



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

MEETING AGENDA – May 25, 2023

The Hudson Zoning Board of Adjustment will hold a meeting on Thursday, **May 25, 2023** at **7:00 PM** in the Community Development Paul Buxton Meeting Room in the basement of Hudson Town Hall, 12 School St., Hudson, NH (please enter by ramp entrance at right side).

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE

III. ATTENDANCE

- **IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**
 - <u>Case 151-009 (05-25-23)</u>: Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for 30 Barretts Hill Road, Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]
 - <u>Case 247-131 (05-25-23)</u>: Erich & Kerry Uhlendorf, 3 Jacqueline Street, Hudson, NH requests an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sqft. shed to remain in its current location which encroaches approx. 12 ft into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]
 - <u>Case 147-016 (05-25-23)</u>: Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for 181 B Webster St., Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:
 - **a.** To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 - **b.** To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 - c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
 - **d.** To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

V. REQUEST FOR REHEARING: None

- VI. REVIEW OF MINUTES: 04/27/23 edited Draft Minutes
- VII. OTHER:

Bruce Buttrick, Zoning Administrator

Legal Notice

REQUEST FOR PROPOSALS RFP NO. 006-2023 SAU#53 SPECIAL EDUCATION TRANSPORTATION SERVICES

SAU#53 is seeking proposals from qualified firms to provide Special Education Transportation ervices. The Request for Proposals is posted on the following website: www.sau53.org and refer to RFP's SAU 53. RFP 006-2023 SAU#53 Special Education Transportation Śervices. All inquiries concerning this

request shall be made in writing to: Amber Wheeler, Business Administrator, SAU#53, 267 Pembroke Street, Pembroke, NH e-mail <u>awheeler</u> 03275; @sau53.org. The RFP response is due by **Thursday, May 25th**, **2023, by 12:00pm.** Your response must include all the materials requested in the RFP. One (1) electronic copy must be sent to awheeler@sau53.org and five (5) proposals should be mailed or hand delivered to the address noted above Attn: Amber Wheeler, Business Administrator. (UL - May 15, 16)

More notices at www.unionleader.com

Legal Notice

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES AIR RESOURCES DIVISION CONCORD, NEW HAMPSHIRE NOTICE OF PERMIT REVIEW PUBLIC HEARING AND

COMMENT PERIOD Pursuant to the New Hampshire Code of Administrative

Rules, Env-A 621.02, notice is hereby given that the Director of the New Hampshire Department of Environmental Services, Air Resources Division (Director), has received an application for a Temporary Permit from, and based on the information received to date, intends to issue such permit to:

Sea-3, LLC 190 Shattuck Way Newington, NH 03801 For the Following Device: **One Emergency Engine**

The application and draft per-mit are on file with the Director, New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095, (603) 271-1370. The application and draft permit are available through the NHDES OneStop online database at:

https://www4.des.state.nh.us/D ESOnestop/BasicSearch.aspx (DES Interest ID: 3301500002). Please contact us at the above address and phone number if you would like to review the application or draft permit but cannot access it through OneStop. Additional information may also be obtained by contacting Meg King at the above address and phone number. Requests for a public hearing and/or written comments filed with the Director in accordance with Env-A 621.06, and received no later than June 15, 2023, shall be considered by the Director in making a final decision.

Craig A. Wright Director Air Resources Division (UL - May 16)

and recorded in the Hillsborough County Registry of Deeds in Book 7559, Page 114 (the "Mortgage") of which mortgage the undersigned is present holder by assignment, pursuant to and in execution of said power and for breach of conditions of said Mortgage and

for the purpose of foreclosing same will be sold at: **Public Auction on** June 6, 2023 at 9:00 AM

Said sale being located on the mortgaged premises and having a present address of **27 Cadogan Way, Unit Q-211, Nashua, Hills**borough County, NH. The prem-

ises are more particularly described in the Mortgage.

NOTICE PURSUANT TO NEW HAMP-SHIRE RSA 479:25, YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORT-GAGED PREMISES ARE SITU-ATED, WITH SERVICE UPON THE MORTGAGEE, AND UPON SUCH BOND AS THE COURT MAY REQUIRE, TO ENJOIN THE SCHEDULED FORECLOSURE SALE.

mortgagee's name and The address for service of process is U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-CTT c/o Rushmore Loan Management Services. LLC at 15480 Laguna Canyon Road, Suite 100., Irvine, CA, 92618. The name and address of the mortgagee's agent for service of process is Corporation Service Company at 10 Ferry Street, Suite 313, Concord, NH 03301. You can contact the New Hampshire Banking Department by e-mail at

nhbd@banking.nh.gov. For information on getting help with housing and foreclosure issues, please call the foreclosure information hotline at 1-800-437-5991. The hotline is a service of the New Hampshire Banking Department. There is no charge for this call.

The property will be sold subject to all unpaid real estate taxes and all other liens and encumbrances which may be entitled to precedence over the Mortgage. Notwithstanding any title information contained in this notice, the Mortgagee expressly disclaims any representations as to the state of the title to the Property involved as of the date of the notice of the date of sale. The property to be sold at the sale is "AS IS, WHERE IS".

The foreclosure sale will be made for the purpose of foreclo-sure of all rights of redemption of the said mortgagor(s) therein possessed by them and any and all persons, firms, corporations, or agencies claiming by, from or under them

TERMS OF SALE:

A deposit of FIVE THOUSAND DOLLARS AND 00 CENTS (\$5,000.00) in the form of a certified check, bank treasurer's check, or money order will be required to be delivered at or before the time the bid is offered. The description of the premises contained in containe contained in said mortgage shall control in the event of an error in this publication.

U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-CTT Present Holder of said Mortgage, By Its Attorneys, Orlans PC PO Box 540540 Waltham, Massachusetts

Phone: (781) 790-7800 (UL - May 16, 23, 30)

Legal Notice

THE STATE OF

NEW HAMPSHIRE

ert. McGuiness, et al Case Number: 226-2023-CV-00163

The above entitled action is now pending in this Court. The original pleading is on file and may be examined by interested parties. The Court has issued an Order for Service by Publication on defendant(s) Heirs, Devisees, and Legal Representatives of Robert. McGuiness

The Court ORDERS:

Federal National Mortgage As-sociation shall give notice to Heirs, Devisees, and Legal Representatives of Robert. McGuiness of this action by publishing a verified copy of this Citation for Publication once a week for three successive weeks in the Union Leader, a newspaper of general circulation. The last publication shall be on or before June 12, 2023 Also, **ON OR BEFORE**

30 days after the last publi-Heirs, Devisees, and cation -Legal Representatives of Robert. McGuiness shall electronically file an Appearance and Answer or other responsive pleading with this Court. A copy of the Appear-ance and Answer or other responresponsive pleading with sive pleading must be sent electronically to the party/parties listed below.

July 03, 2023 - Federal National Mortgage Association shall electronically file the Return of Publication with this Court. Failure to do so may result in this action being dismissed without further notice.

Notice to Heirs, Devisees, and Legal Representatives of **Robert. McGuiness:** If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services icon and then select the option for a self-represented party. Complete the registration/log in process then select "I am filing into an existing case". Enter the case number above and click Next. Follow the instructions to complete your filing.

Once you have responded to the Complaint, you can access documents electronically filed through our Case Access Portal by going to https://odypa.nhecourt .us/portal and following the instructions in the User Guide. In that process you will register. validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you do not comply with these requirements, you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to: Lucas Paul Marchifrazier, ESQ., Harmon Law Offices PC, 150 California St., Newton MA 02458.

BY ORDER OF THE COURT April 28, 2023 Amy M. Feliciano Clerk of Court (921)

Legal Notice

(UL - May 16, 23, 31)

NOTICE OF NEW HAMPSHIRE **MEDICAID FEE FOR SERVICE**

DRUG UTILIZATION **REVIEW BOARD PUBLIC HEARING**

June 19, 2023 Drug New Hampshire

public hearing. The Zoom Conference information will be available 1 week prior to the DUR meeting at https://nh.magellanrx.com/.

The purpose of the public hearing is to solicit information and provide an opportunity for the public to present its views regard-ing the NH Medicaid Fee for Service pharmacy prior authoriza-tion criteria and PDL additions.

The public hearing will begin at 1:00 p.m. and end no later than 2:00 p.m. The DUR meeting will begin at or before 2:00 p.m., upon completion of public comments. The public is invited to present oral comments regarding the pro-posed prior authorization criteria and PDL additions. Members of the public shall notify the Depart-ment of Health and Human Services (DHHS) at least 48 hours in advance of the public hearing of their intent to comment at the public hearing. Comments will be limited to no longer than five (5) minutes per person and will be limited to the items on the agenda.

Written material may also be submitted by the public for DUR Board consideration, if received by DHHS at least 48 hours in advance of the meeting and may not exceed five (5) pages in length. If accommodations are needed

for communication access such as interpreters, CART (captioning), assistive listening devices, or other auxiliary aids and/or services, please contact Margaret 'Peg' Clifford at (603) 271-9098 by June 5, 2023. At least 5 business days advance notice is requested in order to assure availability; requests made fewer than 5 days prior to the event will attempt to be accommodated but cannot be

guaranteed. DRUG UTILIZATION REVIEW **BOARD MEETING** June 19, 2023

Meeting Agenda

I. Introductions and Welcome to Board Members

II. Old Business A. Minutes - 12/13/2022 review

III. New Business A. DUR Business Operations 1. Overview of Drug Utilization Patterns for the New Hampshire

Medicaid Fee-for Service Program a. Prospective DUR Reports b. Utilization Reports c. Retrospective DUR Reports

B. COVID-19 Status Update

C. Review of Current Clinical Prior Authorization Criteria with

Proposed Changes 1. Benign Prostatic Hyperpla-sia (BPH) Medication 2. Calcitonin Gene-Related Peptide (CGRP) Inhibitor 2. Conversioner Kitz (DY)

3. Convenience Kits (RX)

4. Dupixent® (dupilumab)

6. Hyaluronic Acid Derivatives

Injection

8. Long-Acting Opioid Analgesic 9. Monoclonal Antibodies Di-10. Pulmonary Arterial Hyper-

11. Skin Disorders

tors 13. Weight Management D. Review of Current Clinical

Prior Authorization Criteria with No Proposed Changes

- Codeine for Pediatric Use
- 2. Rho Kinase Inhibitor 3. Stromectol®

E. Proposal of Clinical Prior Authorization to Retire

1. Allergen Extract

G. Proposal of New Preferred Drug List (PDL) Category 1. Urea Cycle Disorders, Oral

IV. Adjourn Further information regarding the agenda items may be obtained after June 5, 2023. Notice of intent to testify at the public hearing, and/or submittal of written comments, should be directed to Margaret 'Peg' Clifford, NH Department of Health and Human Services, 129 Pleasant Street Concord. NH, 03301, (603) 271-9098, e-mail or at: margaret.clifford@dhhs.nh.gov. (UL - May 16)

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL PROPERTY

By virtue of a Power of Sale contained in a certain mortgage given by Cynthia A. Ferrullo, Ralph G. Ferrullo ("the Mortgagor(s)") to Citifinancial Consumer Services, dated October 31, 2007 and recorded in the Rockingham County Registry of Deeds in Book 4859, Page 631, (the "Mortgage"), which mortgage is held by U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2020-RPL1, the present holder of said Mortgage, pursuant to and in execu-tion of said power and for breach of conditions of said Mortgage and for the purposes of foreclosing the same will sell at:

Public Auction

on June 30, 2023 at

12:00 PM

Said sale being located on the mortgaged premises and having a present address of 2 Brook Lane, Sandown, Rockingham County, New Hampshire. The premises are more particularly described in the Mortgage.

For mortgagor's(s') title see deed recorded with the Rocking-ham County Registry of Deeds in Book 3981, Page 2667.

NOTICE PURSUANT TO NEW HAMP-SHIRE RSA 479:25, YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORT-GAGED PREMISES ARE SITU-ATED, WITH SERVICE UPON THE MORTGAGEE, AND UPON SUCH BOND AS THE COURT MAY REQUIRE TO ENJOIN THE SCHEDULED FORECLOSURE SALE.

The address of the mortgagee for service of process is 10 Ferry Street Suite 313, Concord, NH 03301 and the name of the mortgagee's agent for service of process is Corporation Service Company d/b/a Lawyers Incorporating Service.

You can contact the New Hampshire Banking Department by e-mail at nhbd@banking.nh.gov. For information on getting help with housing and foreclosure issues, please call the foreclosure information hotline at

LEGAL PROBATE NOTICE THE STATE OF NEW HAMPSHIRE 10th Circuit - Probate Division - Brentwood 4/14/2023 thru 4/27/2023

APPOINTMENT OF FIDUCIARIES

Notice is hereby given that the following fiduciaries have been duly appointed by the Judge of Probate for Rockingham County. All persons having claims against these decedents are requested to exhibit them for adjustment and all indebted to make payment.

1-800-437-5991. The hotline is a service of the New Hampshire Banking Department. There is no charge for this call. The Property will be sold

subject to all unpaid real estate taxes and all other liens and encumbrances which may be entitled to precedence over the Mort-Notwithstanding any title gage. information contained in this no-tice, the Mortgagee expressly disclaims any representations as to the state of the title to the Property involved as of the date of the notice of the date of sale. The property to be sold at the sale is "AS IS WHERE IS".

TERMS OF SALE

A deposit of Five Thousand (\$5,000.00) Dollars in the form of a certified check or bank treasurer's check or other check satisfactory to Mortgagee's attorney will be required to be delivered at or before the time a bid is offered. The successful bidder(s) will be required to execute a purchase and sale agreement immediately after the close of the bidding. The balance of the purchase price shall be paid within thirty (30) days from the sale date in the form of a certified check, bank treasurer's check or other check satisfactory to Mortgagee's attorney. The Mortgagee reserves the right to bid at the sale, to reject any and all bids, to continue the sale and to amend the terms of the sale by written or oral announcement made before or during the foreclosure sale. The description of the premises contained in said mortgage shall control in the event

of an error in this publication. Dated at Newton, Massachu-

setts, on May 9, 2023. U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2020-RPL1 By its Attorney, Nicholas J Danforth Harmon Law Offices, P.C. PO Box 610389 Newton Highlands, MA 02461

617-558-0500 23117

(UL - May 16, 23, 30)

BROOKSIDE CONGREGATIONAL CHURCH

Legal Notice

REQUEST FOR PROPOSALS Brookside Congregational Church is soliciting proposals for

a video surveillance system, alarm, and access control system. The purchase will be funded through a Federal Grant as descri-bed in the RFP. The selected contractor must comply with all Federal Procurement and Davis-Bacon Wage Requirements. The RFP may be downloaded at <u>https</u> //www.brooksidecc.org/policies. Proposals shall be submitted elec-tronically by 5 pm Friday, June 23, 2023. For additional questions or to arrange a site tour, please contact Dale Trombley at <u>dtrombley@tds.net</u> or 603-491-3491 (UL - May 15, 16)

5. Hepatitis C

7. Juxtapid®

rected Against Amyloid for the Treatment of Alzheimer's Disease tension

12. Systemic Immunomodula-

Legal Notice

NOMINATION In accordance with RSA 206:2, I

Meggan M. Hodgson has been nominated for reappointment to the NH Fish & Game Commission. Effective upon confirmation by the Executive Council for the term ending June 29, 2028. (UL - May 16)

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL ESTATE

By virtue of a Power of Sale contained in a certain Mortgage given by William P. Mercier (the Mortgagor") to Chase Bank USA, N.A., dated September 12, 2005

JUDICIAL BRANCH SUPERIOR COURT Hillsborough Superior Court Southern District 30 Spring Street Nashua NH 03060 Telephone: 1-855-212-1234 TTY/TDD Relay: (800) 735-2964 http://www.courts.state.nh.us

CITATION FOR PUBLICATION Superior Court Rule 4(d) Case Name

Federal National Mortgage Association v Heirs, Devisees, and Legal Representatives of Rob-

TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT Notice of Public Meeting & Hearings THURSDAY, MAY 25, 2023

The Hudson Zoning Board of Adjustment will hold a public meeting on Thursday, May 25, 2023 at 7:00 PM in the Community Development aul Buxton Meeting Room in the basement of Hudson Town Hall, 12 School St., Hudson, NH (please enter by ramp entrance at right side) PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE **THE BOARD:**

- <u>Case 151-009 (05-25-23)</u>: Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for 30 Barretts Hill Rd., Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.
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- To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

Bruce Buttrick, Zoning Administrator

Utilization Review (DUR) Board invites you to attend a public hearing at 1:00 p.m., on June 19, 2023 in the Brown Building Conference Room 468 **and** via Zoom Conference. The DUR meeting will immediately follow this

Fibromyalgia 3. Inhaled Insulin 4. Symlin®

F. Proposal of New Clinical Prior Authorization Criteria

Hemgenix®
 Topical Retinoids

LEGAL PROBATE NOTICE THE STATE OF NEW HAMPSHIRE 9th Circuit - Probate Division - Nashua 4/14/2023 thru 4/27/2023

APPOINTMENT OF FIDUCIARIES

Notice is hereby given that the following fiduciaries have been duly appointed by the Judge of Probate for Hillsborough County. All persons having claims against these decedents are requested to exhibit them for adjustment and all indebted to make payment.

NUMBERS LISTED ARE COURT DOCKET NUMBERS.

- BOUCHER, Justin, late of Manchester, NH, Barbara Boucher, 350
- BRYER, Marcia Ann, late of Manchester, NH. David Bryer, 114 Glen Bloom Dr, Manchester, NH 03109. #316-2023-ET-00459
- DAVIS, Martha W, late of Nashua, NH. Lucinda D Mazza, 28 Pine Hill
- Road, Hollis, NH 03049. #316-2023-ET-00458
- DESMARAS, Pauline M., late of Manchester, NH. Lorraine J. Parent, 49 Oakland Avenue, Manchester, NH 03109. #316-2023-ET-00514 FURLONG, Matthew T., late of Weare, NH. Kaylee Furlong, 59 Lawrence
- Road, Weare, NH 03281. #316-2023-ET-00451 GAUVIN, Priscilla S, late of Greenville, NH. Gerard R Gauvin, PO Box 434, Greenville, NH 03048. #316-2023-ET-00445
- GUIMOND, Daniel D., late of Hudson, NH. Judy A. Guimond, 301 Sawgrass Hill Court, Cary, NC 27519. Brenda E. Keith, ESQ, Resident Agent, Boutin Lowman PLLC, 1 Buttrick Rd, PO Box 1177, Londonderry, NH 03053. #316-2023-ET-00429
- HEGARTY, Robert P., late of Hudson, NH. Colleen A. Gleason, 44 Willow St., Pelham, NH 03076. Kathleen A. Follis, 8 Mike Lane, Litchfield, NH 03052. #316-2023-ET-00280
- HICKEY, George Patrick, late of Manchester, NH. Cristine Ann Galle, 1333 Goffstown Road, Manchester, NH 03102. #316-2023-ET-00024
- LACROIX, Nicole, late of Hopkinton, NH. Melanie Fredette, 622 Rollins Road, Hopkinton, NH 03229. #316-2023-ET-00499
- LECK, Richard Brandenburg von Hasseln, late of Bedford, NH. Derek C Leck, 98 Carroll Street, Portland, ME 04102. John C Ransmeier, ESQ, Resident Agent, Ransmeier & Spellman P.C., PO Box 600, Concord, NH 03302-0600. #316-2023-ET-00488
- MARTINEAU, Edith T., late of Manchester, NH. John P. Martineau, 9a Colonial Drive, Raymond, NH 03077. #316-2023-ET-00639
- MEEDZAN, Theodore W., late of Milford, NH. Marcia L. Page, 43 Beaver St., Lowell, MA 01850. Neil G. Gauthier, ESQ, Resident Agent, Gauthier & MacMartin PLLC, 123 Elm Street, Milford, NH 03055. #316-2023-ET-00297
- O'SHAUGHNESSY, Andrew J, late of Manchester, NH. Louise Wilson, 55 Riverfront Drive, Unit 318, Manchester, NH 03102 #316-2022-ET-02899
- PERRY, Bernadette R, late of Manchester, NH. Raymalene S Billetdeaux, 55 Readey Street, Manchester, NH 03104. #316-2023-ET-00497 PLOURDE, Roger Joseph, late of Milford, NH. James Plourde, 705
- Forest Rd., Greenfield, NH 03047. Laura A. Carl, 11 Merrimack Rd., Milford, NH 03055. #316-2023-ET-00133 REES, Diane J, late of Amherst, NH. Ronald Rees, PO Box 37, Amherst,
- NH 03031. #316-2023-ET-00263
- REUTER, SR, John David, late of Antrim, NH. Ashley Reuter, 8 Gregg Lake Road, Antrim, NH 03440. #316-2023-ET-00518 ROYER, Donald, late of Manchester, NH. Elizabeth Midura, 70 Thistle
- Way, Manchester, NH 03109. #316-2023-ET-00237
- SHERIDAN, Christine M., late of Nashua, NH. Justin J. Godin, 9 Woodward Rd, Merrimack, NH 03054. Nathan J. Godin, 36 Lewis St., Unit 2, Boston, MA 02113. Neil G. Gauthier, ESQ, Resident Agent, Gauthier & MacMartin PLLC, 123 Elm Street, Milford, NH 03055. #316-2023-ET-00679
- TROW, Grace D, late of Bennington, NH. Holly Mecheski, 24 Rocky Ledge Road, Windsor, NH 03244. #316-2023-ET-00479
- VARKAŠ, Beatrice, late of Manchester, NH. Elizabeth A. Garon, ESQ. Garon Law PLLC, PO Box 270, Auburn, NH 03032. #316-2022-ET-02634
- Dated: 4/28/2023
- (UL May 16, 23)

