarify and complete it, or design issues exist that must be addressed:

1. Please illustrate the water line from the well to the building.
2. Please provide a note on the plan certifying that wetlands have been delineated in accordance with Env-Wq 1014.06.
3. As the lot has been recently merged with a vacant lot please provide state subdivision approval for this lot.

In accordance with Env-Wq 1003.02 (c), if DES does not receive a complete response to the above requested information, including amended plans as necessary to incorporate additional information within 180 days of this letter, your request for a construction approval will be denied.

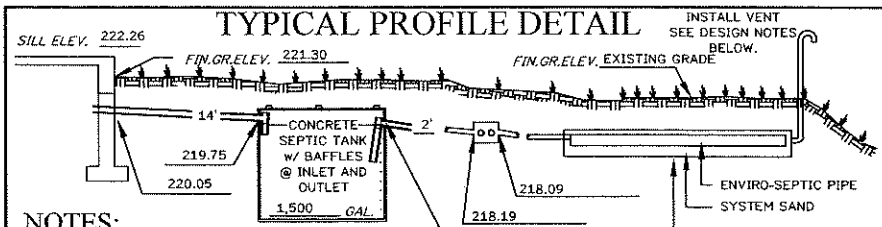
If you have any questions, please contact me at 603-271-2916 or [travis.guest@des.nh.gov](mailto:travis.guest@des.nh.gov).

Sincerely,

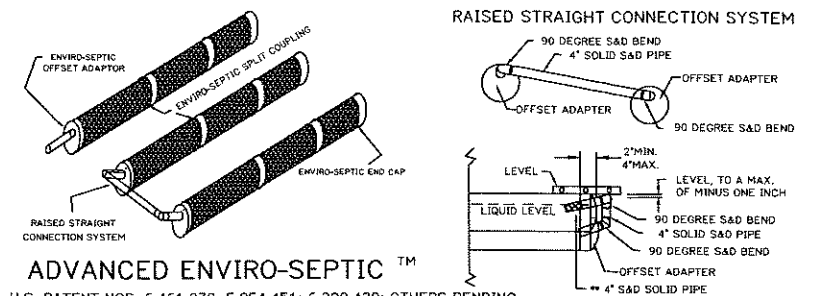
Travis Guest  
Subsurface Systems Bureau  
Land Resources Management

cc: ELVIS DHIMA

E4



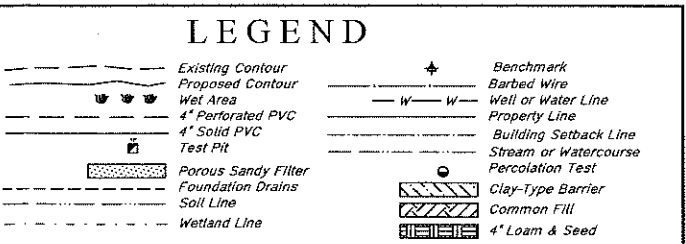
- NOTES:**
- Effluent conduit pipe from building to septic tank and to the "D" box to be SDR 35 or STRONGER PVC.
  - Backfill Requirements: (Compacted) OVER SEPTIC TANK 18"-24" OVER ENVIRO-SEPTIC LINE = 12" (H-10) 18" (H-20)
  - Assumed maximum elevation beneath Area of the bed: 220.6
  - Material Specifications: Del R. Gilbert & Son Block Co. Inc septic tank.
  - Septic tank inlet and outlet vented baffles shall be installed in strict accordance with NH DES Env-Wq 1010.07. Inlet Baffles shall penetrate at least 8 inches below liquid level, but in no case greater than the depth of the outlet baffle. Vented tees shall extend above the liquid line to not less than 1 inch from the interior of the top of the septic tank or cover.
  - Outlet baffle shall be a vented tee that extends to a distance below the surface of the liquid equal to 40% of the liquid depth.
- SYSTEM SAND REQUIREMENTS:**  
Provide a minimum of 6" of system sand around the circumference of the enviro-septic pipe. Sand specification as shown at right. \* SAND MUST BE WASHED utilizing ASTM C-117 to obtain #200 sieve requirements.
- | SIEVE  | % PASSING LOWER | % PASSING UPPER |
|--------|-----------------|-----------------|
| 3/8"   | 100             | 100             |
| #4     | 95              | 100             |
| #8     | 80              | 100             |
| #16    | 50              | 85              |
| #30    | 25              | 50              |
| #50    | 5               | 30              |
| #100   | 0               | 10              |
| #200 * | 0               | 2               |
- SAND FILL REQUIREMENTS:**  
Medium to coarse textured sand, meeting ASTM C-33 spec. This material does not need to be washed.