- NUMBERS LISTED ARE COURT DOCKET NUMBERS.
- BARBOUR, June M., late of Winchester, MA. Kevin F. Mulvey, 67 Whittier Road, Reading, MA 01867. Theresa Joan Grisez, ESQ, Resident Agent, Cooper Cargill Chant PA, 2935 White Mountain Hwy, North Conway, NH 03860. #318-2023-ET-00182
- BRASTER, Julia E, late of Salem, NH. Paul H Braster, 8 Pawtucket Lane, Salem, NH 03079. #318-2023-ET-00739
- BRUCE, Raymond W, late of Salem, NH. Carol L Vining, 1516 Edinburgh Lane, Keller, TX 76248. Dan R Bruce, 206 Lawrence Road, Salem, NH 03079. #318-2023-ET-00220 BURNS, Robert J., late of Rye Beach, NH. Virginia A. Steckowych, 35
- McIntosh Way, Greenland, NH 03840. #318-2023-ET-00074
- COMEAU, Corinne L., late of Hampton, NH. Bruce D. Comeau, 59 Adams Ave, Methuen, MA 01844. Richard F. Summering, Resident Agent, 23 Ocean Blvd., Hampton, NH 03842. #318-2023-ET-00264
- DUCLAIR, Samson, late of Raymond, NH. Paulette Duclair, 31 Merrick Road, Raymond, NH 03077. #318-2023-ET-00432 DUFFY, Eileen R., late of Portsmouth, NH. Patrick Rocheleau, P.O. Box
- 1010, York Harbor, ME 03911. Andrea L. Sennott, ESQ, Resident Agent, Robinson Boesch Sennott & Daly PA, 195 New Hampshire Ave Ste 255, Portsmouth, NH 03801. #318-2023-ET-00337
- FEINBERG, James E., late of Hampstead, NH. Jared E. Feinberg, 50 Apple Road, Apt. 12, Beverly, MA 01915. Peter H. Bronstein, ESQ, Resident Agent, Soule Leslie Kidder Sayward & Loughman PLLC, 220 Main St, Salem, NH 03079. #318-2022-ET-02195
- FOLEY, Michael John, late of Londonderry, NH. Morgan Elizabeth Foley, 771 Page Rd, Londonderry, NH 03053. #318-2022-ET-02270
 GARRITY, Peter H., late of Rye, NH. Cheryl A. Garrity, 181 Central Road, Rye, NH 03870. Patricia G. Campbell, 322 Lafayette Road, NJ 2002 Patricia G. Campbell, 322 Lafayette Road, Portsmouth, NH 03801. #318-2023-ET-00379
- GERADE, III, Warren Capers, late of Danville, NH. Lori Stockley, 198 Beach Plain Road, Danville, NH 03819. #318-2023-ET-00181
- HOLBERT, Jerry W., late of Derry, NH. Cheryl A Holbert, 20 Berry Road, Derry, NH 03838. #318-2023-ET-00318
 HUSSON, Robert D., late of Derry, NH. Michelle A. Husson, 92 Dallaire St., Manchester, NH 03104. #318-2023-ET-00109
- KELLY, Cynthia Ann, late of Hampton, NH. Lisa L Kelly, 163 State Street, Newburyport, MA 01950. Todd Wilkinson, Resident Agent, 254 Pleasant Street, Epping, NH 03042, #318-2023-ET-00339 KESSELI, Betty B., late of Greenland, NH. James B. Kesseli, 19 Osprey
- Cove, Greenland, NH 03840. #318-2022-ET-01331
- LATULIPPE, Daniel J, late of Salem, NH. Nicole K Latulippe, 34 Henry Street #2, Everett, MA 02149. Xiorlivette C. Bernazzani, ESQ, Resident Agent, Bernazzani Law, 41 E Pearl St, Nashua, NH 03060. #318-2023-ET-00231
- LAVOIE, Florence J., late of Windham, NH. Brian Lefebvre, 28 Plymouth Avenue, Nashua, NH 03064. #318-2023-ET-00341
- LEVA, John, late of Fremont, NH. Nicholas Fontaine, 24 South Road, Fremont, NH 03044. #318-2023-ET-00223
- LIBBY, Christiane Marcelle, late of Portsmouth, NH. Catherine Spencer, 9R Indian Hill Road, Derry, NH 03038. #318-2023-ET-00215
- LINSKY, Michael Alan, late of Newton, NH. Catherine Foley-Linsky, 24F Forest Acres Drive, Haverhill, MA 01835. Matthew Linsky, 12 Pond Street, Newton, NH 03858. #318-2023-ET-00229
- MCCLARY, Todd Alan, late of Sandown, NH. Kristin Joy Mcclary, 53 Meghan Drive, Sandown, NH 03873. #318-2023-ET-00185
- MULDER, Cornelia, late of Portsmouth, NH. Timothy J Mulder, 19 Palm Drive, Greenland, NH 03840. #318-2023-ET-00293
- PARISEAU, Robert James, late of Cocoa Beach, FL. Judy Pariseau, 22 Smith Avenue, Hampton, NH 03842. #318-2023-ET-00369
- PECHNER, JR, Allan Issac, late of Portsmouth, NH. Paweena Pechner, 399 Maplewood Ave, Portsmouth, NH 03801. #318-2023-ET-00483 PODERSKI, Linda A., late of Derry, NH. Brenda E. Keith, ESQ, 1
- Buttrick Road, P.O. Box 1177, Londonderry, NH 03053 #318-2023-ET-00134
- POORE, Lewis F, late of Hampstead, NH. Lisa A Poore, 118 Freedom Hill Road, Hampstead, NH 03841. #318-2023-ET-00309
- SPRAGUE, Barbara Jean, late of Salem, NH. Charles Robert Sprague, 32 Henry Taylor Street, Salem, NH 03079. #318-2023-ET-00086
- STRAVINSKAS, Doris M, late of Newton, NH. George O Dufour, 25 Thornton Ave, Methuen, MA 01844. Don Dufour, Resident Agent, 9 Wentworth Dr, Newton, NH 03859. #318-2022-ET-01833
- SUTTON, Carol Nelson, late of Londonderry, NH. John B. Sutton, II, 7 Mayflower Dr., Litchfield, NH 03052. #318-2023-ET-00371
- TEDDER, Margaret Elizabeth, late of Salem, NH. Wendy Maccormack, 2 Dutchman Lane, Westford, Ma, 01886, Westford, MA 01886. Tracey Wilder, Resident Agent, 62 N Main Street, Salem, NH 03079. #318-2022-ET-01380
- Dated: 4/28/2023
- (UL May 16, 23)

Bodwell Road, Manchester, NH 03109. #316-2022-ET-00033



Land Use Division



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

Zoning Administrator Staff Report CJS 5/17/23 Meeting Date: May 25, 2023

Case 151-009 (05-25-23): Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for <u>30 Barretts Hill Rd.</u>, Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Address: 30 Barretts Hill Rd. Zoning district: General – One (G-1)

Property Description:

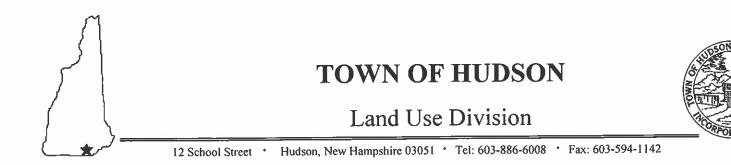
Our records indicate this parcel is an existing lot of record with a non-conforming area of 58,370.4 SF where 87,120 SF is required, and use is as a residential single family.

In-House comments:

Town Engineer: No comments Inspectional Services/Fire Dept.: No comment Town Planner: No comment

History/Attachments:

A: Zoning Determination/Inquiry April 20, 2023, noted 35' X 8' farmers porch on the front of the house
B: Certified plot plan dated: May 4, 2023
C: 2022 Aerials
D: Property Card



Zoning Determination #23-062

April 20, 2023

Mari Fontaine Timber & Stone Outdoor Spaces 96 Allen Street Manchester, NH 03102

Re:

e: <u>30 Barretts Hill Rd Map 151 Lot 009-000</u> District: General One (G-1)

Dear Mari,

Request: to build a 35' x 8' farmer's porch on the front of the house.

Zoning Review / Determination:

This parcel is an existing non-conforming parcel with 1.3 Acres where 2.0 Acres required, with 262 ft of frontage where 200 ft is required. The house is non-conforming as to front yard setbacks.

The proposed location would be within the required "front" setback of 50 ft from Barretts Hill Rd. This proposal would require a variance from HZO §334-27 Table of Minimum Dimensional <u>Requirements</u> to build/locate as proposed per §334-31A: "A non-conforming structure may not be altered or expanded, except by variance."

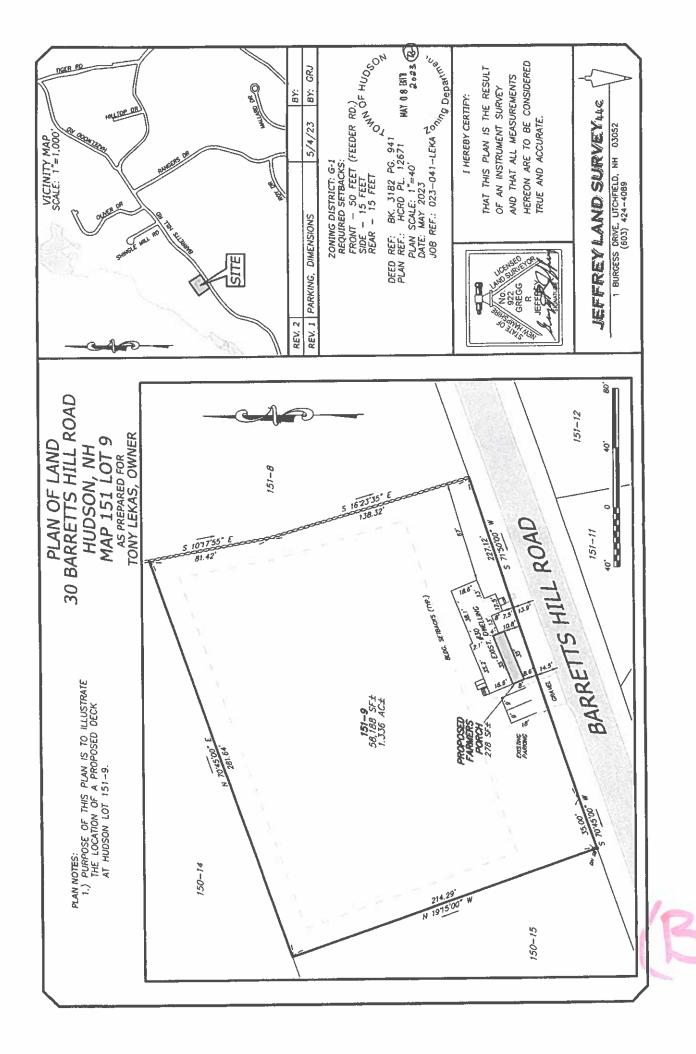
Sincerely,

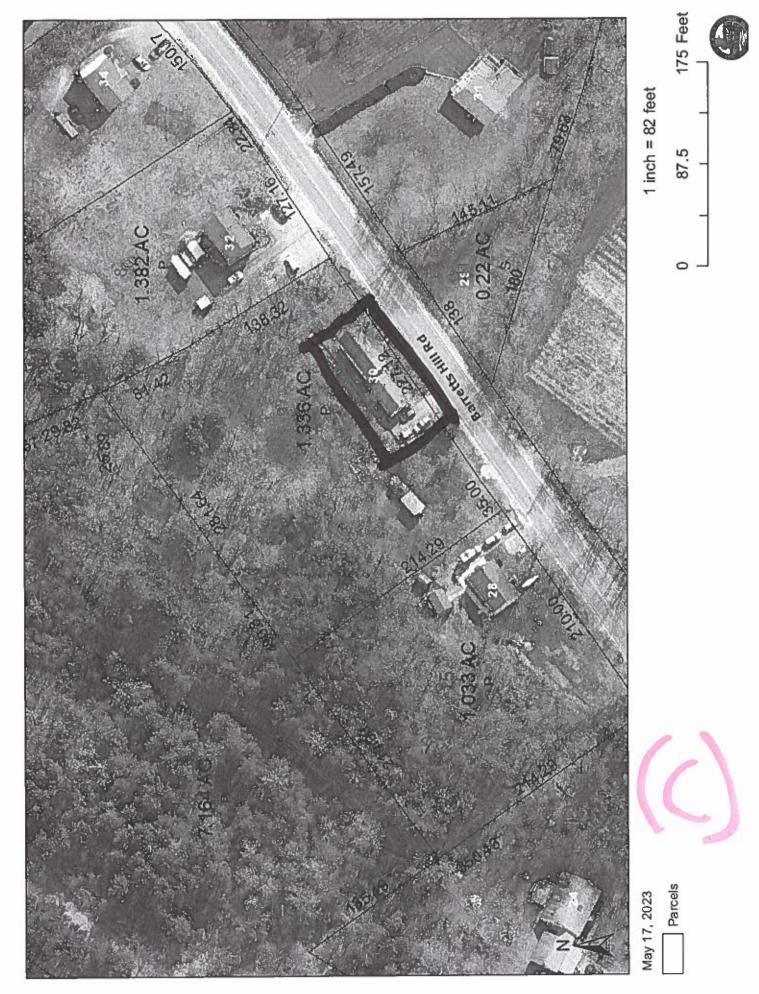
Bruce Buttrick Zoning Administrator/Code Enforcement Officer (603) 816-1275 bbuttrick@hudsonnh.gov

cc: Public Folder 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.







	Foundation Conc Block	Stories: 2.25	Grade: Avg/Good	Style: Colonial	Field D	Building Attributes	Replacement Cost Less Depreciation: \$162,000	Building Percent Good: 53	Living Area: 1,875	Year Built: 1800	Building 1 : Section 1	Building Information			Ownership History	Address 30 BARRETTS HILL ROAD HUDSON, NH 03051	Co-Owner
					Description					Building Photo			No Data for Ownership History	Ownership History		-	Book & Page 3182/9410
05/budsossbBbolos////000/300001 IBG)								15									

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On 05/25/2023, the Zoning Board of Adjustment heard Case 151-009, being a case brought by Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for <u>30 Barretts Hill Road</u>, Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

After reviewing the petition, hearing all of the evidence, and taking into consideration any personal knowledge of the property in question, the undersigned member of the Zoning Board of Adjustment sitting for this case made the following determination:

Y	Ν	1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.
Y	Ν	4. The proposed use will not diminish the values of surrounding properties.

(Continue-next page-Hardship Criteria)

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

(Continued)

Y 5. **A.** The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing Ν to special conditions of the property that distinguish it from other properties in the N/A area: (1) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (2) The proposed use is a reasonable one. **B.** Alternatively, if the criteria above (5.A) are not established, an unnecessary hardship Y will be deemed to exist if, and only if, owing to special conditions of the property Ν 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. Member Decision: _____ Signed: Sitting member of the Hudson ZBA Date Print name: _____ Stipulations: _____

NOF HUDO	
OWN OF HUDSOZ APPLICATION	FOR A VARIANCE
MAY 08 ENTE 23 TE	
	Entries in this box are to be filled out by Land Use Division personnel
To: Zoning Soard of Adjustment	
Mag Deparown of Hudson	Case No. 151-009 (05-25-23)
	Date Filed 5823
Name of Applicant Mari Fontaine	Map: 151 Lot: Zoning District: G-1
Telephone Number (Home) (203-417-0	210 (Work) 603-913-0191
Mailing Address 96 Allen St.,	Manchester, NH 03102
Owner Tony Lekas	•
Location of Property 30 Barretts	
(Street Address)	11/1/22
Signature of Applicant	Date
Tay hos	5/1/2023
Signature of Property-Owner(s)	Date

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

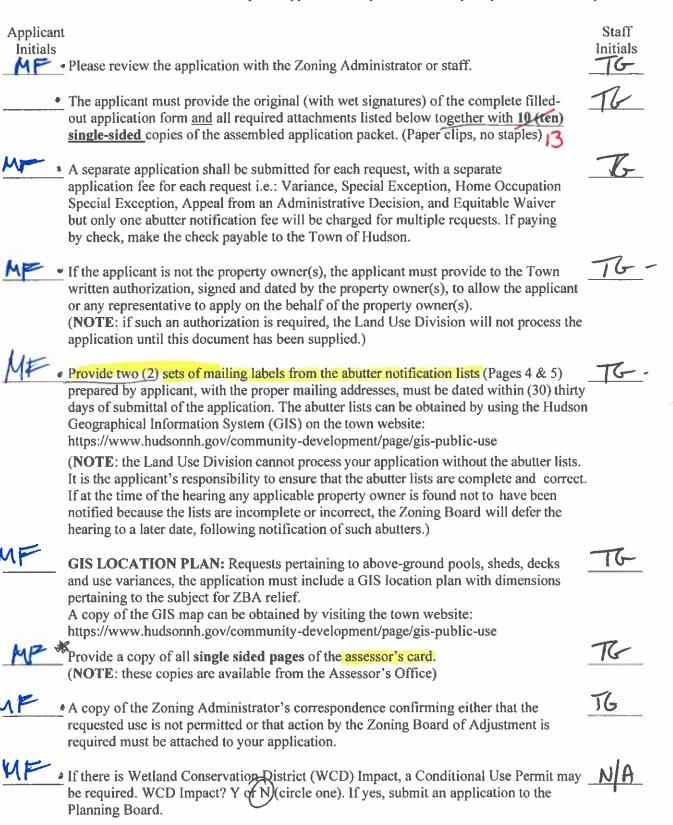
If you are not the property owner, you must provide written documentation signed by the property owner(s) to confirm that the property owner(s) are allowing you to speak/represent on his/ her/ their behalf or that you have permission to seek the described Variance.

Items in this box are to be filled out by Land Use Divis	
Date r	eceived: $5/8/23$
Application fee (processing, advertising & recording) (non-refunda Abutter Notice:	ble): \$ <u>185.00</u>
Direct Abutters x Certified postage rate $\$\frac{4.78}{5}$ =	\$ 38,24
Indirect Abutters x First Class postage rate \$ <u>0,63</u> = Total amount due:	\$ <u>0.63</u> \$ <u>223.87</u>
Amt. received	: \$ <u>223,87</u> V/sa
Received by: T5G Receipt No.:	728,620
By determination of the Zoning Administrator, the following Departm Engineering Fire Dept Health Officer Planner 💆	eptal review is required: Other

2

TOWN OF HUDSON, NH Variance Application Checklist

The following **requirements/checklist** pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.



CERTIFIED PLOT PLAN:

Requests other than 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).

a) MF The plot plan shall be drawn to scale on an 8 1/2" x 11" or 11" x 17" sheet with a North 16pointing arrow shown on the plan. The plot plan shall be up-to date and dated, and shall be no more than three years old. The plot plan shall have the signature and the name of the preparer, with his/her/their seal. 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: A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use) The plot plan shall include the area (total square footage), all buffer zones, streams or 16 other wetland bodies, and any easements (drainage, utility, etc.) 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. The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments. The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance. The plot plan shall indicate all parking spaces and lanes, with dimensions.

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

Signature of Applicant(s

Signature of Property Owner(s)

<u>4/24/23</u> Date 5/1/2023

Date

Tony Lekas 30 Barretts Hills Road Hudson, NH 03051

April 25, 2023

Zoning Board of Adjustment Town of Hudson 12 School Street Hudson, NH 03051

Regarding: Letter of Authorization 30 Barretts Hill Road

To Whom It May Concern:

I, Tony Lekas, am writing this letter to authorize Mari Fontaine and Patrick Binder of Timber & Stone Outdoor Spaces to act on my behalf regarding applications for a permit and variance for a famer's porch at 30 Barretts Hill Road.