**ADVANCED ENVIRO-SEPTIC™**  
U.S. PATENT NOS. 6,461,078; 5,954,451; 6,290,429; OTHERS PENDING  
**ENVIRO-SEPTIC LINE ELEVATION TABLE**  
ADVANCED ENVIRO-SEPTIC PIPE LINE ELEVATIONS

SECTION	1	2	3	4	5	6	7	8	9	10
LINE NUMBER	1	2	3	4	5	6	7	8	9	10
TOP OF LINE	218.5	218.5	218.5	218.5	218.5	218.5	218.5	218.5	218.5	N/A
BOTTOM OF LINE	217.5	217.5	217.5	217.5	217.5	217.5	217.5	217.5	217.5	N/A

- GENERAL NOTES**
- SEE STATE OF NH APPROVAL FOR CONSTRUCTION FOR ADDITIONAL CONDITIONS OF DESIGN OR INSPECTION.
  - CONTRACTOR TO VERIFY ALL SITE CONDITIONS PRIOR TO COMMENCEMENT OF WORK.
  - TURNING POINT LAND SURVEYORS & LAND PLANNERS, ASSUME NO RESPONSIBILITY FOR THE CONSTRUCTION OR OPERATION OF THIS SYSTEM UNLESS CONTRACTED TO INSPECT AND APPROVE ALL MATERIALS AND INSTALLATION PROCEDURES USED.
  - ALL SYSTEMS ARE TO BE INSPECTED AND APPROVED BY THE STATE OF NH OR LOCAL MUNICIPAL AUTHORITIES BEFORE BACKFILLING.
  - THIS DRAWING SUPERSEDES ALL PREVIOUS DRAWINGS ON THIS SUBJECT.
  - SYSTEM IS TO BE RECONSTRUCTED IN PLACE UPON FAILURE UNLESS AN ALTERNATE SITE IS DESIGNATED ON THE PLAN. ALL COMMERCIAL SEPTIC SYSTEMS REQUIRE RESUBMITTAL AND REAPPROVAL PRIOR TO REPLACEMENT OF A FAILED SEPTIC SYSTEM.
  - THIS SEPTIC DESIGN PLAN IS BASED ON A LIMITED TOPOGRAPHIC SURVEY AND LIMITED SUBSURFACE SOIL INVESTIGATION. IF ANY DEVIATION FROM DEPICTED SITE CONDITIONS ARE ENCOUNTERED DURING CONSTRUCTION, THE CONTRACTOR / INSTALLER SHALL IMMEDIATELY NOTIFY TURNING POINT LAND SURVEYORS & LAND PLANNERS AND THE DESIGNER OF SUCH CONDITIONS.
  - ANY DEVIATIONS FROM THIS APPROVED SEPTIC DESIGN PLAN MAY REQUIRE REDESIGN AND REAPPROVAL FROM LOCAL AND OR STATE OF NH REGULATORS.
  - ADVANCED ENVIRO-SEPTIC® WASTE WATER TREATMENT SYSTEMS ARE APPROVED BY NHDES INNOVATIVE TECHNOLOGY APPROVAL COMMITTEE BY LETTER DATED 17 NOVEMBER, 2017. IF APPROVAL #2010-07-01. THE SYSTEM, INCLUDING ANY PRESBY HAZEL OR PRESBY ENVIROFINE SUBSYSTEMS ATTACHED HERETO MUST BE INSTALLED IN STRICT ACCORDANCE WITH THE PRESBY ENVIRONMENTAL, INC. TECHNICAL BULLETIN DATED 03/28/2009 OR LATER, & THE MOST RECENT DESIGN AND INSTALLATION MANUAL.
  - THIS PLAN IS NOT A BOUNDARY SURVEY PLAN.