Sincerely, **Tony Lekas**

Signature: $T_3 MS$ Date: 5/1/2023

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

Attached		\subseteq	A	+	ta	U	h	ed	
----------	--	-------------	---	---	----	---	---	----	--

(Use additional copies of this page if necessary)

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
		*Include Applicant & Owner(s) See attached	

All Direct Abutters + Owner + Applicant 4/24/2

1	150-014-000 SUNSET ROCK, LLC 1471 METHUEN STREET DRACUT, MA 01826	
\checkmark	150-015-000 HAYS, PAUL 28 BARRETTS HILL RD HUDSON, NH 03051	
7	Fontaine, Mari 96 Allen Street Manchester, NH 03102	Applicant
1	151-008-000 PLANTE, JOVANNA 32 BARRETTS HILL RD. HUDSON, NH 03051	
J	151-010-000 SILVA, DAVID S., TR. 70 BARRETTS HILL RD. HUDSON, NH 03051	
\checkmark	151-011-000 LEKAS, TONY 30 BARRETTS HILL ROAD HUDSON, NH 03051	Owner
1	151-012-000 HAMILTON, PAUL D. JR. 31 BARRETTS HILL ROAD HUDSON, NH 03051	

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

Attack	ved /	(Use additional copies of this page if	necessary)
MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
		See Attached	

All Indirect Abuttors Win 200' 4/24/23

464 007 000
151-007-000
POULIOT, GABRIEL J.
34 BARRETTS HILL RD.
HUDSON, NH 03051

]

MARI FONTAINE - VP TIMBER & STONE OUTDOOR SPACES 96 ALLEN STREET MANCHESTER, NH 03102

LEKAS, TONY 151-011-000 30 BARRETTS HILL ROAD HUDSON, NH 03051

SUNSET ROCK, LLC 150-014-000 1471 METHUEN STREET DRACUT, MA 01826

HAYS, PAUL & JANICE HAYS, LUKE 150-015-000 28 BARRETTS HILL RD HUDSON, NH 03051

PLANTE, JOVANNA BEAULIEU, CAMERON 151-008-000 32 BARRETTS HILL RD. HUDSON, NH 03051

SILVA, DAVID S., TR. SILVA, JUDITH, TR. 151-010-000 70 BARRETTS HILL RD. HUDSON, NH 03051

LEKAS, TONY 151-011-000 30 BARRETTS HILL ROAD HUDSON, NH 03051

HAMILTON, PAUL D. JR. HAMILTON, BEVERLY A. 151-012-000 31 BARRETTS HILL ROAD HUDSON, NH 03051

POULIOT, GABRIEL J. 151-007-000 34 BARRETTS HILL RD. HUDSON, NH 03051

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MARI FONTAINE - VP TIMBER & STONE OUTDOOR SPACES 96 ALLEN STREET MANCHESTER, NH 03102

LEKAS, TONY 151-011-000 30 BARRETTS HILL ROAD HUDSON, NH 03051

SUNSET ROCK, LLC 150-014-000 1471 METHUEN STREET DRACUT, MA 01826

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LEKAS, TONY 151-011-000 30 BARRETTS HILL ROAD HUDSON, NH 03051

HAMILTON, PAUL D. JR. HAMILTON, BEVERLY A. 151-012-000 31 BARRETTS HILL ROAD HUDSON, NH 03051

POULIOT, GABRIEL J. 151-007-000 34 BARRETTS HILL RD. HUDSON, NH 03051

*Abutter Mailing labels Provided by Applicant.

LOWN OF HUD MAY 08 ENTD 2023 (TC)

rohing Department

Seni	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 DER:	US POSTAL SERVICE - CERTIFIED MAIL	Case# 151-009 VARIANCE30 Barretts Hill RoadMap 151/Lot 009-0001 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	9589 0710 5270 0646 5620 99	Mari Fontaine-VP; Timber & Stone Outdoor Spaces	APPLICANT/OWNER NOTICE MAILED
_	1201 OLTO JELO 0949 JECO 11	96 Allen Street, Manchester, NH 03102	
2	9589 0710 5270 0646 5621 05	LEKAS, TONY	APPLICANT/OWNER NOTICE MAILED
_		30 BARRETTS HILL ROAD, HUDSON, NH 03051	
3	9589 0710 5270 0646 5621 12	SUNSET ROCK, LLC	ABUTTER NOTICE MAILED
-		1471 METHUEN STREET, DRACUT, MA 01826	
4	9589 0710 5270 0646 5621 29	HAYS, PAUL & JANICE; HAYS, LUKE	ABUTTER NOTICE MAILED
	1301 0110 3010 0010 3804 01 3	28 BARRETTS HILL RD, HUDSON, NH 03051	
5	9589 0710 5270 0646 5621 36	PLANTE, JOVANNA; BEAULIEU, CAMERON	ABUTTER NOTICE MAILED
_	1301 0110 3510 0848 385# 36	32 BARRETTS HILL RD., HUDSON, NH 03051	
5	9589 0710 5270 0646 5621 43	SILVA, DAVID S., TR.; SILVA, JUDITH, TR.; SILVA TRUST	ABUTTER NOTICE MAILED
-		70 BARRETTS HILL RD., HUDSON, NH 03051	
7	9589 0710 5270 0646 5621 50	LEKAS, TONY	ABUTTER NOTICE MAILED
_	100 0110 0010 0010 0010 001	30 BARRETTS HILL ROAD, HUDSON, NH 03051	
8 _	9589 0710 5270 0646 5621 67	HAMILTON, PAUL D. JR.; HAMILTON, BEVERLY A., LIFE EST	ABUTTER NOTICE MAILED
-		31 BARRETTS HILL ROAD, HUDSON, NH 03051	04 0057
ġ	Mailed First Class-Indirect abutter	///	ABUTTER NOTHA MAILED
	Malicu Thist class malicet abutter	12	
		34 BARRETTS HILL RD., HUDSON, NH 03051	
10			MAY 1 6 2023
1 1			
11			USPS
_	Total Number of pieces listed by sender 9	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employeé)





Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 151-009 (05-25-23)</u>: Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for <u>30 Barretts</u> <u>Hill Rd.</u>, Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

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

Respectfully če Buftrick

Brüce Buftrick Zoning Administrator





Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

ABUTTER NOTIFICATION

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<u>Case 151-009 (05-25-23)</u>: Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for <u>30 Barretts</u> <u>Hill Rd.</u>, Hudson, NH to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the 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 VII Dimons ionel of HZO Section(s) HZO in order to permit the following: Requirements (mess orch at (non conforming Set back he f ncsoache ror ŧĈ Carson

FACTS SUPPORTING THIS REQUEST:

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

- L(a) "The Zoning Board of Adjustment shall have the power to:
 - (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.
 - (b)(1) For purposes of this 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.
 - (2) If the criteria in subparagraph (1) 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.
 - (3) The definition of "unnecessary hardship" set forth in subparagraphs (1) and (2) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

FACTS SUPPORTING THIS REQUEST: Attached

The power to grant variances from the local zoning ordinances is established in NH RSA 674:33 I (a). New Hampshire case law has established on the basis of this 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.

 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.")

 See	attached		

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.")

attacked Sec.

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.)

See	attached	

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.)

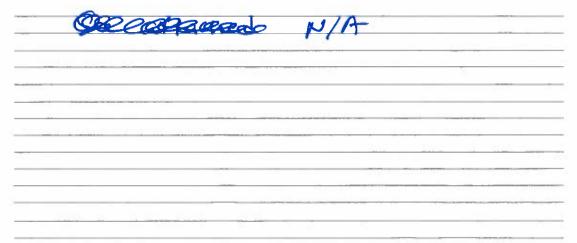
See attached

FACTS SUPPORTING THIS REQUEST: (Continued)

- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary** hardship, because: (Answer either A(1 and 2) or B according to which applies to your situation)
 - A. 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 <u>and</u>

Coo attached 2) Explain how the special conditions of the property cause the proposed use to be reasonable. See affached _____

B. 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.



Variance Criteria: 30 Barretts Hill Road

1. Granting of the requested variance will not be contrary to the public interest, because:

The proposed variance is for a covered farmer's porch to be built at the front of the house. This porch project does not pose a public hazard and is not contrary to the public interest. The porch would *not* alter the essential character of the neighborhood. The porch would enhance the neighborhood by improving the home's features and the attractiveness of the front yard space.

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

Zoning ordinances are designed to protect public safety, ensure appropriate land use, prevent pollution, limit overcrowding, facilitate public utilities, and conserve property values. The proposed porch project is consistent with the spirit of the ordinance. The proposed porch would not pose a hazard to public safety, would not interfere with public utilities or transportation, would not cause overcrowding, and would not create pollution. The farmer's porch would improve the front yard space of a single family home, conforming with the current land use, which is residential. The proposed porch is not an inappropriate use of the land. The project would be an enhancement to the esthetic of the home and subsequently the neighborhood.

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

The porch project at 30 Barretts Hills Road would <u>not</u> cause suffering to the general public, but it would enhance the community. The variance would allow the owner to invest money and time into improving their home. Homeowners that aim to maintain and improve their homes contribute to a greater spirit of care and maintenance in the neighborhood. This project would contribute to an overall attitude towards home maintenance and upkeep in the community.

4. The proposed use will not diminish the values of surrounding properties, because:

The farmer's porch would not hinder the view of neighbors, would not decrease the esthetic of the neighborhood, would not effect traffic or parking in the neighborhood, and would not pose dangers to the public. Rather, the addition of a porch would add an attractive element to the home and contribute to greater home values in the area. Property values tend to go higher when homes in the neighborhood are well maintained.

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

a. (1). 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.

The zoning determination that the home at 30 Barretts Hill Road is a non-conforming structure is a town imposed hardship. This is because the home was built in 1800, well before any of the town

zoning ordinances were set. Since this hardship is not self-imposed by the owner and is a result of the peculiar situation that home predates the ordinance, it would be fair and reasonable to grant a variance that allows the homeowners to improve their living conditions.

Furthermore, a farmers porch at the front of the home would provide a sturdy entryway with code compliant railings and steps for the homeowners to use as they age. An ordinance that prevents optimal access to the home would be a hardship for the homeowners.

a. (2). The special conditions of the property cause the proposed use to be reasonable.

The age of the home is a special condition that should be considered when granting a variance. The homeowners are asking for relief from ordinances that were set after the home was built. The impact of the proposed farmer's porch would be minimal on the neighborhood since the open green space across from the home is also owned by the owners. There are no affected homeowners directly across the street. Additionally, the overall culture and esthetic of the neighborhood would not be negatively impacted and the porch does not pose a public hazard.

The variance would also allow the homeowners to enhance their property in a way that gives them better access as they age.

The variance for a farmers porch would be used in a way that holds to the spirit of the ordinance. To deny the variance would result in unnecessary hardship for the homeowners because it would prevent them from improving their living space in a way that has no negative impact on the neighborhood.





Land Use Division

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

Zoning Determination #23-062

April 20, 2023

Mari Fontaine Timber & Stone Outdoor Spaces 96 Allen Street Manchester, NH 03102

Re: <u>30 Barretts Hill Rd Map 151 Lot 009-000</u> District: General One (G-1)

Dear Mari,

Request: to build a 35' x 8' farmer's porch on the front of the house.

Zoning Review / Determination:

This parcel is an existing non-conforming parcel with 1.3 Acres where 2.0 Acres required, with 262 ft of frontage where 200 ft is required. The house is non-conforming as to front yard setbacks.

The proposed location would be within the required "front" setback of 50 ft from Barretts Hill Rd. This proposal would require a variance from HZO §334-27 Table of Minimum Dimensional <u>Requirements</u> to build/locate as proposed per §334-31A: "A non-conforming structure may not be altered or expanded, except by variance."

Sincerely,

Bruce Buttrick Zoning Administrator/Code Enforcement Officer (603) 816-1275 bbuttrick@hudsonnh.gov

cc: Public Folder 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.

#23-062



LAND USE DEPARTMENT 12 School Street Hudson, NH 03051 (603) 886-6008 www.hudsonnh.gov



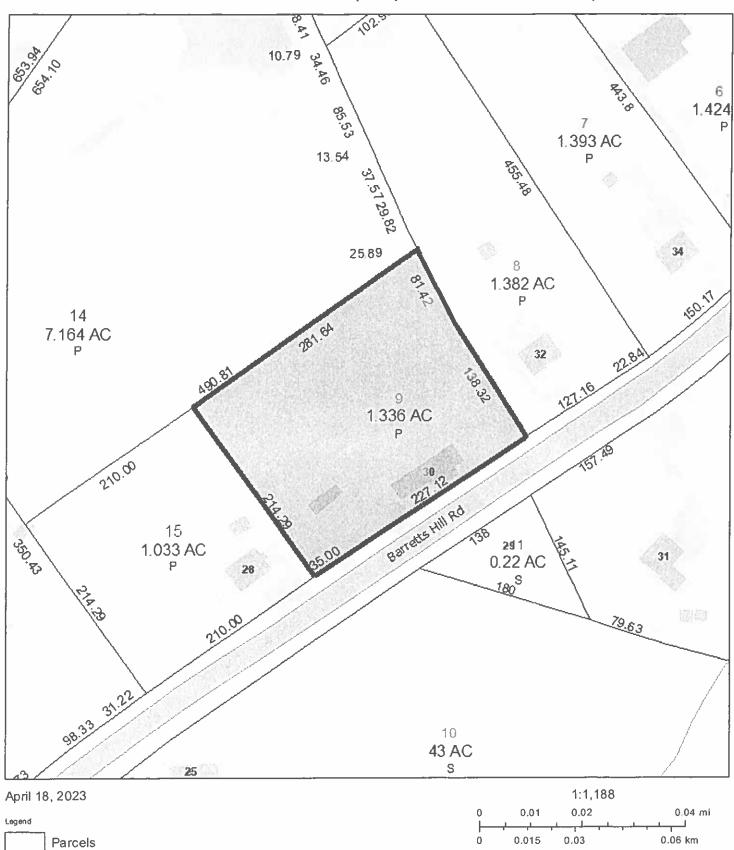
Town of Hudson

REQUEST FOR ZONING and/or PLANNING INFORMATION / DETERMINATION

ate of request	04/17/2023
roperty Location	30 Barretts Hill Road
	Map 151 Lot 509 Sublot 500
oning District if known	6-1
07	<u>Type of Request</u> Coning District Determination Use Determination Set-Back Requirements Process for Subdivision/ Site Plan if required Other
Description of re	equest / determination: (Please attach all relevant documentation)
	rmer's porch at the front of the house approximately
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Applicant Cont	act Information:
Name:	Mari Fontaine, Timber & Stone Outdoor Spaces 96 Allen Street, Manchester, NH 03102
Address: Phone Number:	603-417-0210
Email:	mari@timberstonenh.com
	For Office use
	NTS: TAX CARD GIS
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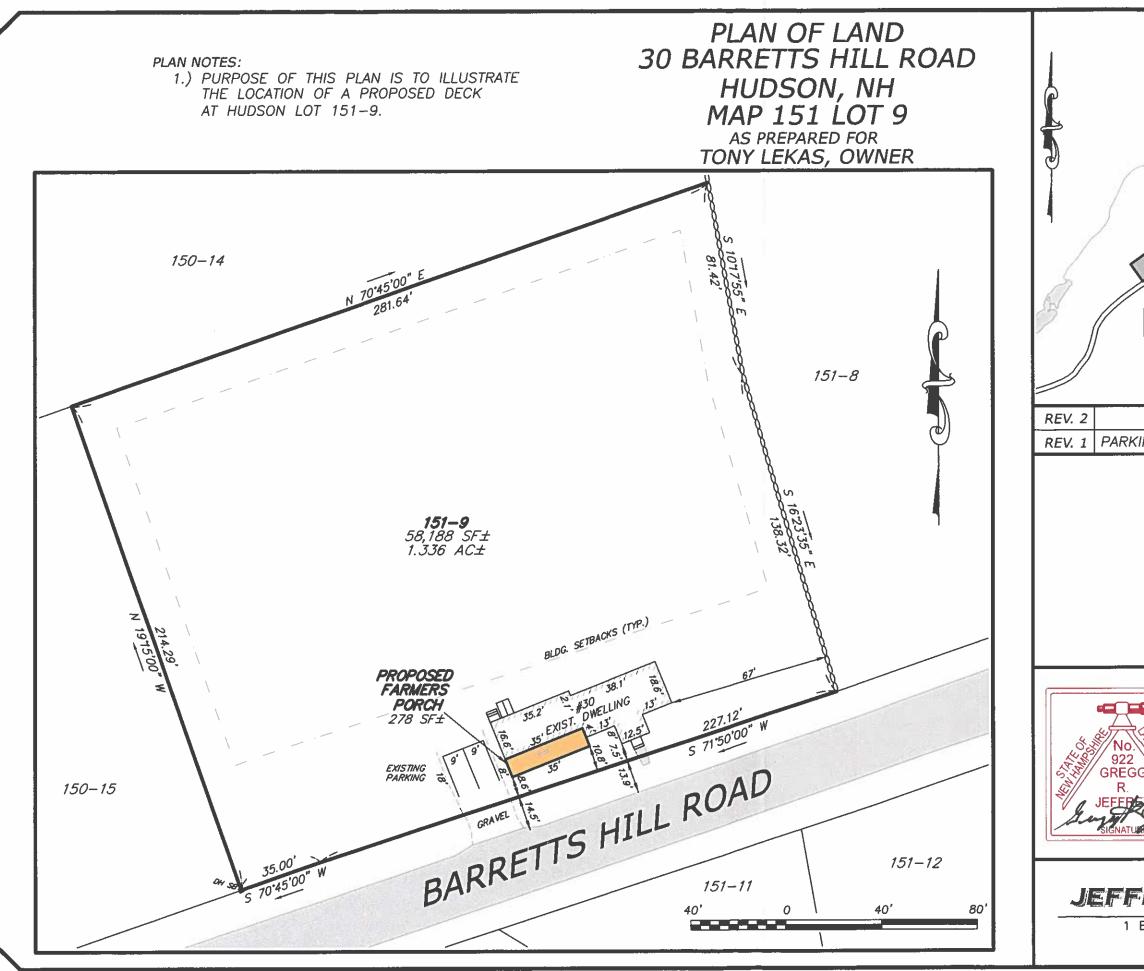
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(Liv) Units	1									
Exterior Wall		Vinyl								34
Roof Structu		Gable								2
Roof Cover	01	Asph Shing								
Frame	01	Wood								UAT (-284 \$f)
Foundation Interior Wall	02	Conc Block			COST	MADK	TVA	LUATIO	Ar	
Interior Floor		Plaster Softwood			00317	MANN		LUATIO	<u> </u>	I 14 14TC UAT (284 sf) SFL 19
Heat Fuel	01	Oil		Building V	alue Ne	w		305,594	L	14 TATC UAT (284 st) SFL 18 FFL 18 BMT
Heat Type	01	Forced Air							-	
# Heat Syste		, or ood r ar								34
AC Percent	100			Year Built				1800		4
Total Rooms				Effective				1991		10 12 13
Bedrooms	3			Depreciat		•		AG		12
Full Baths	1			Remodel Year Rem						8 EFP 8
3/4 Baths	1			Depreciat				31		
Half Baths Extra Fixture	0 es 0			Functiona				1		12
Kitchens	rs 0			External C	Obsol			15		
Kitchen Ratir		Average		Trend Fac				1.000		
Bath Rating	FR	Fair		Condition						
Half Bath Ra				Condition Percent G						
Bsmt Garage	e 0			RCNLD	2000			53 162,000	`	
Fireplace(s)	0			Dep % Ov	/r			102,000)	
Fireplace Ra		8		Dep Ovr C		t				
WS Flues	1			Misc Imp	Ovr					
Color Avg Ht/FL	WHITE 8			Misc Imp		nment				
Extra Kitcher				Cost to Ci						
	OB - OUTBUILDING	2 VADO ITE		Cost to Ci		Jommer	nt TATU			46
Code	Description	L/B		LUOM			Cnd	WGA	ssd. Value	
	larn		448			1940	PR	45	5,600	
CPORT C	arport	<u> </u>	180		22.00		AV	60	2,400	
SHEDWD S	hed-Wood	L	160		31.02		AV	60	3,000	
1										
0.0		IILDING SUB-				ON				
Code	Description	Living		loor Area					eprec Value	
	tic, Finished Isement, Unfinished		71	284		71	32.		9,340	
	icl. Porch, Finished		0	1,174 96		294 67	32.		38,676	
	st Floor, Finished		1,174	1,174	1	174	91. 131.		8,814 154,441	
	cond Floor, Finished		630	630		630	131.		82,877	
	tic, Unfinished		0	346		87	33.		11,445	
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To	tal Liv Area/Gr. Area/E	ff Are	1,875	3,704	2	323 Toi	alVali		305,593	
	the second of the state		.,	0,104	<u>~,</u>	2201101			000,000	



30 Barretts Hill Rd (Map/Lot 151-009-000)





stime	Se Ce	VICINIT CALE: 1"				TIGER RD
SITE		ROY DB		MALLARD	/	
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REY L BURGESS D (6		HFIELD, NH				7







Printed 5/08/2023 12:32PM Created 5/08/2023 12:26 PM	Town o 12 Se	tion Receipt f Hudson, NH chool Street NH 03051-4249		Receipt# 728,620 publicw
	Description	Current Invoice	Payment	Balance Due
1.00	Zoning Application 30 Barretts Hill Road Map/Lot 151-009-000 G-1 Zone			
	Variance	0.00	223.8700	0.00

Remitter	Рау Туре	Reference	Tendered	Change	Net Paid
Mari R Fontaine Timber and Stone	CREDIT	8426	223.87	0.00	223.87
			Total Due:		223.87
			Convenience Fee:		6.60
			Total Tendered:		230.47
			Total Change:		0.00
			Net Paid:		230.47

223.87

Total:

SERVICE CHARGE NOTICE

Credit and Debit card payments are processed by Invoice Cloud. Invoice Cloud is a third-party payment provider, operating under an agreement with the Town of Hudson to process credit and debit card payment on your behalf.

You will be charged \$2.95 for any transaction total \$100.00 or less or a service fee of 2.95% of your total balance over \$100.00, whichever is smaller. The 2.95% service charge is added to your payment and will appear as a separate item on your credit card statement. The service charge is not a fee assessed by your institution. *The Service Charge is not refundable, even if the payment to which it relates is cancelled, refunded, credited or charged back.*

BY USING THIS SERVICE AND AGREE TO PAY THE SERVICE CHARGE.

DATE: 5/8/23 Type: MC Visa Amex SIGNED:





Land Use Division

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

Zoning Administrator Staff Report Meeting Date: May 25, 2023 AS 5-17-23

<u>Case 247-131 (05-25-23)</u>: Erich & Kerry Uhlendorf, **3 Jacqueline Street, Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sq. ft. shed to remain in its current location which encroaches approx. 12 ft. into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Address: 3 Jacqueline Street Zoning district: Residential One (R-1)

Property Description:

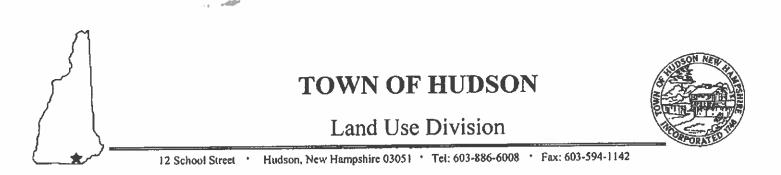
Our records indicate this parcel is an existing lot of record with a non-conforming area of 37,461.6 SF where 43,560 SF is required, and use is as residential single family.

In-House comments:

Town Engineer: No comments Inspectional Services/Fire Dept.: No comment Town Planner: No Comment

History/Attachments:

A: Zoning Determination/Inquiry December 21, 2022, noted encroachments of existing structures.
B: Certified plot plan dated: December 16, 2022
C: 2010 aerials



Zoning Determination #22-153 Notice of non-conformance

December 21, 2022

Erich and Kerry Uhlendorf **3** Jacqueline Street Hudson, NH 03051

Map 247 Lot 131-000 <u>3 Jacqueline Street</u> Re: District: Residential One (R-1)

Subject: Shed encroachment.

Dear Erich and Kerry,

Zoning Review / Determination:

I am in receipt of a recent certified plot plan that indicates a violation of the Zoning Ordinance.

Your property has a shed located within the required building/structure setbacks. On your property, the required side setback is 15 ft from property lines. The submitted certified plot plan indicates a violation as follows:

Lack of required setback per §334-27 Table of Dimensional Requirements. The shed is located within the required setback. Please remove/move the shed into compliance, or apply for an Equitable Waiver of Dimensional Requirement from the Zoning Board of Adjustment.

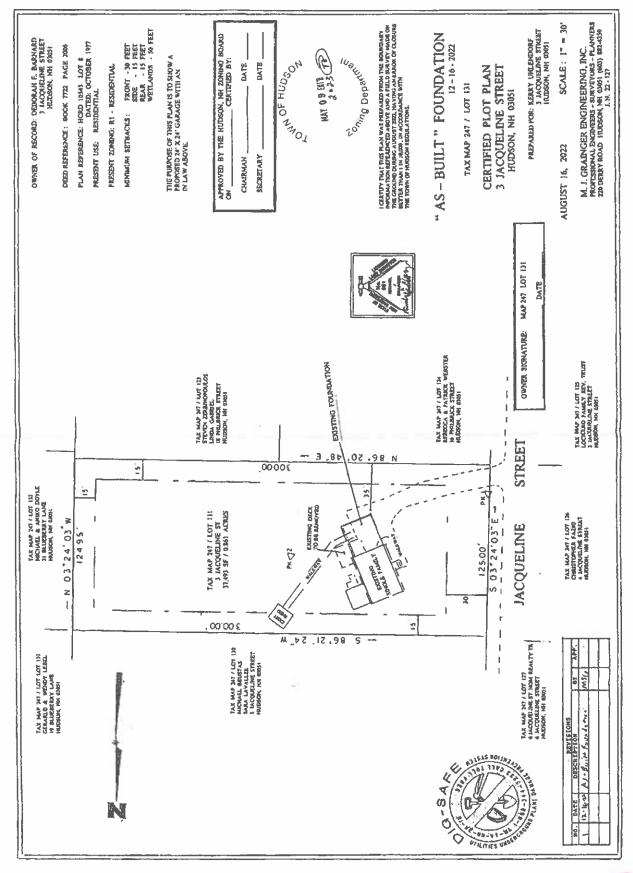
Sincerely. Julto

Bruce Buttrick Zoning Administrator/Code Enforcement Officer (603) 816-1275 bbuttrick@hudsonnh.gov

12/16/22 Certified Plot Plan encl: Public Folder cc: B. Groth, Town Planner File

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





B



2010 Aerial

Parcel

HUDSON ZONING BOARD OF ADJUSTMENT

EQUITABLE WAIVER DECISION WORKSHEET Option 2- (Per RSA 674:33-a, II)

Equitable Waivers are granted, pursuant to RSA 674:33-a, 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... **II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate the following to the satisfaction of the board:**

On **05-25-2023**, the Hudson Zoning Board of Adjustment heard **Case 247-131**, being a request by **Erich & Kerry Uhlendorf**, <u>3 Jacqueline Street</u>, Hudson, NH for an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sqft. shed to remain in its current location which encroaches approx. 12 ft. into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]



TEN YEARS OR MORE: The applicant has demonstrated that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected; and

Y	Ν

NO NUISANCE: The applicant has successfully demonstrated that the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

N **HIGH CORRECTION COST**: The applicant has successfully demonstrated that due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

Signed: _

Y

I: _______Sitting Member of the Hudson ZBA

Date

Print name: _____

WIN OF HUDSOZ	
APPLICATION FOR	AN EQUITABLE WAIVER
MAY 09 ENTE TO APPLICATION FOR	
to nine safthe	Entries in this box are to be filled out by Land Use Division personnel
Toning Toe 20ning Board of Adjustment Town of Hudson	Case No. 247-131 (05-25-23)
	Date Filed 5/9/23
Name of Applicant ERICH ULLENDOF	Map: <u>247</u> Lot: <u>131</u> Zoning District: <u>R-1</u>
Telephone Number (Home) 978-50/ -	
Mailing Address 3 JacqueLInc	5T. HUDSON NH 03051
Owner ERICH + KERRY UHL	eNDOFF
Location of Property 3 Jacque Line	ST. HUDSON N/A 03051
(Street Address	4/21/23
Signature of Applicant	Date
m uniful	lendor 4/21/23
Signature of Property-Owner(s)	Date

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

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/represent on his/ her/ their behalf or that you have permission to seek the described Equitable Waiver.

Items in this box are to be filled out by	Land Use Division p Date receive		
COST:	Date receive		
Application fee (processing, advertising & recording	g) (non-refundable):	\$ <u>185.00</u>	
<u>Abutter Notice</u> : Direct Abutters x Certified postage rate Indirect Abutters x First Class postage rate	\$ <u>4.78</u> = \$_0.63 =	\$ <u>43.02</u> \$ <u>3.15</u>	
Total amount du	e:	\$_231.17	Cho. 4 #
	Amt. received:	\$ 231.17	227
Received by:	Receipt No.:	728,828	1001
By determination of the Zoning Administrator, the fol Engineering Fire Dept Health Officer _	llowing Departmental PlannerOth	review is required: ner	

TOWN OF HUDSON, NH Application Checklist

The following **requirements/checklist** pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.

Applicant Staff Initials Initials Please review the application with the Zoning Administrator or staff. γ) 16 TG The applicant must provide the original (with wet signatures) of the complete filledout application form and all required attachments listed below together with 19 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples) 13 Ŵ A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation 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. KU / NIA 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.) KU Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) Pending Kview 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 by using the Hudson Geographical Information System (GIS) on the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use (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.) GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks Tb and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office) 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. be required. WCD Impact? Y of N circle one). If yes, submit an application to the Planning Board.

CERTIFIED PLOT PLAN:

Requests **<u>other than</u>** 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).

- Perdir a) ([] The plot plan shall be drawn to scale on an 8-1/2" x-1+" or (11" x 17") sheet with a North pointing arrow shown on the plan. b) VI The plot plan shall be up-to date and dated, and shall be no more than three years old. ωW The plot plan shall have the signature and the name of the preparer, with his/her/their seal. d) W 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: A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use) e) V VTG-The plot plan shall include the area (total square footage), all buffer zones, streams or other wetland bodies, and any easements (drainage, utility, etc.) NW 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) \mathcal{W} The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments. h)W
- h) U The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.
- i) \underline{W} The plot plan shall indicate all parking spaces and lanes, with dimensions.

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

Signature of Applicant(s) ature of Property Owner(s)

4/21/23 Date

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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)

	LOT		
MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
247	130	*Include Applicant & Owner(s) MICHACL BRUSTAS	5 Jaceverwe ST.
		Sara Lavauer	HUDSON NH, U3051
247	133	GeraRLD + WENDY LEBEL	19 BLURBERRY LN.
	<u></u>		140050N NH 03051
247	132	MICHAEL + ANIKO DOYLE	
		100 10 11 DODD 16 DULL 65	HUDSON NH 03051
247	123	STEVEN ZERBINGPOULOS	18 PHILBRICK ST.
		LINDON GABSICL	HUDSON NIA 03051
247	124	ReBeccar + Patrick	16 PHILBFICK ST.
	15-1	Webster	HUDSON NH 03051
247	126	Christopher Fazio	4 Jacquelino ST.
N1/	120		140050N NH 03051
247	125	LOCICERO Family ROV.	2 JUCYLELINE ST.
21/	100	Toust	HUDSON NIA 03051
147	117	6 Jacunchine ST NOM.	6 Jacqueline ST.
27/	121	REALTY TRUST	HUDSON NH 03051
Vin	RV	Joseph L. Delescipse	207Philligrick ST
X V	1220	Doseth L. Deleschise	HEOSON NHO305
01/7	121	Kerny+Ench	3 Jacqueline St
247	131	Uhlendorf	Hudson, NH 03051
		· · · · · · · · · · · · · · · · · · ·	

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
247	121	JOSEPH ARENOV	22 PHILBUICK ST. HUDSON NH 03051
247	129	PETER & KRAVSS TR. IRR, TRS	7 JACQUELINE ST. HUDSON NH 03051
247	134	ROBERT A. PLAMONDUN	17 BLVE BELFY LN. HUDSON NH 0305)
247	128	FREDERICK C. Latham	8 Jacaneline St. HUDSON NH 03051
LHR	Ou	Jak Harrow assocrates	602, Nashur NH 03083
247	122	Delectuse, Loseph L. Delectuse, Linda S.	20 Philbrick St Hudson, NH 03051

(Use additional copies of this page if necessary)

* Direct Houter Mailing labels provided by Applicant

Michael and Sara Brustas 5 Jacqueline Street Hudson, NH 03051

Gerarld and Wendy Lebel 19 Blueberry Ln. Hudson, NH 03051

Kerry & Erich Uhlendorf 3 Jacqueline Street Hudson, NH 03051

,

Michael and Aniko Doyle 21 Blueberry Ln. Hudson, NH 03051

Steven Zerbinopoulos Linda Gabriel 18 Philbrick St. Hudson, NH 03051

Patrick and Rebecca Webster 16 Philbrick St. Hudson, NH 03051

Christopher Fazio 4 Jacqueline St. Hudson, NH 03051

Locicero Fmaily rev. Trust 2 Jacqueline Street Hudson, NH 03051

6 Jacqueline St Nom. Realty Trust 6 Jacqueline Street Hudson, NH 03051 Joseph Arena 22 Philbrick St. Hudson, NH 03051

* Indirect Abutter Mailing labels provided by Applicant

1

Peter R Krauss Tr. Irr. Trs 7 Jacqueline Street Hudson, NH 03051

Robert A. Plamondon 17 Blueberry Ln. Hudson, NH 03051

Frederick C. Latham 8 Jacqueline Street Hudson, NH 03051

Joseph L. Delescluse 20 Philbrick St. Hudson, NH 03051

SENI	150.	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 247-131 EQUITABLE WAIVER 3 JACQUELINE STREET Map 247/Lot 131-000 1 of 1
	JER.			
		ARTICLE NUMBER	Name of Addressee, Street, and post office address KERRY & ERICH UHLENDORF	05/25/2023 ZBA Meeting APPLICANT/OWNER NOTICE MAILED
	9589 07:	10 5270 0646 5621 81 -	3 JACQUELINE ST., HUDSON, NH 03051	APPLICANT/OWNER NOTICE MAILED
-				ABUTTER NOTICE MAILED
	9589 073	10 5270 0646 5621 98 _	MICHAEL L. BRUSTAS; LAVALLEE, SARA M.	ABUITER NOTICE MAILED
-			5 JACQUELINE ST., HUDSON, NH 03051 GERALD AND WENDY LEBEL	
-	9589 07	10 5270 0646 5622 04		ABUTTER NOTICE MAILED
_			19 BLUEBERRY LN., HUDSON, NH 03051	
-	9589 07	10 5270 O646 5622 ll 📗	MICHAEL AND ANIKO DOYLE	ABUTTER NOTICE MAILED
_			21 BLUEBERRY LN., HUDSON, NH 03051	
	9589 07	10 5270 0646 5622 28 📃	STEVEN ZERBINOPOULOS; LINDA GABRIEL	ABUTTER NOTICE MAILED
_			18 PHILBRICK ST., HUDSON, NH 03051	
	9589 07	10 5270 0646 5622 35 🔤	PATRICK AND REBECCA WEBSTER	ABUTTER NOTICE MAILED
_			16 PHILBRICK ST., HUDSON, NH 03051	
	9589 07	10 5270 0646 5622 42	CHRISTOPHER FAZIO	ABUTTER NOTICE MAILED
-			4 JACQUELINE ST., HUDSON, NH 03051	
	9589 07	10 5270 0646 5622 59	LOCICERO, DAVID, TR.; LOCICERO FAMILY REV TRUST	ABUTTER NOTICE MAILED
-			2 JACQUELINE ST., HUDSON, NH 03051	UDSON NO
18			BOUTSELIS, BONNIE J., TR.;	HUDE
	9589 07	10 5270 0646 5622 66	6 JACQUELINE ST NOM. REALTY TR	ABUTTER NOTICE MAILED
			6 JACQUELINE ST., HUDSON, NH 03051	MAY
0	SEL STREET			Midy 16 2023
11				USPS
		Total Number of pieces listed by sender 9	Total number of pieces rec'vd at Post Office 9	Postmaster (receiving Employee)

USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 247-131EQUITABLE WAIVER3 JACQUELINE STREETMap 247/Lot 131-0001 of 1
020102244			
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	Mailed First Class	MEGAN T. ARENA; JOSEPH ARENA	ABUTTER NOTICE MAILED
		22 PHILBRICK ST., HUDSON, NH 03051	
2	Mailed First Class	DELESCLUSE, JOSEPH L.; DELESCLUSE, LINDA S.	ABUTTER NOTICE MAILED
		20 PHILBRICK STREET, HUDSON, NH 03051	
3	Mailed First Class	LATHAM, FREDERICK C.; LATHAM, KATHRYN	ABUTTER NOTICE MAILED
		8 JACQUELINE STREET, HUDSON, NH 03051	
4	Mailed First Class	KRAUSS, PETER R., TR. IRR. TRS; KRAUSS, DORENE L., TR.IRR.TRS 7 JACQUELINE STREET, HUDSON, NH 03051	ABUTTER NOTICE MAILED
5	Mailed First Class	PLAMONDON, ROBERT A.; PLAMONDON, DONNA	ABUTTER NOTICE MAILED
5	Maileu Filst Class	17 BLUEBERRY LANE, HUDSON, NH 03051	HID
6			HUDSON
			1 12 12
7			6 300
8			
			5 6
9			
	Total # of pieces listed by sender 5	Total # of pieces rec'vd at Post Office	Postmaster (receiving Employee)



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 247-131 (05-25-23)</u>: Erich & Kerry Uhlendorf, <u>3 Jacqueline Street</u>, Hudson, NH requests an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sqft. shed to remain in its current location which encroaches approx. 12 ft into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

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

Respectfully,

Bruce Buttrick Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

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You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 247-131 (05-25-23)</u>: Erich & Kerry Uhlendorf, <u>3 Jacqueline Street</u>, Hudson, NH requests an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sqft. shed to remain in its current location which encroaches approx. 12 ft into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the Hudson Town Hall.

Respectfully

Bruce Buttrick Zoning Administrator

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT Select Option 1 or Option 2 only

Per RSA674:33-a, II, Equitable Waiver of Dimensional Requirement; (OPTION 2)

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate the following to the satisfaction of the board:

TEN YEARS OR MORE: Please explain how the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected; and

been has has awave and no lacation.

(c) **NO NUISANCE**. Please explain how the physical or dimensional violation <u>does not</u> constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

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(d) HIGH CORRECTION COST. Please explain how that due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

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Abutter Letter of Support

Town of Hudson Zoning Department,

We, Sara & Michael Brustas, residents of 5 Jacqueline St. Hudson, NH neighbors to, Kerry & Erich Uhlendorf, of 3 Jacqueline St. Hudson, NH. We are aware of shed placement on their property and find no issue with it on our end. Please accept this letter to be our mutual agreement and understanding that we do have any discrepancies. Any further questions or concerns please reach out to either of us Sara (978) 758 5231 or Michael (978)866 5998.

Thank you,

Sara & Michael Brustas HAJ MBRUHAS 05/01/2023

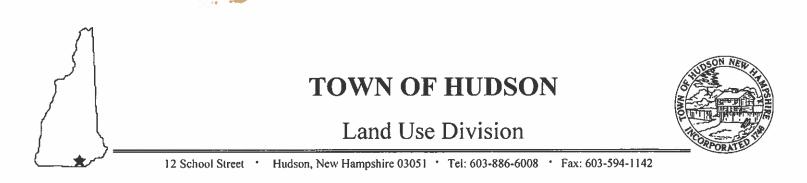
5 Jacqueline St. Hudson, NH 03051 Cost Estimate for shed removal

INVOICE

NH Elevation, LLC 8 Gordon Road JOB PHONE 3128/2003 Bow, NH 03304 JOB NAME/LOCATION 603-224-2192 TO Kerry Unlendorf 3 Jacqueline Street Hudson, NH PHONE ORDER TAKEN BY

TERMS:

AMOUNT DESCRIPTION Maing tip' shed -Total: \$3,200.00 HOURS RATE AMOUNT LABOR TOTAL MATERIAL TOTAL LABOR WORK ORDERED BY DATE COMPLETED TOTAL TAX M PAY THIS AMOUNT -> 200 R, Thank You SGNATURE (I hereby acknowledge the satislactory completion of the above deacribed work.)



Zoning Determination #22-153 Notice of non-conformance

December 21, 2022

Erich and Kerry Uhlendorf 3 Jacqueline Street Hudson, NH 03051

<u>Re:</u> <u>3 Jacqueline Street</u> <u>Map 247 Lot 131-000</u> District: Residential One (R-1)

Subject: Shed encroachment.

Dear Erich and Kerry,

Zoning Review / Determination:

I am in receipt of a recent certified plot plan that indicates a violation of the Zoning Ordinance.

Your property has a shed located within the required building/structure setbacks. On your property, the required side setback is 15 ft from property lines. The submitted certified plot plan indicates a violation as follows:

Lack of required setback per §334-27 <u>Table of Dimensional Requirements</u>. The shed is located within the required setback. Please remove/move the shed into compliance, or apply for an <u>Equitable Waiver of Dimensional Requirement</u> from the Zoning Board of Adjustment.