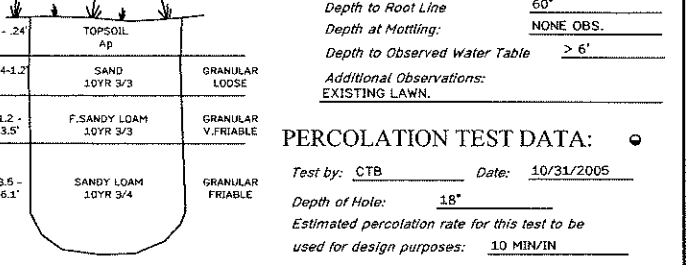
State Subdivision Approval Number: PRE-67 Dated: N/A  
Elevation Reference Assumed: APPROXIMATE USGS  
Elevation Benchmark Set: 5/8" RBF #523, 218.26 (See Plan)

**TEST PIT DATA:**

Test Pit By: CTB  
Dated: 10/04/2018  
Elevation: 218.86

Depth to Ledge: NONE OBSERVED  
Estimated Seasonal High Water Table: NONE OBS.  
USDA Soil Survey Classification Symbols: CANTON F. SANDY LOAM (CmC)

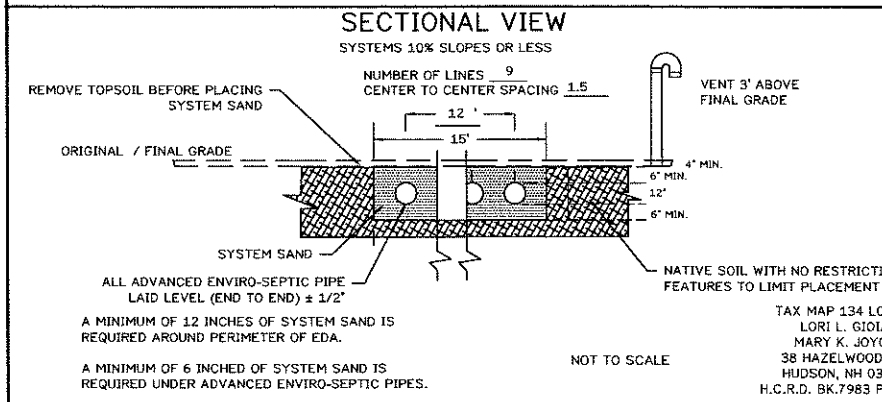
Depth to Root Line: 60"  
Depth at Mottling: NONE OBS.  
Depth to Observed Water Table: > 6'  
Additional Observations: EXISTING LAWN.



**ADVANCED ENVIRO-SEPTIC® DESIGN NOTES**

DESIGN INTENT  
The bottom of the highest Enviro Septic® Pipe shall be constructed at elevation 217.5  
The bottom of the Enviro Septic® Pipe is approximately 3.1 feet below existing grade.

NUMBER OF BEDROOMS: 4  
DAILY FLOW VOLUME: 600 GPD  
TANK VOLUME PROVIDED: 1500 GAL.  
AMOUNT OF ENVIRO-SEPTIC REQUIRED: 220 FT.  
USE: 270 LINEAR FT. OF ENVIRO-SEPTIC



- GENERAL NOTES and WAIVER REQUEST**
- THE PURPOSE OF THIS PLAN IS TO PREPARE A STATE-APPROVED 4-BEDROOM ISDS.
  - THERE IS AN EXISTING AND STATE-APPROVED SEPTIC SYSTEM, AS PERMITTED BY CA1994206540 FOR A 2-BEDROOM DESIGN.
  - SINCE THE ORIGINAL APPROVAL, THE LAND OWNERS HAVE PURCHASED THE VACANT ADJACENT LOT, PREVIOUSLY KNOWN AS TAX MAP 134 LOT 24. WITH THE ADDITIONAL SOIL AREA, THE LOT LOADING CALCULATIONS ALLOW FOR A 4-BEDROOM DESIGN.
  - A WAIVER FROM Env-Wq 1004.03 IS SOUGHT WITH THIS APPLICATION. ALL NEW CONSTRUCTION, AND CONSTRUCTION THAT MODIFIES THE FOOTPRINT OF EXISTING IMPERVIOUS SURFACES, ALL EXCAVATION USING MECHANIZED EQUIPMENT, AND FILLING WITHIN 250 FEET OF PUBLIC WATERS REQUIRES A SHORELAND PERMIT. A SHORELAND PERMIT MUST BE OBTAINED PRIOR TO COMMENCING ANY CONSTRUCTION, EXCAVATION, OR FILLING ACTIVITIES.

**LOT LOADING CALCULATION**

LOT AREA = 0.68 Ac. ± 29,678 Sq. Ft. ±  
PROTECTIVE WELL RADIUS AREA = 8,816 ± 1,284 Sq. Ft. ±  
SOIL TYPE = CmC CANTON  
NH DES SOIL GROUP = 2C  
NH DES SOIL LOT FACTOR = 1.4  
WETLAND SOILS (80A) TYPE 6A = 1,284 S.F.