Sincerely,

Bruce Buttrick Zoning Administrator/Code Enforcement Officer (603) 816-1275 <u>bbuttrick@hudsonnh.gov</u>

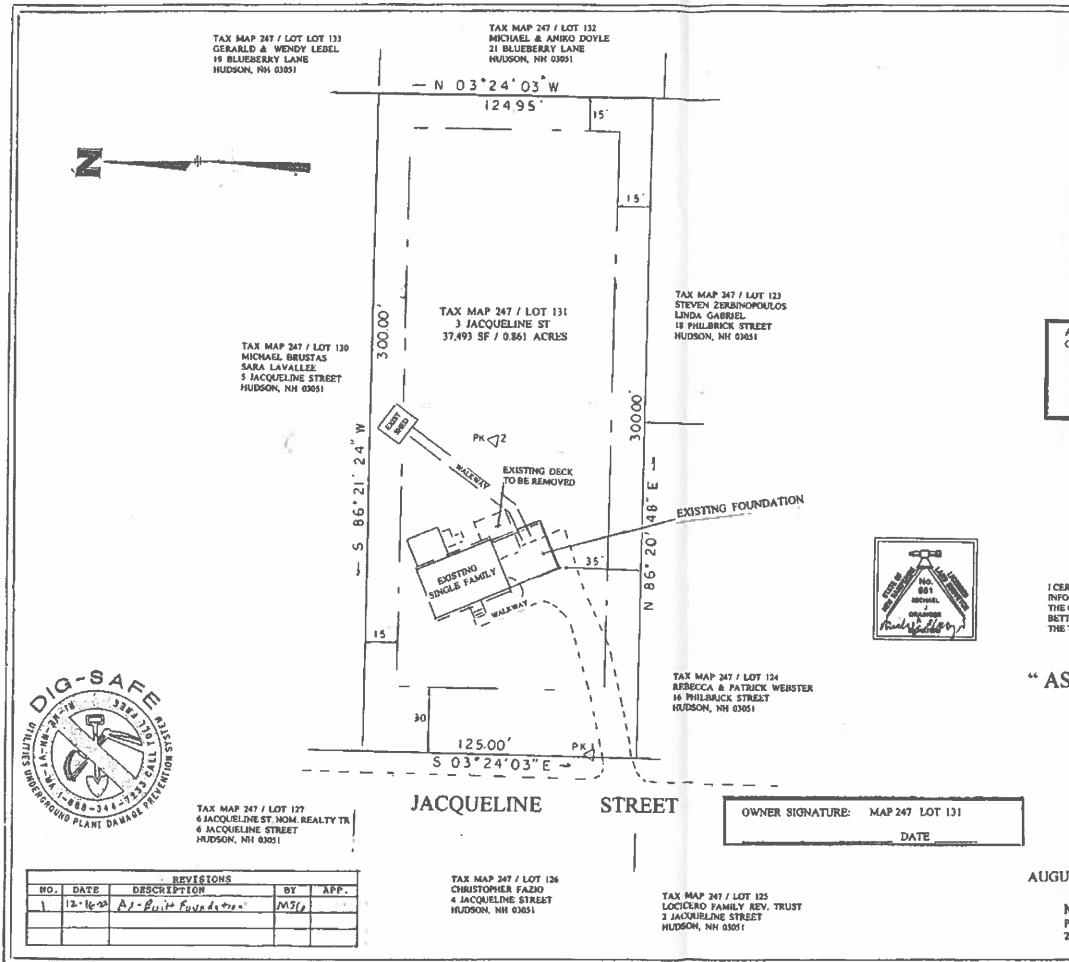
encl: 12/16/22 Certified Plot Plan cc: Public Folder B. Groth, Town Planner File

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

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PROFESSIONAL ENGENEERS - SURVEYORS - PLANNERS 220 DERRY ROAD 11UDSON, NH 03051 (603) 882-4359	ST 16, 2022 SCALE : 1" = 30'
	ROFESSIONAL ENGINEERS - SURVEYORS - PLANNERS 20 DERRY ROAD 11UDSON, NH 03051 (603) \$82-4359

Printed 5/09/2023 2:41PM Created 5/09/2023 2:38 PM			Town o 12 Se	tion Receipt f Hudson, NH chool Street NH 03051-4249		Receip	t <mark># 728,828</mark> tgoodwyn
		Description		Current Invoice	Payment	Balan	ce Due
	1.00	Zoning Application 3 Jacqueline Street Map 247 Lot 131-000	(R-1 Zone)	¥.			
		EQ Wvr of Dim. Req.		0.00	231.1700		0.00
					Total:		231.17
	Remitter		Рау Туре	Reference	Tendered	Change	Net Paid
	Kerry L &	Erich Uhlendorf	CHECK	CHECK # 227	231.17	0.00	231.17
					Total Due:		231.17

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Total Tendered:

Total Change: Net Paid:



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: May 25, 2023 88 5-17-23

Case 147-016 (05-25-23): Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for 181 B Webster St., Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:

- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- **b.** To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

Introduction:

This request/application is a result from a Code Enforcement action and a subsequent Court Order.

Property description:

This is an existing developed lot of record with non-conforming uses (thus the Code Enforcement action), some by recent variance.

HISTORY:

December 1964 Variance -approval of sale of Agricultural products.

3-29-1990 -The Property was the subject of a prior zoning code enforcement action, which resulted in a Consent Decree: "The Property may only be used for: 1) residential purposes <u>as</u> <u>permitted under the ordinance</u>, 2) a convenient store <u>as it has been operated in the past</u>, and 3) for agricultural purposes, specifically defined as growing, cultivation, and harvesting of crops, produce, nursery stock, flowers and other plants, and the sale of same grown on the Property."

9-30-2019 Code Enforcement complaint from Town - notice of violations.

10-28-2019 Code Enforcement complaint(s), against landscaping business.

1-23-2020, the ZBA granted a variance relative to the expansion of the existing convenient store.

11-23-2020 Town files lawsuit - Zoning violations.

4-14-2022 Numerous variances granted for other bldgs./uses.

4-28-2022 Variance extension for 181A convenience store (2yrs).

8-3-2022 Final Order - Superior Court.

Town (in-house) review/comments:

Fire Dept: no comments. Engineering: no comments. Town Planner: yes, see attachment.

Attachments:

- A 3-29-1990 Consent Decree.
- **B** 9-30-2019 Code Enforcement complaint from Town.
- C 10-28-2019 Code Enforcement complaint(s), against landscaping business.
- **D** 1-23-2020, the ZBA granted a variance relative to the expansion of the existing convenient

store.

- E 11-23-2020 Town files lawsuit Zoning violations.
- **F** 4-14-2022 Numerous variances granted for other bldgs./uses.
- G 4-28-2022 Variance extension for 181A convenience store expansion (2yrs).
- H 8-3-2022 Final Order (item #14) Superior Court.
- **I** Town Planner's in-house review comments.

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 SOULE, LESLIE, ZELIN, SAYWARD & LOUGHMAN 220 MAIN STREET JEM, NEW HAMPSHIRE 03079 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 Lanscaping's use of the property for planting, growing and selling of nursery stock is included within the pre-established non conforming use.

5. 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,

Date: 3/30/91

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

Barbara Loughman F.

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

Presiding Justice

Date: 3-29-90

LAW OFFICE OF SOULE, LESLIE, ZELIN, SAY WARD & LOUGHMAN 220 MAIN STREET EM. NEW HAMPSHIRE 03079

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 1st 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.





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

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.



S MARINE	LAND USE DIVISION
TED	LAND USE DIVISION Hudson, New Hampshire 03051 Tel: 603-886-6008 Fax: 103-594-1142 12 School Street Hudson, New Hampshire 03051 Tel: 603-886-6008 Fax: 103-594-1142
	Code Enforcement/Investigation Form
Address	in Question: 187 WEbster Street, Hudson, NH 03051
Busines	s Name (if applicable): REGIS LANds CAPING
Type of	Occupancy: Residential Commercial Industrial
Your Na Address: Signature	5 MADELEINE CT, HUDSON, NH 03051

 C_n

VILLAGE OF REEDS BROOK

4 A A A A

CONDOMINIUM ASSN. Amanda Drive Hudson, NH 03051

During this past summer Regis Landscaping in Hudson, New Hampshire has started working as early as 5:30 AM fairly often. In addition to the earlier starting times there have been many summer evenings where equipment has been in operation up to 10:00 PM. These actions cause our seniors undue stress having to be awakened prematurely in the a.m., and unable to get to sleep in the evenings. The continuous sounds of running equipment backing up, moving product and the banging of the truck tailgates affects all five surrounding senior communities.

In early spring Regis combines loam with an unknown substance causing an extremely pungent odor which affects all five senior communities. When the odor is activated all the surrounding residents are forced to close all windows and doors. This odor also causes us to cancel outdoor activities at our houses with friends and family until the odor subsides which is approximately 7 to 10 days.

During the hours of operation Regis Landscaping has large equipment that sends billowing clouds of dust and dirt onto our homes. This causes financial stress on those homeowners who take pride in their property. We are forced to hire power wash companies twice a year at the cost of \$175 each time. In addition we are forced to clean our windows constantly as they are consumed with dust. Many residents suffer from respiratory issues and are forced to keep their windows closed in order to help prevent a potential medical emergency. Residents in good health or not should not have to be subjected to this amount of airborne debris. Dust alone over time can reduce lung function and contribute to chronic bronchitis, heart and lung disorders.

The residents of all five affected communities would like the town to investigate our concerns and complaints, issue a cease and desist order and enforce action against Regis Landscaping. The tax paying citizens of these communities should not have to be subjected to any of the listed issues.

VILLAGE OF REEDS BROOK

CONDOMINIUM ASSN. Amanda Drive Hudson, NH 03051

To: Town of Hudson

From: Village of Reeds Brook Residents

Subject: Enforcement of Zoning Ordinances

Attn: Bruce Buttrick – Hudson Zoning Enforcement

Listed below are the fifty five and over communities that are affected by the attached letter.

Village of Reeds Brook for President

Lexington Place

John auniland

Westchester Place

Abbies Landing

Lunda Patenaule, President

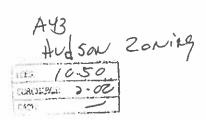
Sparkling River

10/28/2019



IT THE IS CREATED AND A PROPERTY OF A PROPER

Doc # 200013544 03/23/2020 11:16:18 AM Page 1 of 1 Book 9273 Page 1600 **Edward Sapienza Register of Deeds, Hillsborough County**



Send recorded copy to

TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT 12 School Street, Hudson, New Hampshire 03051

NOTICE OF DECISION

Map 147, Lot 016, Zone R-2 (Residential-Two), Case # 147-016 ZBA Decision 01/23/2020

Variance – GRANTED with stipulations

Applicant: Alfred Sapochetti, 3B Yale Ct., Hudson, NH 03051

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Tony Basso, PE, Keach Nordstrom Assoc., Inc., 10 Commerce Park North, Suite 3, Bedford, NH 03110

Property Location: 181A Webster Street, Hudson, NH 03051

Action sought: Variance to prepare food (hot & cold) on site for take-out and serve ice cream for take-out within convenience store

Zoning Ordinance Article: V §334-21, Table of Permitted Principal Uses

Action granted: After consideration of the testimony and public support; recognition that a variance was granted in 1964 and reaffirmed in the 1990 Consent Decree regarding the store; assuming that the hardship criteria must have been met for the granting of the 1964 variance; noting that the preparation and servicing of on-site food is a natural evolution for and incidental to the convenience store; understanding that Site Plan Review is required from the Planning Board; and after review of the requirements for the granting of a Variance and determination that each have been met, motion made, seconded and voted 5:0 to grant the Variance as requested with two (2) stipulations: (1) that there shall be no inside seating for eating at all and (2) that Site Plan Review and approval be obtained from the Planning Board.

NOTE: All representations of fact or intention made by the applicant, owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this hearing.

Charles J. Brackett, ZBA Chairman

Bruce Buttrick, Zoning Administrator

 $\frac{2/10/20}{\text{Date}}$



THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH Southern Judicial District SUPERIOR COURT

Town of Hudson

v.

Derry & Webster, LLC

Docket No. 226-2020-CV-00632

VERIFIED PETITION FOR PERMANENT INJUNCTION TO ENJOIN ZONING ORDINANCE VIOLATIONS

NOW COMES the Plaintiff, Town of Hudson, by and through its attorneys, Tarbell & Brodich, P.A., and respectfully submits the within Verified Petition for Permanent Injunction to Enjoin Zoning Ordinance Violations, and in support thereof states as follows:

I. Parties

1. The Plaintiff, Town of Hudson (hereinafter "Hudson"), is a municipal corporation organized and existing under the laws of the State of New Hampshire, with a principal address of 12 School Street, Hudson, New Hampshire 03051, acting by and through its Code Enforcement Officer, Bruce Buttrick (hereinafter "Mr. Buttrick").

2. The Defendant, Derry & Webster, LLC, is a limited liability company organized and existing under the laws of the State of New Hampshire, with a principal address of 253 Main Street, Nashua, New Hampshire 03060.

II. Jurisdiction and Venue

This Court has subject matter jurisdiction pursuant to RSA § 676:15, RSA § 676:17, RSA
 § 236:128, and the Hudson Zoning Ordinance.

4. The property which is the subject of this action is located in the Town of Hudson, County of Hillsborough, State of New Hampshire, and venue is proper in the Southern Judicial District of the Hillsborough County Superior Court.

III. Property Description

5. The property in question consists of a single parcel of land on Webster Street in Hudson, NH, identified as 181-189 Webster Street, which is also described as Hudson Tax Map 147, Lot 016 ("Property").

6. The Property is owned by the Defendant.

7. The Property is located within the Residential-2 ("R-2") zoning district and Wetland Conservation ("WCD") overlay zoning district according to the Hudson Zoning Ordinance ("HZO").

8. Uses permitted within the R-2 Zone include single and two-family residences, agricultural uses, and other compatible uses.

9. Uses not permitted within the R-2 Zone include most commercial and industrial uses.

10. The Property was historically part of a working farm known as the Garrison Farm.

11. The Property was developed with a farmhouse, greenhouses, agricultural structures/barns/sheds, and a farm stand.

12. Over time, the use of the Property has expanded and changed, in large part without the necessary municipal permits and approvals.

13. At present, the Property contains a convenience style market and a landscaping business with contracting and equipment rental (181 A-B Webster Street), a three-family residence (185 A-C Webster Street), a commercial warehouse (187 Webster Street), and a multi-bay commercial



garage (189 Webster Street), together with outdoor storage of materials, vehicles, heavy equipment, and junk.

IV. Prior Lawsuit

14. The Property was the subject of a prior zoning code enforcement action. See Town of Hudson v. Samuel A. Tamposi et al., Hillsborough County Superior Court Docket No. 89-E-0727 (1989).

15. At that time, the alleged violations included, in part, using the Property for an excavation business, storage of heavy equipment, trucks, and junk, and the conversion of the residential structure to a commercial/business use, all of which were not permitted under the HZO, not permitted by any variance, and had not received Planning Board site plan approval.

16. The case was resolved with a Consent Decree, pursuant to which the "Defendants shall not themselves, or permit others, to use the property other than for residential purposes as permitted under the ordinance and/or in accordance with the pre-existing non-conforming use already established on the property and defined as follows: [t]he growing, cultivation, and harvesting of crops, produce, nursery stock, flowers and other plants; the sale of same grown on the subject property; and the operation of the convenient store as it has been operated in the past, in the farmstand building."

17. The parties further agreed that an existing occupant of the Property, identified as Tamarack Landscaping, was allowed to continue "use of the property for planting, growing and selling of nursery stock."

18. As a result of the Consent Decree in the matter of *Hudson v. Samuel A. Tamposi et al.*, the Property may only be used for: 1) residential purposes as permitted under the ordinance, 2) a convenient store as it has been operated in the past, and 3) for agricultural purposes, specifically



defined as growing, cultivation, and harvesting of crops, produce, nursery stock, flowers and other plants, and the sale of same grown on the Property.

V. Applicable Regulations and Violations

19. The violations on the Property are categorized and/or related to the following land uses, each of which is addressed separately below: 1) the convenient store, 2) the landscaping business, 3) the three-unit residential dwelling, 4) the warehouse, 5) the garage building, and 6) other violations related to mixed use, junk, outdoor storage, parking, and wetlands.

20. Over a period of time from approximately 2018 through 2020, Town officials met with the Property owner on different occasions to put together a plan to remediate the violations.

21. While some effort has seemingly been made to bring the Property into compliance with the HZO, the parties are essentially at impasse, and the Property nonetheless remains largely in non-compliance with the HZO.

A. Convenient Store (181 A Webster Street)

22. HZO § 334-16.1 requires Site Plan approval from the Planning Board for any "development or change or expansion of use of tracts for nonresidential uses."

23. In 1953, the Hudson ZBA granted a variance to permit a seasonal roadside farm stand to sell produce grown on the farm.

24. In 1964, the Hudson ZBA granted a variance to expand the list of items that could be sold at the seasonal farm stand, to include various items unrelated to produce or not grown on the farm, and specifically, "garden seeds and plants, cigarettes, soft drinks such as coca cola and pepsi cola, dairy products, bread, fresh fruits, candy, homemade jams, jellies, and preserves, cider, maple syrup, potato chips, cut flowers grown on farm, berries, and Christmas trees and decorations."



25. As of 1990, according to the Consent Decree in *Hudson v. Samuel A. Tamposi et al.*, the convenient store was allowed to continue its operations ". . . as it has been operated in the past, in the farmstand building."

26. Since 1990, the convenient store has expanded without site plan approval.

27. On February 10, 2020, the ZBA granted a variance relative to the expansion of the existing convenient store, which approval contained the express condition that "Site Plan Review and approval be obtained from the Planning Board."

28. The Defendant did file an application for site plan review with the Planning Board; however, on August 19, 2020 the Planning Board denied acceptance of the plan due to the existence of all of the other zoning violations on the Property. *See* HTC § 275-6, N & P ("Conformance with all existing codes . . ." and "[c]ompliance with the provisions of the Zoning Ordinance" required for plan acceptance.).

29. No appeal of that denial was ever taken.

30. The Defendant has failed to abate the zoning violations and has failed to resubmit a conforming plan for approval by the Planning Board.

31. At present, the Property remains in violation of both the HZO and the terms and conditions of the variance granted by the ZBA for failure to obtain site plan approval for the convenient store from the Planning Board.

32. The Defendant must either bring the Property into compliance by abating the zoning violations and obtaining the required site plan approval for the convenient store, or the convenient store use must be enjoined to the extent that the scope of the use exceeds the permissible uses defined by the 1953 and 1964 variances, and the 1990 Consent Decree in *Hudson v. Samuel A. Tamposi et al.*

5

B. Landscaping Business (181 B Webster Street)

33. Contractor's yards and landscaping businesses are prohibited in the R-2 Zoning District. *See* HZO § 334-21 and Table of Permitted Principal Uses; *see also* HZO § 334-20 ("Any uses not specifically listed in the Table of Permitted Principal or Accessory Uses are hereby expressly prohibited.").

34. Commercial business offices are prohibited in the R-2 Zoning District. Id.

35. HZO § 334-16.1 requires Site Plan approval from the Planning Board for any "development or change or expansion of use of tracts for nonresidential uses."

36. As of 1990, according to the Consent Decree in *Hudson v. Samuel A. Tamposi et al.*, the only landscaping business allowed on the Property was "for planting, growing and selling of nursery stock."

37. The existing landscaping business was never engaged in the planting, growing, and selling of nursery stock, and includes contracting and equipment rental.

38. The existing landscaping business includes a business office located at 181 B Webster Street, together with the outdoor storage of business vehicles, trucks, trailers, and equipment, and the outdoor storage and stockpiling of landscape, hardscape, mulch, and stone materials.

39. The landscaping business is prohibited without a variance from the ZBA or site plan approval from the Planning Board.

40. No variance has been granted by the ZBA, nor has a site plan has been approved by the Planning Board.

41. The Defendant must either bring the Property into compliance by obtaining the required variance and site plan approval for the landscaping business, or the landscaping business must be

enjoined to the extent that the scope of the use exceeds the permissible use defined by the 1990 Consent Decree in *Hudson v. Samuel A. Tamposi et al.*

C. Three-Family Residence (185 A-C Webster Street)

42. Single and two-family residences are permitted in the R-2 Zoning District in which the Property is located; three-family residences are not permitted. *See* HZO § 334-21 at Table of Permitted Used; *see also* HZO § 334-20 ("Any uses not specifically listed in the Table of Permitted Principal or Accessory Uses are hereby expressly prohibited.").

43. Site plan approval is required for residential structures containing more than two (2) dwelling units. *See* HZO § 334-16.1.

44. The house has been converted at some point in time to a three-family residence, without the necessary permits or approvals, which is not permitted in the R-2 Zoning District.

45. The three-family residence is prohibited without a variance from the ZBA or site plan approval from the Planning Board.

46. No variance has been granted by the ZBA, nor has a site plan has been approved by the Planning Board.

47. The Defendant must either bring the Property into compliance by obtaining the required variance and site plan approval for the third residential unit, or the third residential unit must be removed from the Property.

D. Warehouse (187 Webster Street)

48. The warehouse structure at 187 Webster Street was constructed in approximately 1975 according to the Town's tax records.

49. On information and belief, the structure was originally built and utilized for agricultural and/or farming operations.



50. The Town has no record of any permits or approvals for any non-agricultural use of the warehouse.

51. No variance has been granted by the ZBA, nor has a site plan has been approved by the Planning Board, for any commercial or industrial use of the warehouse.

52. The Defendant must either bring the Property into compliance by obtaining the required variance and site plan approval for a commercial/industrial warehouse, or cease and desist any non-agricultural use of the warehouse.

E. Garage (189 Webster Street)

53. The garage structure at 189 Webster Street was constructed in approximately 1975 according to the Town's tax records.

54. On information and belief, the structure was originally built and utilized for agricultural and/or farming operations.

55. The Town has no record of any permits or approvals for any non-agricultural use of the garage.

56. No variance has been granted by the ZBA, nor has a site plan has been approved by the Planning Board, for any commercial or industrial use of the garage.

57. The Defendant must either bring the Property into compliance by obtaining the required variance and site plan approval for a commercial/industrial garage, or cease and desist any non-agricultural use of the warehouse.

F. <u>Other Violations: Mixed Uses, Junkyard, Outdoor Storage, Parking, Wetland Violations</u>
58. Mixed uses of a single lot are only permitted in the Industrial or Business Zoning
Districts per HZO § 334-10.



59. HZO § 334-13 (A) prohibits the operation of a junkyard, as that term in defined, in any district.

60. Junkyards are also prohibited under RSA § 236:111 et seq.

61. HZO § 334-13 (B) expressly provides that the outdoor storage of any "quantity of waste, refuse, junk or ashes" or more than one unregistered motor vehicles is prohibited any district.

62. 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 at residential sites.

63. HZO § 334-36 prohibits all uses that are not expressly permitted in the WCD.

64. The combination of uses on the Property, convenient store, landscaping business, multifamily residential building, warehouse, and garage, is not permitted.

65. No variance or special exception has been granted by the ZBA, nor has a site plan has been approved by the Planning Board, which would allow for the mixed use of the Property.

66. There is a vast array of earthen materials, motor vehicles and/or automotive parts, personal property, and junk, littered throughout the Property, including within the WCD.

67. There are heavy equipment and commercial vehicles being stored on the Property.

68. The Defendant must either bring the Property into compliance by obtaining the required variances, special exception, and site plan approval for the mixed use of the property, or cease and desist the impermissible mixed use.

69. Violations of the WCD must cease and any damage to the WCD must be remediated.

70. All of the material, motor vehicles and/or automotive parts, junk, and other items of personal property must be removed from the property, or the Defendant must obtain the required variance and site plan approval for such items, to be stored on the Property in accordance with such approvals.



Request for Relief

71. At present, none of the zoning violations complained of have been abated and the Property continues to remain in violation of the HZO.

Hudson brings this petition pursuant to RSA § 236:111 et seq., RSA § 676:15 and RSA § 72. 676:17, and pursuant to the provisions of the HZO, to obtain an injunction to compel the Defendant either pursue the necessary permits and approvals, or to cease and desist the illegal use of the Property.

WHEREFORE, the Town of Hudson respectfully requests that this Honorable Court:

- Α. Issue Orders of Notice for service on the Defendant;
- Issue a permanent injunction ordering the Defendant to either pursue the B. necessary permits and approvals or cease and desist the illegal use of the Property;
- C. Impose civil fines and penalties on the Defendant at a rate of up to Two Hundred Seventy Five Dollars (\$275.00) to up to Five Hundred Dollars (\$550.00) per day from the date the Defendant was first notified of the violations to the date of the issuance of any Order by the Court in this matter;
- Award the Town of Hudson its actual attorney's fees and expenses incurred in D. bringing this petition and related proceedings in order to compel the Respondent to comply with the HZO; and
- Grant such other and further relief as may be just and proper. E.



10

Respectfully submitted by, Town of Hudson, By and through its Attorneys, TARBELL & BRODICH, P.A.

Dated: November 23, 2020

/s/ David E. LeFevre By: David E. LeFevre, Esq. BNH #13811 45 Centre Street Concord, New Hampshire 03301 (603) 226-3900

VERIFICATION

I, Bruce Buttrick, have verified that the facts set forth in the foregoing Verified Petition for Permanent Injunction to Enjoin Zoning Ordinance Violations are true and accurate to the best of my knowledge and belief.

Bruce Buttrick, Code Enforcement Officer

STATE OF NEW HAMPSHIRE COUNTY OF HILLSBOROUGH

On this day, before me, personally appeared Bruce Buttrick, and swore that the foregoing statements are true to the best of his knowledge and belief.)

Dated: 11-23 2020

Notary Public (My-Commission Expires:

PAMELA BISBING





THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

SUPERIOR COURT

Hillsborough Superior Court Southern District 30 Spring Street Nashua NH 03060 Telephone: 1-855-212-1234 TTY/TDD Relay: (800) 735-2964 http://www.courts.state.nh.us

NOTICE OF BENCH TRIAL

FILE COPY

Case Name: Town of Hudson v Derry & Webster, LLC Case Number: 226-2020-CV-00632

The court will conduct the following events in this case at Hillsborough Superior Court Southern District, 30 Spring Street Nashua NH 03060.

Event:	Date:	<u>Time:</u>
Trial Management Conference	June 10, 2022	9:00 AM
Bench Trial	Week of 6/20/2022 or 6/27/2022	

Trial counsel, or parties if unrepresented, shall appear at the Trial Management Conference; clients shall appear at the conference or be available for contact by telephone. Counsel and clients shall be prepared to discuss conduct of the trial and settlement.

All pre-trial motions, including motions in limine, shall be electronically filed at least fourteen days prior to the Trial Management Conference.

All witness lists and exhibit lists shall be electronically filed at the Trial Management Conference.

All pending motions shall be heard at a time set by the court.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

BY ORDER OF THE COURT

September 10, 2021

Amy M. Feliciano Clerk of Court

(921) C: David LeFevre, ESQ; Gerald R. Prunier, ESQ



For Registry of Deed use only:

FEES. AIU.63 SURCHARGE: #2 CASH

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Send recorded copy to:

TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT 12 School Street, Hudson, New Hampshire 03051

NOTICE OF DECISION

Map 147, Lot 016-000, Zone R-2 (Residential-Two), Case # 147-016 a ZBA Decision 04/14/2022

Variance to allow "Landscape Equipment Storage" Use GRANTED with 2 stipulations

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, Principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Gerald R. Prunier, Esq., Prunier & Prolman, P.A. 20 Trafalgar Square, Suite 100, Nashua NH 03063

Property Location: 185 Webster Street, Hudson, NH 03051

Property address: 183 Webster Street, Hudson, NH 03051

Action sought: A Variance for the Greenhouse Building addressed as 183 Webster Street, for a proposed use to warehouse material and equipment, with accessory use of garage or parking of two or more light commercial vehicles and heavy commercial vehicles and equipment where these uses are not permitted as Principal nor Accessory Uses in the R-2 Zone.

Zoning Ordinance Article: V, Permitted Uses; §334-21, Table of Permitted Principal Uses, Industrial (E-8) and §334-22, Table of Permitted Accessory Uses.

Action granted: After consideration of the testimony and the 04/09/2022 Site Walk observations; acknowledgement that the Variance applies to just this larger greenhouse building and not the smaller adjacent greenhouse; discussions on identifying specific uses to be included with the granting of this variance with the specific Land Use Description modified in Attachment A in the Zoning Administrator's Staff Report initialed 04/13/2022 (after the site walk and discussion) from "dry storage" to "landscape equipment storage" for landscaping small engines (lawn mowers and weed whackers) and no applicable Accessory Uses; review of the Variance criteria and determination that they have been conditionally satisfied, motion made, seconded and voted 5:0 to grant the Variance with two (2) stipulations:

- (1) that the greenhouse building be repaired and meet all applicable building codes and
- standards as prescribed by the Town for requested occupancy; and
- (2) that there be no parking of vehicles greater than 1,000 pounds.

NOTE: Any change to Use will require a Variance. All representations of fact or intention made by the applicant, owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this

hearing Daddario, ZBS Chairman

Buttrick, Zoning Administrator

 $\frac{5/9/dd}{5-6\cdot22}$ Date



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Send recorded copy to:

TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT 12 School Street, Hudson, New Hampshire 03051

NOTICE OF DECISION

Map 147, Lot 016-000, Zone R-2 (Residential-Two), Case # 147-016 c ZBA Decision 04/14/2022

Variance to allow Unit Specific Land Use Descriptions **GRANTED** with 2 stipulations

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, Principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Gerald R. Prunier, Esq., Prunier & Prolman, P.A. 20 Trafalgar Square, Suite 100, Nashua NH 03063

Property Location: 185 Webster Street, Hudson, NH 03051

Property address: 187 Webster Street, Hudson, NH 03051

Action sought: Variance for the Small Garage Building addressed as 187 Webster Street-for a proposed use to warchouse material and equipment, with accessory use of garage or parking of two or more light commercial vehicles and heavy commercial vehicles and equipment where these uses are not permitted as Principal nor Accessory Uses in the R-2 Zone.

Zoning Ordinance Article: V, Permitted Uses; §334-21, Table of Permitted Principal Uses, Industrial (E-8) and §334-22. Table of Permitted Accessory Uses.

Action granted: After consideration of the testimony and 04/09/2022 Site Walk observations; acknowledgement that the Variance applies to just this building; discussions on identifying specific uses to be included with the granting of this variance with the unit specific Land Use Descriptions identified per Attachment A in the Zoning Administrator's Staff Report initialed 04/13/2022 as follows:

- Unit A- Carpet Storage with a forklift that can be parked outside on side of unit that faces the residence and no applicable Accessory Uses
 - Unit B-- Off Season Garaging and no applicable Accessory Uses

Unit C- Mechanical Maintenance (modified from Mechanical Repair) and no applicable Accessory Uses;

review of the Variance criteria and determination that they have been conditionally satisfied, motion made, seconded and voted 4:1 to grant the Variance for the Small Garage Building with two (2) stipulations:

- (1) building would have to be brought into compliance with all applicable Town Codes including the disposal to of any hazmat materials; and
- (2) limit the parking for the building to two (2) light commercial vehicles and two (2) heavy commercial vehicles at any one time.

NOTE: Any change in Use will require a Variance. All representations of fact or intention made by the applicant, owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this

Daddario, ZBA

 $\frac{5/9}{\text{Date}}$



Bruce Buttrick, Zoning Administrator

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Zoning

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TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT 12 School Street, Hudson, New Hampshire 03051

NOTICE OF DECISION

Map 147, Lot 016-000, Zone R-2 (Residential-Two), Case # 147-016 d ZBA Decision 04/14/2022

Variance to allow Unit Specific Land Use Descriptions - GRANTED with 5 stipulations

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, Principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Gerald R. Prunier, Esq., Prunier & Prolman, P.A. 20 Trafalgar Square, Suite 100, Nashua NH 03063

Property Location: 185 Webster Street, Hudson, NH 03051

Property address: 189 Webster Street, Hudson, NH 03051

Action sought: Variance for a Large Garage Building addressed as 189 Webster Street for a proposed use to warehouse material and equipment, with accessory use of garage or parking of two or more light commercial vehicles and heavy commercial vehicles and equipment where these uses are not permitted as Principal nor Accessory Uses in the R-2 Zone.

Zoning Ordinance Article: V, Permitted Uses; §334-21, Table of Permitted Principal Uses, Industrial (E-8) and §334-22, Table of Permitted Accessory Uses.

Action granted: After consideration of the testimony and 04/09/2022 Site Walk observations; acknowledgement that the Variance applies to just this building; discussions on identifying specific uses to be included with the granting of this variance; review of the Variance criteria and determination that they have been conditionally satisfied, motion made, seconded and voted 4:1 to grant the Variance for the Large Garage Building with five (5) stipulations:

- (1) that the building satisfy all applicable Town Codes for applicable occupancy/use, including storage and disposal of hazmat material;
- (2) that the Uses conform to the Unit Specific Land Use Descriptions in Attachment A of the Zoning Administrator's Staff Report initialed 4/13/2022 as follows:
 - Unit A- Truck Repair & Storage (garaging) and no Accessory Uses
 - Unit B- Off-season Storage (garaging) and no Accessory Uses
 - Unit C- Car-detailing & Storage (garaging) and no Accessory Uses
 - Unit D- Pool Service/Install and no Accessory Uses
- (3) that retail transactions shall not be conducted on site
- (4) that there shall be no access by the customers or general public onto site
- (5) that parking shall be limited to eight (8) light commercial vehicles and three (3) heavy
 - commercial vehicles at any one time or per approved Site Plan.

<u>NOTE</u>: Any change in Use will require a Variance. All representations of fact or intention made by the owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this hearing.

Daddario, ZBA Chairman M Bruce Buttrick, Zoning Administrator

5/9/dd

5-6-22 Date



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TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT 12 School Street, Hudson, New Hampshire 03051

NOTICE OF DECISION

Map 147, Lot 016-000, Zone R-2 (Residential-Two), Case # 147-016 e ZBA Decision 04/14/2022

Variance to allow Mixed Uses - GRANTED with 1 stipulation

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, Principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Gerald R. Prunier, Esq., Prunier & Prolman, P.A. 20 Trafalgar Square, Suite 100, Nashua NH 03063

Property Location: 185 Webster Street, Hudson, NH 03051

Action sought: A Variance for the parcel known as 185 Webster Street (Map-147 Lot-016 Sublot-000) to allow mixed uses on a lot in a Residential-Two (R-2) district where mixed uses are only allowed in Business and Industrial Districts.

Zoning Ordinance Article: III, General Regulations; §334-10.A, Mixed or dual use on a lot.

Action granted: After consideration of the testimony and 04/09/2022 Site Walk observations; acknowledgement that the Variance applies to the entire parcel; discussions on identifying specific uses to be included with the granting of this mixed use variance; review of the Variance criteria and determination that they have been satisfied, motion made, seconded and voted 3:2 to grant the Variance with the stipulation that the mixed uses be limited to the Uses identified on Attachment A of the Zoning Administrator's Staff Report initialed 4/13/2022 and as shown below:

Building	Building			Lan	d Use Code
Address	Description	Unit(s)	Land Use Description	Principal	Accessory
183 Webster St	Greenhouse		Landscape Equipment Storage *	E-8	Not applicable *
185 Webster St	House	(A & B)*	Two-family*	A-2*	Not applicable
187 Webster St	Small Garage	A	Carpet Storage	E-8	Fork-truck (N/A)
		В	Off season garaging	E-8	Not applicable
		С	Mechanical maintenance*	D-10	Not applicable
189 Webster St	Large Garage	Α	Truck Repair & Storage (garaging)	D-10/E-8	Not applicable
		В	Off-season Storage (garaging)	E-8	Not applicable
		С	Car detailing & storage (garaging)	D-10/E-8	Not applicable
		D	Pool Service/install	E-10	Not applicable

* Modified after 4/9/22 ZBA Site Walk and 4/14/22 ZBA Meeting discussion and Decisions.

NOTE: Any change in Use will require a Variance. All representations of fact or intention made by the applicant, owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this

hearing Daddario, ZBA Chairm

4 X Am Bruce Buttrick, Zoning Administrator

5/9/dd Date 5-6-22 Date



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 Page 1 of 1

Mary Ann Crowell Register of Deeds, Hillsborough County

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NOTICE OF DECISION

Map 147, Lot 016-000, Zone R-2 (Residential-Two), Case # 147-016 ZBA Decision 04/28/2022

Extension to Variance approved 1/23/2020 with stipulations TWO-YEAR EXTENSION GRANTED

Property Owner & Address: Derry & Webster, LLC, Vatche Manoukian, Principal, 253 Main Street, Nashua, NH 03060

Property Owner Agent: Gerald R. Prunier, Esq., Prunier & Prolman, P.A. 20 Trafalgar Square, Suite 100, Nashua NH 03063-1981

Property address: 181A Webster Street, Hudson, NH 03051

Action sought: An extension of the Variance granted with stipulations on 01/23/2020 for 181 A Webster St., Hudson, NH to prepare food (hot & cold) on site for take-out and serve ice cream for take-out within convenience store, a use not permitted

Zoning Ordinance Article: XV, Enforcement and Miscellaneous Provisions; §334-82.F, Time Limit

Action granted: After consideration of the testimony and the other recent Variances conditionally approved and speculation for a reasonable timeframe to meet all conditions of approvals in order to submit a Site Plan Review application to the Planning Board, motion made, seconded and unanimously voted to grant a two-year (2) extension to the Variance granted 01/23/2020 with the original stipulations.

NOTE: All representations of fact or intention made by the applicant, owner and agent during testimony before the Zoning Board of Adjustment relative to the obtaining of this relief shall be considered conditions of this approval, regardless of the fact that such facts or intentions may not have been specifically stated as stipulations of the motion. For details of specific discussion relative to this decision, please consult the public minutes recorded during this hearing.

Gary M. Daddario, ZBA Chairman

5/26/22

5-24.22



Bruce Buttrick, Zoning Administrator

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH Southern Judicial District SUPERIOR COURT

Town of Hudson

٧.

Derry & Webster, LLC

Docket No. 226-220-CV-00632

Final Order

The matter before the Court involves a Petition for Permanent Injunction to Enjoin Zoning Ordinance Violations brought by the Petitioner, Town of Hudson ("Hudson"), against the Respondent, Derry & Webster, LLC ("Derry & Webster"), owner of the property located at 181-189 Webster Street, Hudson, NH, which is identified in reference to the Hudson Tax Maps as Map 147, Lots 006 ("Property"). By agreement of the parties, the Court hereby makes the following findings of fact, rulings of law, and enters the following Final Order:

1. The Property is located within the Residential-2 (R-2) zoning district according to the Hudson Zoning Ordinance ("HZO"). Land uses permitted within the R-2 zoning district include single and two-family residences, agricultural uses, and other similar uses. Commercial and industrial land uses are not permitted within the R-2 zoning district. Portions of the Property are also located within the Wetland Conservation ("WC") overlay zoning district.

2. The Property was historically a working farm known as the Garrison Farm. The Property was developed with numerous structures related to its historical agricultural use, including a farmhouse, greenhouses, agricultural structures, barns, sheds, and a farm stand.

3. The Property was the subject of a prior zoning code enforcement action. See Town of Hudson v. Samuel A. Tamposi et al., Hillsborough County Superior Court Docket No. 89-E-0727 (1989). A Consent Decree was entered in that case, pursuant to which, the use of the Property was limited to ". . . residential purposes as permitted under the ordinance and/or in accordance with the pre-existing non-conforming use already established on the property and defined as follows: [t]he growing, cultivation, and harvesting of crops, produce, nursery stock, flowers and other plants; the sale of same grown on the subject property; and the operation of the convenient store as it has been operated in the past, in the farmstand building." Included within the pre-existing nonconforming use was the "use of the property for planting, growing and selling nursery stock." Id.

4. Over time, the use of the Property has expanded and changed without the necessary municipal permits and approvals. As of the date of commencement of this case, the following land uses were being undertaken on the Property: convenience style market; a three-family residence; landscaping business with contracting; a commercial warehouse; a multi-bay commercial garage; outdoor storage of materials, vehicles, heavy equipment, and junk.

5. The Court hereby finds that as of the date of the commencement of the case, the Property was being utilized in violation of the HZO and Court's Order in *Town of Hudson v. Samuel A. Tamposi et al.*

6. Prior to commencement of the case, the Hudson Zoning Board of Adjustment ("ZBA") granted a variance relative to the convenience store on January 23, 2020.

7. During the pendency of the case, on April 14, 2022, the ZBA granted variances relative to the greenhouse building, the small garage building, the large garage building, and to permit multiple mixed uses.

8. During the pendency of the case, the ZBA denied a variance to permit a 3-family residence.

9. During the pendency of the case, the ZBA granted a variance on April 28, 2022, pursuant to which, Derry & Webster was provided a two (2) year extension to the variance previously granted on January 23, 2020. Derry & Webster's deadline to comply with the terms and conditions the variances, including obtaining site plan approval, is January 23, 2024.

10. None of the variances have been appealed. The variances are subject to certain stipulations, including site plan approval from the Planning Board.

11. In light of the foregoing, the Court hereby enters the following permanent injunctive orders pursuant to RSA § 676:17, I, and the HZO.

12. Use of the Property must comply with the terms and conditions of the variances granted by the ZBA, which are herein incorporated by reference, including the requirement that site plan approval be obtained from the Planning Board.



13. The 3-family residence must be converted to a 2-family residence. All independent living facilities must be removed from the illegal 3rd residential unit, which must be combined with the other two (2) units such that there are only two (2) residential units. All work must comply with all applicable life safety and building codes. All required permits must be obtained from the Town prior to beginning any construction. The Court recognizes that the illegal 3rd residential unit is currently being occupied by a tenant under a lease which expires on November 30, 2022. The current tenant shall be required to vacate the illegal unit at the expiration of the lease, failing which, Derry & Webster shall commence the necessary eviction proceeding to gain possession of the 3rd residential unit and bring the Property into compliance.

14. The use of the Property related to the landscaping business as it currently exists is not permitted. The only permitted landscaping use is the "planting, growing and selling nursery stock." All other uses related or ancillary to the existing landscaping business are not permitted. Derry & Webster must cease and desist the illegal landscaping business and bring the Property into compliance within a period of eight (8) months from the date of this Order. If, during this eight (8) month time period, Derry & Webster should obtain a variance to permit the landscaping business or some iteration thereof, use of the Property shall comply with the terms and conditions of any such variance. Otherwise, the illegal landscaping use must cease and desist, and the Property must be brought into compliance with the HZO.

15. Except as may be permitted by the variances, the outdoor storage of materials, vehicles, heavy equipment, and junk is not permitted, and must be removed from the Property in keeping with the terms and conditions of this Order.

16. Any uses and disturbances within the WC overlay zoning district must be abated. In conjunction with obtaining site plan approval from the Planning Board, Derry & Webster shall obtain approval of a remediation plan to restore any disturbed areas within the protected wetland or the adjacent buffer.

17. Site plan approval for the complete site (Map 147, Lot 016-000) must be obtained no later than January 23, 2024.

18. Hudson is hereby awarded its attorney fees and costs actually expended in this matter pursuant to RSA § 676:17, II. Hudson is hereby awarded its attorney fees and costs in the amount of \$7,750.00. Derry & Webster shall tender payment to Hudson in four (4) equal monthly payments, with the first payment being due within thirty (30) days of this Order, and each subsequent payment due on the same day of each month thereafter until paid in full.

19. Pursuant to RSA § 676:17, I, Derry & Webster is subject to civil fines and penalties up to \$275.00 for first offenses, and \$550.00 per day for second offenses, for each day the violations have continued. Derry & Webster was first notified of the offenses on September 30, 2019. By agreement of the parties, the imposition of civil fines and penalties against Derry & Webster is to be withheld, provided that, Derry & Webster complies with this Final Order. In the event that Derry & Webster fails to comply with this Final Order, the Town of Hudson may bring the matter forward for a further hearing for purposes of assessment of civil fines and penalties.



20. This Order may be recorded at registry of deeds and shall be binding upon any subsequent owner of the Property.

So Ordered.

Dated: _____

Justice, Superior Court

Juna J hadian

Honorable Tina L. Nadeau August 3, 2022



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

REQUEST FOR REVIEW/COMMENTS: Case: <u>147-016 (05-25-23)</u> (4-VARIANCES) Property Location: <u>181 B Webster Street</u>

For Town Use	
Plan Routing Date: 05/11/2023 Reply requested by: 05/16/2023 ZBA Hearing Date: 05/2	25/2023
I have no comments I have comments (see below)	
Name: Brian Groth Date: 05/16/2023	
DEPT. Town Engineer Fire/Health Department Town Planner	

1. A site walk may be useful in evaluating this application.

2. As the application suggests, this unlawful use has carried on for an extended period of time and has impacted the character of the neighborhood. While there were previous code enforcement efforts by the Town, the most recent (and current) code enforcement action by the Town initiated in 2019.