CALCULATED LOT SEWAGE LOADING;  
(LOT AREA - WELL RADIUS AREA) (2,000) = LOT CAPACITY  
43,560

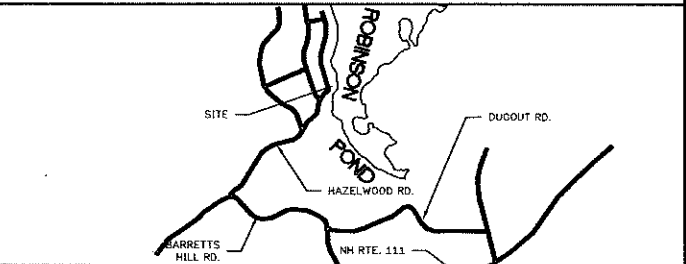
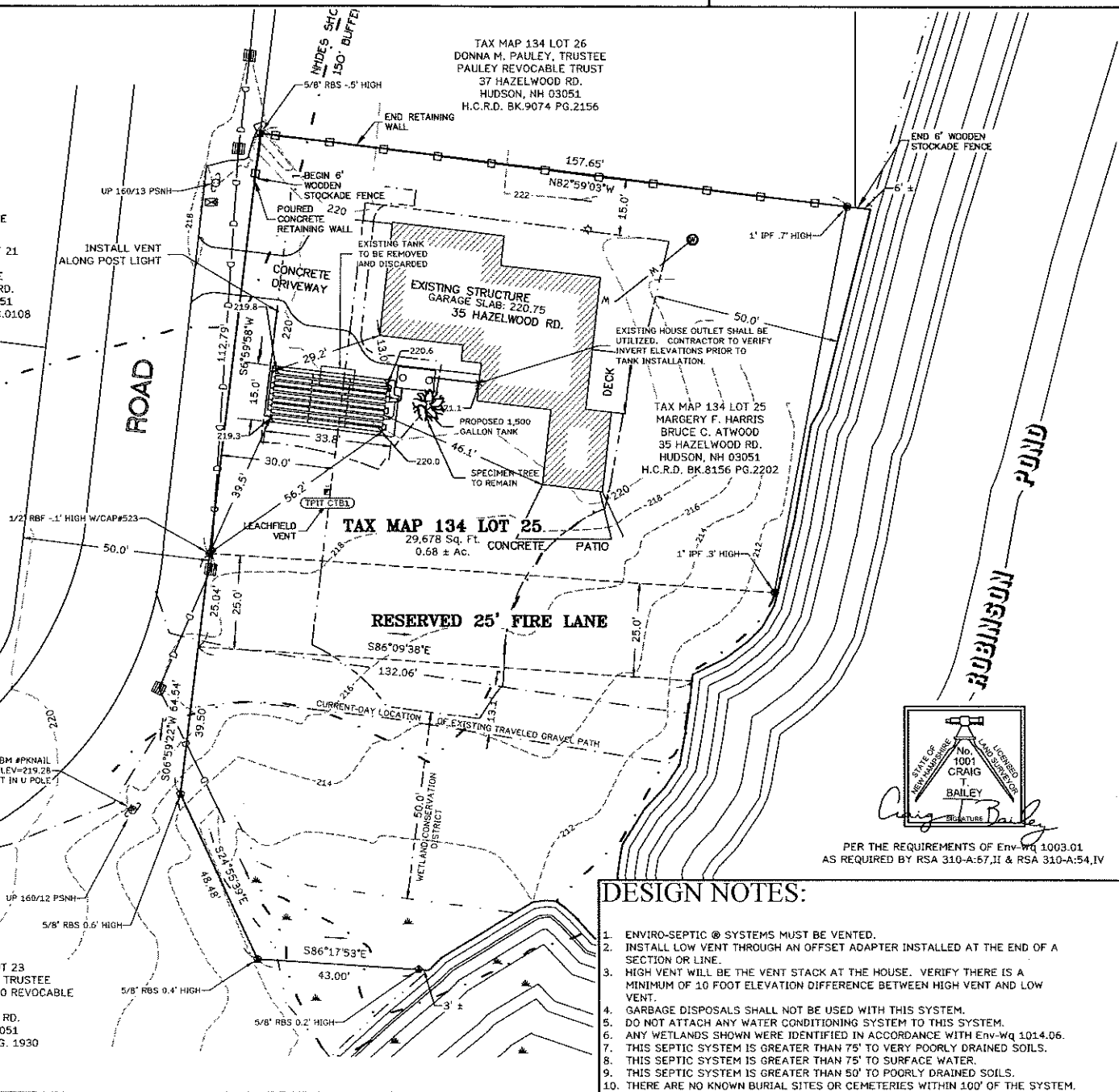
SOIL LOT FACTOR  
(29,678 - (8,816 ± 1,284)) (2,000) = 629 G.P.D.  
43,560  
1.43