3. The character of the neighborhood cannot be defined by the use that is being requested. The character of the abutting and adjacent properties, (i.e. the neighborhood) should be observed.

4. The intent of the zone can be found in §334-18.B Districts Described - Residential - Two (R-2). The R-2 Residential District is established to provide for the development of single-family and/or two-family (duplex) residences and customary accessory uses and structures and complementary nonresidential uses. The district is intended to provide a diversity of housing types, community facilities, recreational uses and other uses which benefit and are enhanced by the predominantly residential character of the district.

5. There are material stockpiles approximately 20-30 feet which may be contributing to complaints received from neighboring residential communities concerning dust and debris. This type of use is permitted in the industrial zone and the general zones and requires buffering and sufficient screening from residential areas.

6. It appears that the use is encroaching on wetland protection areas.

7. History: This site is known to be the location of the earliest garrison settled in 1710 by the Hills family (the Hills Garrison). A granite marker memorializing its location was placed by Kimball Webster in 1901. Due to concern for its safety due to the unlawful activity, the marker was moved in 2008 to the aptly named Hills Garrison School.



HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On **05/25/2023**, the Zoning Board of Adjustment heard **Case** 147-016 **a**., being a case brought by **Derry & Webster LLC**, **c/o Vatche Manoukian**, **Manager**, **253 Main St.**, **Nashua**, **NH requests a Variance for 181 B Webster St.**, **Hudson**, **NH** to allow an existing (non-permitted) landscaping business to remain/ continue where landscaping use is not permitted in the **R-2 district**. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]

After reviewing the petition, hearing all of the evidence, and taking into consideration any personal knowledge of the property in question, the undersigned member of the Zoning Board of Adjustment sitting for this case made the following determination:

Y	Ν	1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.
Y	Ν	4. The proposed use will not diminish the values of surrounding properties.

(Continue-next page-Hardship Criteria)

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

(Continued)

Y 5. **A.** The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing Ν to special conditions of the property that distinguish it from other properties in the N/A area: (1) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (2) The proposed use is a reasonable one. **B.** Alternatively, if the criteria above (5.A) are not established, an unnecessary hardship Y will be deemed to exist if, and only if, owing to special conditions of the property Ν 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. Member Decision: _____ Signed: Sitting member of the Hudson ZBA Date Print name: _____ Stipulations: _____

(VNN OF HUOSOZAPPLICATIONMAY 09 ENTI 2023	N FOR A VARIANCE Landscaping Business
ningToepating Board of Adjustment Town of Hudson	Entries in this box are to be filled out by Land Use Division personnel Case No. $147-016^{a}(05-25-23)$ Date Filed $5/9/23$
Name of Applicant <u>Derry & Webster</u> , LIC c/o Vatche Manoukian, Ma Telephone Number (Home) <u>603-883-8900</u> Mailing Address <u>253 Main Street</u> , N	(Work)
Owner <u>Derry & Webster, LLC</u> Location of Property 181B Webster Street (Street Addres	38)
Signature of Applicant Signature of Property-Owner(s)	$\frac{5-9-2023}{Date}$

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

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/represent 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 Lan COST:	d Use Division p Date receive		
 Application fee (processing, advertising & recording) (n <u>16</u> <u>Abutter Notice</u> : Direct Abutters x Certified postage rate \$ <u>4</u> , Indirect Abutters x First Class postage rate \$ <u>0</u> Total amount due:	<u>,18</u> =	$\rightarrow 0.00$	checht 1550 checht
А	mt. received:	\$ 140,00	1549
Received by: 56	Receipt No.:	728,860	(All Variance
By determination of the Zoning Administrator, the following Engineering Fire Dept Health Officer	ing Departmental r PlannerOth	eview is required: her	

TOWN OF HUDSON, NH Variance Application Checklist

The following **requirements/checklist** pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.

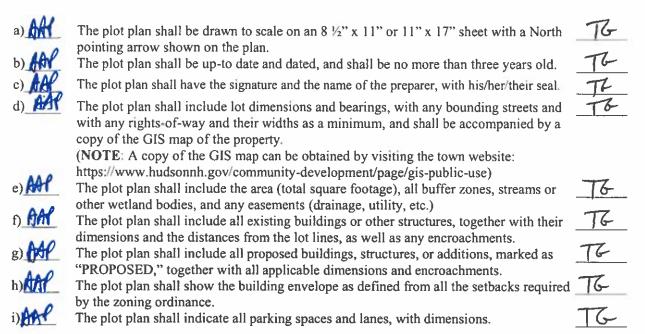
Applicant Staff Initials Initials har Please review the application with the Zoning Administrator or staff. TG AA TG The applicant must provide the original (with wet signatures) of the complete filledout application form and all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples) HAY A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation 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. NA N/A 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.) AAP TG 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 by using the Hudson Geographical Information System (GIS) on the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use (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.) AAP GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks 16 and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use HAP Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office) AR 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. AAP If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Der Planning Board. iance ou

Rev. July 22, 2021

CERTIFIED PLOT PLAN:

Requests <u>other than</u> 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).



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

Signature of Applicant(s)

Signature of Property Owner(s)

5-9-2023 Date

5-9-2023

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	001	Manuele E. Pintado, Jr. &	2 Scenic Lane
		Karina E. Pintado	Hudson, NH 03051
147	001	Florence Nichols	1 Scenic Lane
			Hudson, NH 03051
147	001	Jeffrey J. Trainor &	2 Shoreline Drive
		Kate M. Trainor	Hudson, NH 03051
147	001	Benjamin Matthew Webster &	1 Shoreline Drive
		Jane Anne Webster	Hudson, NH 03051
147	015	Michael J. Hagan	180 Hollis Street
			Pepperell, MA 01463
156	007	Susan J. Aucoin	177 Webster Street
			Hudson, NH 03051
147	014	Brian D. Pigeon	197 Webster Street
			Hudson, NH 03051
147	013	Lionel St. Laurent &	199 Webster Street
		Kerianne St. Laurent	Hudson, NH 03051
147	001-018	Paul & Kimberly Moceri	6 Scenic Lane
			Hudson, NH 03051
156	006	Sparkling River Condominium	19 Cricketfield Lane
		Association Inc.	Hudson, NH 03051
		c/o Richard Frescura	
156	008	Reeds Brook Home Owners	8 Madeleine Ct.
		Assoc.	Hudson, NH 03051
		c/o Sandra Pottle, Treasurer	
147	017	Lexington Place Condominiums	24 Lexington Court
		c/o Jack Joyce	Hudson, NH 03051
147	029	Abbie's Landing Homeowners	32 Bowes Circle
			Hudson, NH 03051
147	016	Derry & Webster LLC	253 Main Street
			Nashua, NH 03060
		Keach-Nordstrom, Inc.	11 Commerce Park, Suite 3
			Bedford, NH 03110

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	022- 000	Westchester Place Condominiums	7 Westchester Court Hudson, NH 03051
1			

Easy Peel Labels Use Avery® TEMPLATE 5160®

Manuele E. Pintado, Jr. & Karina E. Pintado 2 Scenic Lane Hudson, NH 03053

Florence Nichols 1 Scenic Lane Hudson, NH 03051

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive Hudson, NH 03051

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]



See Instruction Sheet for Easy Peel Feature



*Applicant provided-Abutter Mailing Labels

VERY®5160®

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive

Manuele E. Pintado, Jr. &

Karina E. Pintado

Hudson, NH 03053

Florence Nichols

Hudson, NH 03051

Hudson, NH 03051

1 Scenic Lane

2 Scenic Lane

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Sens de chargement

Consultez la feuille d'instruction

www.avery.com 1-800-GO-AVERY Easy Peel Labels Use Avery® TEMPLATE 5160®



Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110 Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

See Instruction Sheet

for Easy Peel Feature

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110

AVERY®5160®

* Applicant provided-Abutter Mailing Labels.

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]

USPS-Verified Mail

TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 SENDER:		US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 1 of 2
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	9589 0710 5270 0646 5622 73	DERRY & WEBSTER LLC	APPLICANT NOTICE MAILED
-	1201 RUTO 2510 0848 2855 12	253 MAIN STREET, NASHUA, NH 03060	
2	9589 0710 5270 0646 5622 80	MANUEL E. PINTADO, JR; KARINA E. PINTADO	ABUTTER NOTICE MAILED
		2 SCENIC LANE, HUDSON, NH03051	
3	9589 0710 5270 0646 5622 97	FLORENCE NICOLAS	ABUTTER NOTICE MAILED
-		1 SCENIC LANE, HUDSON, NH 03051	
1	9589 0710 5270 0646 5623 03	JEFFREY J. TRAINOR & KATE M. TRAINOR	ABUTTER NOTICE MAILED
-		2 SHORELINE DRIVE, HUDSON, NH 03051	
5_	9589 0710 5270 0646 5623 10	BENJAMIN MATTHEW WEBSTER & JANE ANNE WEBSTER	ABUTTER NOTICE MAILED
		1 SHORELINE DRIVE, HUDSON, NH 03051	
5	9589 0710 5270 0646 5623 27	MICHAEL J. HAGAN	ABUTTER NOTICE MAILED
_		180 HOLLIS STREET, PEPPERELL, MA 01463	
7	9589 0710 5270 0646 5623 34	SUSAN J. AUCOIN	ABUTTER NOTICE MAILED
-		177 WEBSTER STREET, HUDSON, NH 03051	HUDIS
3	9589 0710 5270 0646 5623 41	BRIAN D. PIGEON	ABUTTER NOTICE MAILED
-		197 WEBSTER STREET, HUDSON, NH 03051	1/3 12
9	9589 0710 5270 0646 5623 58	LIONEL ST. LAURENT & KERIANNE ST. LAURENT	ABUTTER NOTICE MAILED
		199 WEBSTER STREET, HUDSON, NH 03051	6 00
10	9589 0710 5270 0646 5623 65	PAUL & KIMBERLY MOCERI	ABUTTER NOT SE MAILED
		6 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOT SE VAILED
11			
	Total Number of pieces listed by sender 10	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)

12 SCHOOL STR		TOWN OF HUDSON US POSTAL SERVICE - CERTIFIED MAIL 12 SCHOOL STREET HUDSON, NH 03051		12 SCHOOL STREET		Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 2 of 2
SENL	DER:					
		ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting		
	9589 07	10 5270 0646 5623 72	SPARKLING RIVER CONDOMINIUM ASSOC. INC.; c/o RICHARD FRESCURA	ABUTTER NOTICE MAILED		
2	9589 07	10 5270 0646 5623 89	19 CRICKETFIELD LANE, HUDSON, NH 03051 REEDS BROOK HOMEOWNERS ASSOC.; c/o SANDRA POTTLE, TREASURER	ABUTTER NOTICE MAILED		
8		10 5270 0646 5623 96	8 MADELEINE CT.,HUDSON, NH 03051 LEXINGTON PLACE CONDOMINIUMS;			
3			c/o JACK JOYCE 24 LEXINGTON COURT, HUDSON, NH 03051	ABUTTER NOTICE MAILED		
<u>-</u>	9589 07	10 5270 0646 5624 02 _	ABBIE'S LANDING HOMEOWNERS 32 BOWES CIRCLE, HUDSON, NH 03051	ABUTTER NOTICE MAILED		
<u> </u>	9589 07	10 5270 0646 5624 19	KEACH-NORDSTROM, INC. 11 COMMERCE PARK, SUITE 3, BEDFORD, NH 03110	APPLICANT NOTICE MAILED		
5	9589 07	10 5270 0646 5624 26	ANDREW PROLMAN, ESQ., PRUNIER & PROLMAN, PLLC 20 TRAFALGAR SQUARE, STE 100, NASHUA, NH 03063-1981	APPLICANT NOTICE MAILED		
7	Second Course		20 TRAFALGAR SQUARE, STE 100, MASHOR, MI 00000 TOT			
3				THIDSON NH GOOST		
9				MAY 16 2023		
0				10 2023		
1				USPS		
-		Total Number of pieces listed by sender 6	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)		

USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 147-016 (a-d)4-VARIANCES181 B WEBSTER STREETMap 147/Lot 016-0001 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	Mailed First Class	WESTCHESTER PLACE CONDOMINIUMS	ABUTTER NOTICE MAILED
		7 WESTCHESTER COURT, HUDSON, NH 03051	
2			
3			
4			
5			HUDSON
6			
7			
8			
9			
	Total # of pieces listed by sender	Total # of pieces rec'vd at Post Office	Postmaster (receiving Employee)



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 147-016 (05-25-23)</u>: Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for <u>181 B Webster St.</u>, Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:

- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

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

Respectfully,

Bruce Buttrick 🖌 Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

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- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the Hudson Town Hall.

Bruce Buttrick Zoning Administrator

APPLICATION FOR A VARIANCE

LANDSCAPING BUSINESS VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article V, HZO Section(s) 334-21, Table (E-10) in order to permit the following:

To maintain the existing landscaping business at 187 Webster Street.

FACTS SUPPORTING THIS REQUEST:

1. Granting the requested variance will not be contrary to the public interest, because:

There has been a landscaping business at this site for decades. Allowing the existing landscaping business on this lot to continue will not alter the character of the neighborhood, nor threaten the public health safety or welfare of the neighborhood nor the Town of Hudson.

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

Similar to the public interest criteria, allowing the Regis Landscaping to continue on this large lot will not harm any public rights nor alter the character of the neighborhood. Indeed, a landscaping business on this site have been going on so long that it is part of the character of the neighborhood.

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

Regis Landscaping is an ongoing business providing services to the residences and businesses in the Town of Hudson and surrounding communities and maintains many employees through the year. Allowing Regis to continue is a significant benefit to Regis, its employees, and the property owner with no adverse impact to the Town. The balancing test of the substantial justice criteria weighs in favor of the applicant.

4. The proposed use will not diminish the values of surrounding properties, because:

We know there has been no impact to surrounding property values because of the successful build out of nearby developments.

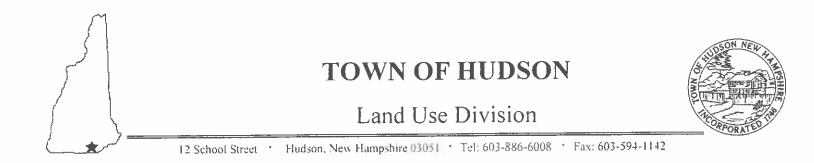
LANDSCAPING BUSINESS VARIANCE

- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary** hardship, because:
 - A. 1) 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 <u>and</u>

The property is unique and unusual given its long history with multiple mixed uses. Further, there are large area wetlands at the rear of the property which must be respected. Given the successful use of a landscaping business the property for many, many years, the restriction of prohibiting landscaping businesses at this site is not fair and reasonable to the applicant nor Regis Landscaping.

2) Explain how the special conditions of the property cause the proposed use to be reasonable.

Regis's operation is a benign commercial operation, as opposed to heavy industrial uses. Regis's business provides services to residential customers. Allowing the long time landscaping operation to continue is a reasonable use of this lot.



Zoning Determination #23-027

March 16, 2023

Andrew A. Prolman Prunier & Prolman, PLLC Ste 100 20 Trafalgar Sq Nashua, NH 03063 **Re:**

Variance request/application

Map 147 Lot 016-000 District: Residential Two (R-2)

Dear Andrew,

I am in receipt of your 02/15/23 request as to which variances are needed for the entity/operation known as "Regis Landscaping" to continue at 181A Webster St, and per Superior Court Order dated August 3, 2022.

Currently this operation needed/needs variances to the Zoning Ordinance as follows: **§334-10A** <u>Mixed uses on a lot</u>. The R-2 district does not allow mixed uses.

§334-21 <u>Table of Permitted Principal Uses</u>. This use as a Landscaping business (E-10) is not a permitted use in this district.

§334-21 Table of Permitted Principal Uses. This use also has associated retail sales of landscaping products (D-30) and is not a permitted use in this district. **§334-22** Table of Permitted Accessory Uses. The garaging or parking of: two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in this district.

§334-13 Junkyards prohibited; outdoor storage, current operation has numerous unregistered/junked vehicles/equipment, and **junk/debris**. Would need variance to maintain/continue such for a site plan approval.

Not seeing a site plan to review, there may be issues/activity within the Wetland Buffers on site needing a Variance: operations around and within the Buffer of the man-made wetland (small pond) in yard adjacent to side of building, as well as stockpiled landscape material and graded/disturbed ground surfaces in back yard.

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

Sincerely, mil all Bruce Buttrick

Zoning Administrator/Code Enforcement Officer (603) 816-1275 <u>bbuttrick@hudsonnh.gov</u>

encls: 02/15/2023 Zoning Determination Request and Superior Court Final Order item#14

cc: Public Folder Town Planner – B. Groth Town Counsel – D. LeFevre file

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

23-



Town of Hudson

REQUEST FOR ZONING and/or PLANNING INFORMATION / DETERMINATION

Date of request	02/15/2023
Property Location	181B Webster Street
	Map <u>147</u> Lot <u>16</u> Sublot <u>500</u>
Zoning District if known	R-2
□2	<u>Type of Request</u> Coning District Determination Process for Subdivision/ Site Plan if required Other
Description of re	equest / determination: (Please attach all relevant documentation)
<u>Landscapin</u> Town of Hu	rise as to the variance(s) required to keep Regis og on site per \$14 of the August 3, 2022 Final Order in dson v. Derry & Webster, LLC, Hillsborough County Court Docket No. 226-220-CV-00632.
Applicant Cont	act Information:
Name:	Andrew A. Prolman, Prunier & Prolman, PLLC
Address:	20 Trafalgar Sq., Ste. 100, Nashua, NH 03063
	603.883.8900
Émail:	aprolman@prunierlaw.com
	For Office use
ATTACHME	NTS: TAX CARDI GIS H
NOTES	

ZONING DETERMINATION LETTER SENT () DATE:

13. The 3-family residence must be converted to a 2-family residence. All independent living facilities must be removed from the illegal 3rd residential unit, which must be combined with the other two (2) units such that there are only two (2) residential units. All work must comply with all applicable life safety and building codes. All required permits must be obtained from the Town prior to beginning any construction. The Court recognizes that the illegal 3rd residential unit is currently being occupied by a tenant under a lease which expires on November 30, 2022. The current tenant shall be required to vacate the illegal unit at the expiration of the lease, failing which, Derry & Webster shall commence the necessary eviction proceeding to gain possession of the 3rd residential unit and bring the Property into compliance.

14. The use of the Property related to the landscaping business as it currently exists is not permitted. The only permitted landscaping use is the "planting, growing and selling nursery stock." All other uses related or ancillary to the existing landscaping business are not permitted. Derry & Webster must cease and desist the illegal landscaping business and bring the Property into compliance within a period of eight (8) months from the date of this Order. If, during this eight (8) month time period, Derry & Webster should obtain a variance to permit the landscaping business or some iteration thereof, use of the Property shall comply with the terms and conditions of any such variance. Otherwise, the illegal landscaping use must cease and desist, and the Property must be brought into compliance with the HZO.

15. Except as may be permitted by the variances, the outdoor storage of materials, vehicles, heavy equipment, and junk is not permitted, and must be removed from the Property in keeping with the terms and conditions of this Order.

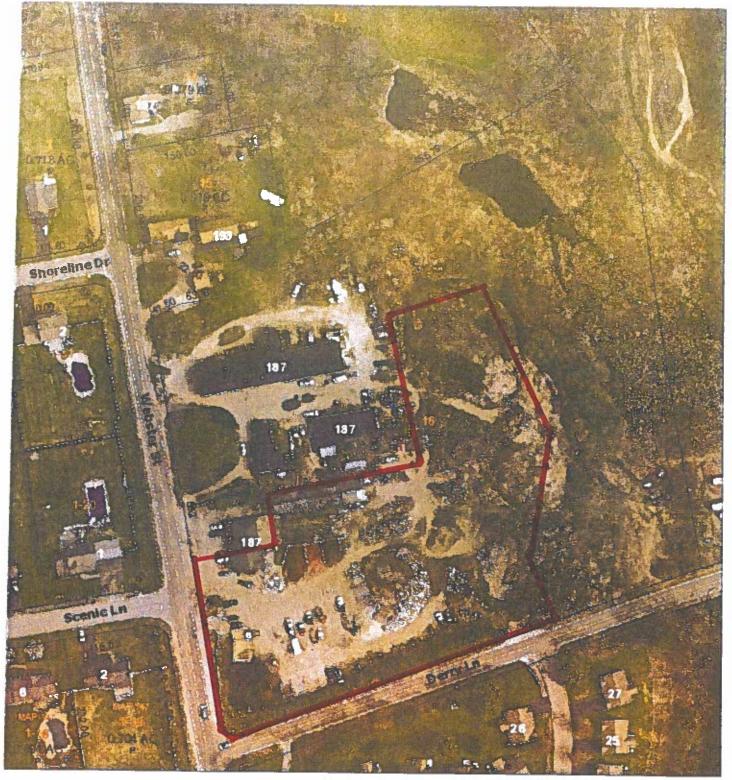
16. Any uses and disturbances within the WC overlay zoning district must be abated. In conjunction with obtaining site plan approval from the Planning Board, Derry & Webster shall obtain approval of a remediation plan to restore any disturbed areas within the protected wetland or the adjacent buffer.