**NHDES PROTECTED SHORELAND NOTE:**  
PORTIONS OF THIS PROPERTY ARE UNDER THE JURISDICTION OF THE SHORELAND WATER QUALITY PROTECTION ACT (SWQPA), AS DEFINED BY NH STATUTE RSA 483-B.

SEE RSA 483-B FOR A COMPREHENSIVE LIST OF RESTRICTIONS AND STANDARDS THAT MUST BE COMPLIED WITH DURING CONSTRUCTION AND ON-GOING MAINTENANCE THAT OCCURS WITHIN THE PROTECTED SHORELAND.

**1. WATER BODY INFORMATION:**  
1.1. REFERENCE LINE ELEVATION: 211.0 NGVD 29  
2. LENGTH OF SHORELINE FRONTAGE ON THE PROPERTY: 275'

**NHDES SHORELAND PROTECTION LEGEND**



**ADVANCED ENVIRO-SEPTIC INDIVIDUAL SEWERAGE SYSTEM DESIGN PLAN**

TAX LOT NO. MAP 134 LOT 25 TOWN OF HUDSON

FOR: NAME: BRUCE ATWOOD PHONE: 978-430-1304  
ADDRESS: MARGERY HARRIS 35 HAZELWOOD RD. HUDSON, NH 03051

**BRYAN L. BAILEY ASSOCIATES, INC.**  
TURNING POINT  
LAND SURVEYORS & LAND PLANNERS  
217 Cotton Hill Road  
Gilford, NH 03249  
Ph 528-3734

DATE	REVISION	INITIALS
03/21/2019	CHANGE TO 4-BEDROOM DESIGN	CTB
05/13/2019	SHOW EXISTING WELL LINE	CTB

DATE 03/11/2019 JOB No. 2581  
DRAWN BY: CTB N.H. DESIGNER PERMIT # 1482

SCALE: 1" = 20'

- DESIGN NOTES:**
- ENVIRO-SEPTIC® SYSTEMS MUST BE VENTED.
  - INSTALL LOW VENT THROUGH AN OFFSET ADAPTER INSTALLED AT THE END OF A SECTION OR LINE.
  - HIGH VENT WILL BE THE VENT STACK AT THE HOUSE. VERIFY THERE IS A MINIMUM OF 10 FOOT ELEVATION DIFFERENCE BETWEEN HIGH VENT AND LOW VENT.
  - GARBAGE DISPOSALS SHALL NOT BE USED WITH THIS SYSTEM.
  - DO NOT ATTACH ANY WATER CONDITIONING SYSTEM TO THIS SYSTEM.
  - ANY WETLANDS SHOWN WERE IDENTIFIED IN ACCORDANCE WITH Env-Wq 1014.06.
  - THIS SEPTIC SYSTEM IS GREATER THAN 75' TO VERY POORLY DRAINED SOILS.
  - THIS SEPTIC SYSTEM IS GREATER THAN 75' TO SURFACE WATER.
  - THIS SEPTIC SYSTEM IS GREATER THAN 50' TO POORLY DRAINED SOILS.
  - THERE ARE NO KNOWN BURIAL SITES OR CEMETERIES WITHIN 100' OF THE SYSTEM.

## Buttrick, Bruce

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**From:** Stickney, Doreena  
**Sent:** Friday, December 27, 2019 11:01 AM  
**To:** Goodwyn, Tracy; Buttrick, Bruce  
**Cc:** Dhima, Elvis  
**Subject:** 35 Hazelwood Rd. Septic Design  
**Attachments:** 2581\_SEPTIC-Septic2019\_061319.pdf; local.pdf; ISDS\_201900855  
\_Request\_for\_Information.pdf; 2581\_Comprehensive\_Septic\_Evaluation\_Report\_011519.pdf; 2581\_BOUNDARY\_PLAN\_MERGED\_052319b.pdf; septic 2019.pdf; Zonning & Septic.pdf

Hey guys,

It does look like we've had a new septic design submitted back in June 2019. Elvis gave his Local Approval for the State on 6/24/19, but we haven't done any test pit or bed bottom inspections, so they may have just been submitting it "in case" of a system failure. Also, we have a letter from the State requesting more information that I don't know if they ever responded to. (See attached Septic Design, Local Approval, and letter from the State)

Also, I found the attached Comprehensive **Septic Evaluation Report** done in January of 2019, which spells everything out. In the same file, there was also the attached Boundry Plan, and inspection done by Hamm Septic last August.

The attachment entitled "Zoning & Septic" also has notes from Bill Oleksak on inspections, and service forms from Maznek Septic Service and Hamm Septic from 2011 and 2012.

There may be more in the Doc Server, but this is what I found in our Septic files.

Hope this helps!

*Doreena Stickney*  
*Engineering Administrative Aide*

**Town of Hudson**

12 School Street  
Ph: 603-886-6008  
Fax: 603-594-1142





# TOWN OF HUDSON

## Land Use Division



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

### Notice of Compliance Release of Bond

December 31, 2019

Margery Harris and Bruce Atwood  
35 Hazelwood Rd  
Hudson, NH 03051

Re: **35 Hazelwood Rd Map 134 Lot 025-000**  
**District: Residential One (R-1)**

Dear Ms. Harris and Mr. Atwood,

I have received a request from an internal department here in Town Hall to release the Septic Bond that was put up 10 years ago.

**Zoning Review / Determination:** I find upon the review of the file and current property actions that you have satisfied the 9/24/09 ZBA Notice of Decision and stipulations. Therefore, I am recommending that the surety amount and its' respective interest be returned to you.

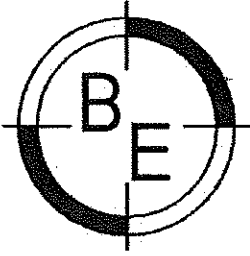
Sincerely,

Bruce Buttrick, MCP  
Zoning Administrator/Code Enforcement Officer  
(603) 816-1275  
[bbuttrick@hudsonnh.gov](mailto:bbuttrick@hudsonnh.gov)

encl: 01/15/19 Septic evaluation report  
cc: Public File  
S. Malizia – Town Administrator  
K. Carpentier – Finance Dir  
E. Dhima – Town Engr  
File

*NOTE: this determination may be appealed to the Hudson Zoning Board of Adjustment within 30 days of the receipt of this letter.*





## Septic System Evaluation Report

For Tax Map 135 Lot 25

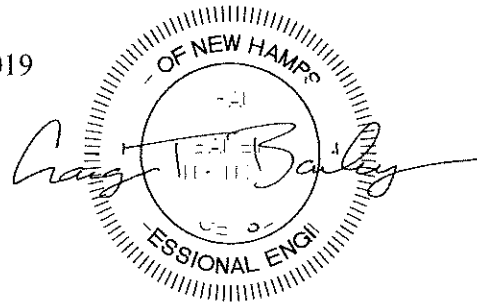
Located at 35 Hazelwood Rd.  
Hudson, NH

As Prepared for:  
Bruce Atwood & Margery Harris  
35 Hazelwood Rd.  
Hudson, NH 03051

Prepared by:

Bailey Engineering  
217 Cotton Hill Rd.  
Gilford, NH 03249

Date: 11/05/2015  
Last Revised: 01/15/2019



### **III. Recommendations**

#### ***Future work needed***

This septic system has been performing admirably since the first site visit by Bailey Engineering in 2009. It is the professional opinion of this office that the septic system as designed could technically support a three-bedroom load as is, due to the excellent soil directly under the leach field. In accordance with the State of New Hampshire subsurface rules, however... the lot by it self could not support a three-bedroom septic load, because it was too small. There's only one way to increase the size of a lot... buy the lot next door!

Since the initial purchase of Tax Map 135 Lot 25, the land owners have since gained clear title to Tax Map 135 Lot 24, the vacant lot to the south of the residence property. Upon a future merging the two lots, the NHDES lot loading calculations show that the lot could indeed support even a 4-bedroom septic load.

A Lot that will support a three-bedroom septic system would no longer be considered sub-standard, and the Restrictions placed on the lot would no longer be necessary. Justice will have been done, since the land owner has been faithfully meeting the letter of the decision, and would have improved the lot such that the restriction should be lifted by the Hudson Zoning Board of Adjustment.