17. Site plan approval for the complete site (Map 147, Lot 016-000) must be obtained no later than January 23, 2024.

18. Hudson is hereby awarded its attorney fees and costs actually expended in this matter pursuant to RSA § 676:17, II. Hudson is hereby awarded its attorney fees and costs in the amount of \$7,750.00. Derry & Webster shall tender payment to Hudson in four (4) equal monthly payments, with the first payment being due within thirty (30) days of this Order, and each subsequent payment due on the same day of each month thereafter until paid in full.

19. Pursuant to RSA § 676:17, I, Derry & Webster is subject to civil fines and penalties up to \$275.00 for first offenses, and \$550.00 per day for second offenses, for each day the violations have continued. Derry & Webster was first notified of the offenses on September 30, 2019. By agreement of the parties, the imposition of civil fines and penalties against Derry & Webster is to be withheld, provided that, Derry & Webster complies with this Final Order. In the event that Derry & Webster fails to comply with this Final Order, the Town of Hudson may bring the matter forward for a further hearing for purposes of assessment of civil fines and penalties.

185 Webster Street (Map 147 Lot 016-000)



May 8, 2023

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B LandUse Description Lar	nd Type	Land I	Units 1	Jnit Price Acr		Size Size	Site			Nbhd			ا مم ا	Adjustment		_			Al_4	
# Code Description La		Land L		Di	sc. /	Size S Adj. Ir	Site Idex	Cond	Nbhd.	Nbhd Adi.			Land	Adjustment					Notes	Land Value
# Code Description La	nd Type Site	Land 1		Jnit Price Acr Di	sc. /	Size S Adj. Ir	Site Idex		Nbhd.	Nbhd			Land	Adjustment					Notes	Land Value
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ision ID 256	9	VEBSTER ST Account #: 7257		147/016/0 Bidg #: 3		Bldg Name: 181-189 WEBSTER ST LUC: 0310 Card #: 3 of 5 Print Date: 5/4/2023 1:42:42 PM
Ċ	ONSTRU	CTION DETAIL	CONSTRUCTIO		NTINUED)	SKETCH / PRIMARY PHOTO
Element	Cd	Description	Element Cd		scription	(*************************************
odel	94	Com/Ind	% Sprinkler			
yle	45	Indus, Warehse	Frame 02			
rade	E	Poor	Foundation 06			
ories	1					
of Units	3		——————————————————————————————————————	XED USE		
/all Height	8.00			cription	Percentage	
xterior Wall 1	18	Corr Steel	3320 AUTO REPAIR	SHOPS	100	
xterior Wall 2	1.0	oon otee			0	
oof Structure	07	Shed			Ő	
oof Cover	04	Tar/Gravel	COST/MA	RKET VALUA		
terior Wall 1	05	Minimal				
terior Wall 2	05	winmai	RCN	84,611		
	4.0			04,011		
terior Floor 1	12	Concrete				92 FFL 92
terior Floor 2			Year Built	1975		
eat Fuel	01	Oil	Effective Year Built	1963		
eat Type	07	Unit Heaters	Depreciation Code	PR		
nd Heat Type		J		PK		
C Percent	0		Remodel Rating			
eat/AC			Year Remodeled			
ull Baths	0		Depreciation %	59		
alf Baths	1		Functional Obsol	20		
/4 Baths	0		External Obsol			
aths/Plumbing	02	AVERAGE	Trend Factor	1.000		
itchens	1		Condition			
itchen Rating	AV	Average	Condition %			
ooms/Partition		Light	Percent Good	21		
eiling/Wall	14	Light	RCNLD	17,800		40 40 40 40 40
ath Rating			Dep % Ovr			
6 Comn Wall	0.00		Dep Ovr Comment			
Heated	0.00		Misc Imp Ovr			
	100		Misc Imp Ovr Comment			
Heat Systems	2		Cost to Cure Ovr			
5 Sprinkler			Cost to Cure Ovr Comm	ent		
0	<u>B - OUTL</u>	BUILDING & YARD ITEMS	L) / XF - BUILDING EXTR	A FEATURES(B)	
Code Desc	ription	L/B Units	UOM Unit Price Yr E	It Cond. %	Gd Assd, Value	
						W
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						The second
		BUILDING SUB-AD	EA SUMMARY SECTION			
Code	De		g Area Floor Area Eff Are	a Linit Cost	Undeprec Value	
Contract of the local division of the local	loor, Finis					
C I II St	ioor, Fins	neo	3,680 3,680 3,6	30 22.99	84,611	
		1				
	o carlora	etched Area / Eff Area	3,680 3,680 3,6	30 Totl Value	84,611	

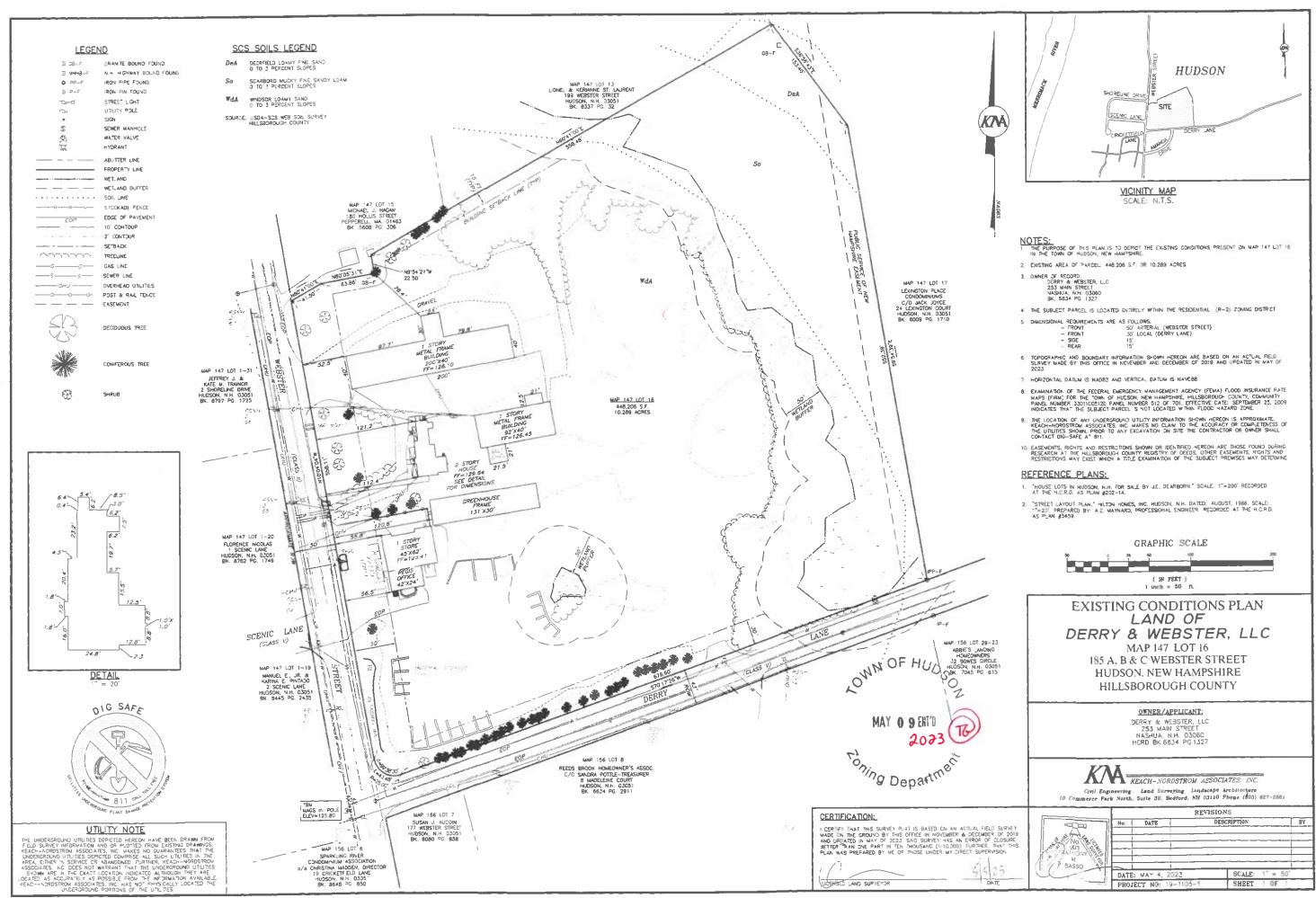
Property Location: 181 A-B WEBSTEF Vision ID: 2569 Account #:						BI	dg #:		D/ /					81-189 W ∷4 of	5						42 43 PM
CURRENT OWNER				SESSI	VG NĘ	IGHB		-		1.14		1 20				SSESS					
DERRY & WEBSTER LLC			Nbhđ					Nbhd N	lame		Year	Code	Ass	essed	Year	Code	· · · ·	essed	Year	Code	Assessed
			MG				Gene	ral Cor	nm Areas	;	2022	3160			2022	3250		477,100	2021	3250	477,10
253 MAIN ST		1	OPO				-	UTILI	TES			3250 3250	1	145,800 466,800		3250 3250	•	365,300		3250 3250	365,30 35,80
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						02		Town	Sewer			3320		17,800						1	
NASHUA NH 03060											1	Total	1 1	057,700		Total		878,200		Total	878,20
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DERRY & WEBSTER LLC		6834	1327	02-0	7-2003		F		1,000,00	00 00		rantor: SE	COND	Appraise	d Bldg.						410,4
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JNKNOWN TAMPOSI, SAMUELA, SR.		5542	902		5-1994				167,00			PROPEI Granti	or: N/A	Appraise) value (i	biog)				12,0
AMPOSI, SAMUELA, SR. AMPOSI, ET AL		5437	1452		8-1993					99	Gr	antor: TAN	IPOSI,	Appraise	d Ob (E	3) Value ((Bldg)				100,7
		5078	0788	12-2	3-1988	Q	1	ŀ		0 00		SAMUEL	A. SR.								
											Grante	DI: TAMPO	ISI, ET AL	Appraise	u Land	value (e	nag)				466,8
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arcel ID 147-016-000				C	escrip	t Co	ode			aised		Assesse	d				alue				1,050,7
oning R2:RESD TWO				8	LDG		60			43,4	00	4	3,400	Valuation	Metho	d					
lood Hazar C					LDG		50			138,8		13	8,800						l i		
eigh/Abut1 eigh/Abut2					AND		50	ſ		466,8			6,800								
Salla and S	REV	0000.0	047.000		B		50			100,2			0,200								
· - · · · · · · · · · · · · · · · · · ·	ssoc Pidi		017-000		LDG LDG	33		Fotal:		<u>17.8</u> 1,050,7			7 800	Total Ap	Araiced	(Parcel)	/alua				1,050,70
	0000110		N	OTES	LUG	34	00 1			1,000,7		1,00			Jaised			ANGE H		M.	1,030,70
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														01-25-2		12		15	Permi	t Visit	
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														05-10-2		09		45	Field I		
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Permit Id Issue Date Permit		escription		nount	L Chalum				PERMIT		RD	1. 191	* 1 5 V			1		a da ser a			•
)19-01099 11-05-2019 SI	Signs	scription		nount	Status C		App	olicant		SQ ft						Comme	ents				
019-01098 11-04-2019 SI	Signs		-		č					F											
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Total Card Land Units: sclaimer: This information is believed to	1999 A.	0.00					Parr		L Land Ar	001 40	200										
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Property L Vision ID	2569	9	B WEBSTER : Account #	7257					Bldg #	: 4		Bidg Name: 181-189 WEBSTER ST LUC: 0310 Card #: 4 of 5 Print Date: 5/4/2023 1:42:43 PM
	CC		CTION DETAIL			0	ONSTRU	JCTION 	DETAIL			SKETCH / PRIMARY PHOTO
Eleme		Cd		ription			ment	Cd		Descr	iption	
/lodel		94	Com/Ind			% Sprin						
Style:		35	Convenient sto	2		Frame		01				
Grade		D	Fair			Foundat	tion	06				
Stories:		1										19 19
of Units		2							ED US	E		
Vall Heigh	nt	8.00				Code		Descri	ption	—	Percentage	
Exterior W	all 1	04	Vinyl			3400	OFFIC	E BLDG N	1DL-94	,	100	
Exterior W	all 2				•						0	3
Roof Struc	ture	01	Gable								0	3 24
Roof Cove		01	Asph Shing				COS	T/MARH	ET VA	ALUATIC)N	
nterior Wa		01	Drywall									
iterior Wa			Di ywaii			RCN			3	818,851		
iterior Flo		00	Commits Tile									
		06	Ceramic Tile									FFL
terior Flo		12	Concrete			Year Bu	il t		1	975		
eat Fuel		01	Oil				e Year Bu	ile		1975		2788 29
eat Type		01	Forced Air				ation Cod			1966 \V		
nd Heat 1								E.	1	٦V		
C Percer	nt	0					el Rating					41
eat/AC							modeled					
ull Baths		0				Depreci			3	34		
alf Baths		2	1				nal Obsol					1 2
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aths/Plur	nhina	02	AVERAGE			Trend F	actor		1	.000		
itchens	nong	02	AVERAGE			Conditio	n					
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	Canopy		scription		LIVING	-	oor Area				ndeprec Value	
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			etched Area / E	A	-	,525	3,612	0.510	Totl V	·	318,851	
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/ision ID 2569 Account #	7257	,			rcel ID	Bld	g #:	5	, ,					81-189 W : 5 of	5			Print			1:42:45 PN
CURRENT OWNER	_		AS	SESSIN	<u>G NEI</u>	GHBO	RHO	OD	-				-	PREV	IOUS A	SSESS	MENTS	(HISTO	DRY)	1.1	
ERRY & WEBSTER LLC			Nbhd				N	ibhd N	ame		Year	Code	Ass	essed	Year	Code	Asse	essed	Year	Code	Assess
			MG				Gener	al Con	nm Areas		2022	3160		43,400	2022	3250		77,100	2021	3250	477,
53 MAIN ST		1	OPO					JTILIT				3250		145,800		3250		65,300		3250	365,
	01		Level			03			Water			3250		466,800		3250		35,800		3250	35,
						02			Sewer			3250		100,200							
						52		IOWN	Sewer			3320		17,800							
ASHUA NH 03060												Total	1,	057,700		Total	8	378,200		Total	878
RECORD OF OWNERSHIP		BK-VOL	<u>/PAGE</u>	SALE	DATE	Q/U	V/I	SAL	E PRICE	VC	SA	LE NOTE	ES 🗠			APPR	AISED	VALUE	SUMM	ARY	
ERRY & WEBSTER LLC			1327	02-07	-2003	Q			1,000,00	00 00	G			Appraise	d Bldg.	Value (C	Card)				410
ECOND GENERATION PROPERTIES			1423	01-17						99		GENERA	ATION	Appraise		Value /					72
NKNOWN			902	04-25			1		167,00			Granto		Appraise		Value (t	siag)				12
AMPOSI, SAMUELA, SR.		5437	1452	05-28						99	Gra	antor: TAM	POSI.	Appraise	d Ob (B) Value /	(Blda)				100
AMPOSI, ET AL		5078	0788	12-23	-1988	Q				0 00		SAMUEL /	A. SR.				•				
											Granto	DI: TAMPO		Appraise	d Land	Value (B	ldg)				466
							1 1					Croste	AL NZA	Special L	and Va	lue.					
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ning R2:RESD TWO					escript			-	Appra			Assesse									
ood Hazar C					DG	316				43,4(3,400	Valuation	IVIELINO	u					
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	REV	0022.0	217 000	OB		325		1		100,20			0,200						ļ		
	soc Pic	0023-0	000-117			332		otal:	1	.050.70			7 800	Total Ap	n en in e el	Derest					1 000
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sine groomood and garage allac	:h																75-				
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to it. //KNOWN AS 183 WEBSTER ST							BUIL	DING	PERMIT	RECO	RD		24								
ated glass greenhouse and garage attac d to it. //KNOWN AS 183 WEBSTER ST Permit Id Issue Date Permit		escription	Ar	nount s	Status			DING icant		RECOI	RD		24			Comme					
d to it. //KNOWN AS 183 WEBSTER ST		escription	A	nount s	Status		Appl	icant		SQ ft			20								
Permit Id Issue Date Permit					Acrege	Size	Appl IND L Site	icant	ALUATIC	SQ ft											
Permit Id Issue Date Permit	D and Type	Land	Units	Jnit Price	Acrege Disc.	Size Adj.	Appl IND L Site Index	INE V	ALUATIC Nbhd. Nb	N SEC			Land	Adjustme	nt				Notes		Land Val
Permit Id Issue Date Permit	D	Land			Acrege Disc.	Size	Appl IND L Site	INE V	ALUATIC Nbbd	N SEC			Land	Adjustme	nt						
Permit Id Issue Date Permit	D and Type	Land	Units I D AC	Jnit Price	Acrege Disc.	Size Adj.	Appl Site Index 0	INE V Cond. 1.00	ALUATIC Nbhd. Nb	DN SEC	TION		Land	Adjustme	nt						

	2569	WEBSTER ST Account #:						Bidg #:	5		Bldg Name: 181-189 WEBSTER ST Card #: 5 of 5	LUC: 0310 Print Date: 5/4/2023 1:42:46 PM
Element		CTION DETAIL					JCTION I	DETAIL	(CONT	INUED)	SKETCH / PRIMA	RY PHOTO
Element lodel tories tyle:	00 94	Vacant Accessory Bldg			Avg Ht/F Extra Kit Add Kitc	tchens	Cd		Uesci	ription		
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oof Cover	e				5250	CONV	-000/31		01-00	0		
rame					[o l		
oundation						COS	T/MARI	KET VA	LUATIC	ON		
iterior Wall	1			i								
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eat Fuel												
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lalf Baths	_				External							
xtra Fixtures itchens	s				Trend Fa			1.	000			
itchen Ratin					Conditio							
ath Rating	'9				Conditio							
alf Bath Rat	tin				Percent							
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ireplace(s)					Dep % C							
ireplace Rat	tin				Misc Imp	Comme	าเ	1				
VS Flues						p Ovr Coi	nmont	-				
Color						Cure Ovr		1				
vg Ht/FL							Commen	+				
	OB - OUT	BUILDING & YA	RDITE	EMS(L)	/XF-BL	UILDING	EXTRA	FEATU	RES(B)	- 10		
Code D	escription			Units	UOM	Unit Pric	e Yr Blt	Cond.	% Go	Assd. Value		
AR1 G	arage,1 story	1	L	900	SQ. FT	33.1	70 1965	FR	50	15,200		
RNHSG G	lass Greenho	buse	L	3,000	SQ. FT	52.2	29 1965	PR	45	70,600		
								ŀ				
		BUILDIN	IG SUE	B-AREA	SUMM/	ARY SEC	TION			- T		
Code	D	escription		Living A	Area Flo	or Area	Eff Area	Unit C	ost U	ndeprec Value		
the second second second second		etched Area / Ef			I			Toti Va		100.000		





Printed 5/09/2023	Transaction Receipt	Receipt# 728,860
4:28PM	Town of Hudson, NH	tgoodwyn
Created	12 School Street	
5/09/2023 4:19 PM	Hudson, NH 03051-4249	

	Description		Current Invoice	Payment	Balar	nce Due
1.00	Zoning Application 1 <mark>81 B Webster Stree</mark> Map 147 Lot 016-00					
	Four (4) Variances		0.00	740.0000		0.00
	Abutter Notices		0.00	77.1100		0.00
				Total:		817.11
Remitter		Рау Туре	Reference	Tendered	Change	Net Paid
Derry & W	Vebster, LLC	CHECK	CHECK # 1549	740.00	0.00	740.00
Derry & W	Vebster, LLC	CHECK	CHECK # 1550	77.11	0.00	77.11
				Total Due:		817.11
				Total Tendered:		817.11
				Total Change:		0.00
				-		

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On 05/25/2023, the Zoning Board of Adjustment heard Case 147-016 b., being a case brought by Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests a Variance for 181 B Webster St., Hudson, NH to allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]

After reviewing the petition, hearing all of the evidence, and taking into consideration any personal knowledge of the property in question, the undersigned member of the Zoning Board of Adjustment sitting for this case made the following determination:

Y	Ν	1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.
Y	Ν	4. The proposed use will not diminish the values of surrounding properties.

(Continue-next page-Hardship Criteria)

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

(Continued)

Y 5. **A.** The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing Ν to special conditions of the property that distinguish it from other properties in the N/A area: (1) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (2) The proposed use is a reasonable one. **B.** Alternatively, if the criteria above (5.A) are not established, an unnecessary hardship Y will be deemed to exist if, and only if, owing to special conditions of the property Ν 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. Member Decision: _____ Signed: Sitting member of the Hudson ZBA Date Print name: _____ Stipulations: _____

\sim	FOR A VARIANCE Indiscoping Products
MAY 09 HIT THE HAY 09 HIT THE To: Zorning Board of Adjustment Town of Hudson	Entries in this box are to be filled out by Land Use Division personnel Case No. $147-016^{b}(05-25-23)$ Date Filed $5/9/23$
Name of Applicant <u>Derry & Webster, LLC</u> c/O Vatche Manoukian, Manag Telephone Number (Home) <u>603-883-8900</u> Mailing Address <u>253 Main Street, Nash</u>	Map:_ <u>147</u> Lot: <u>16</u> Zoning District: <u>R2</u> jer (Work)
Owner Derry & Webster, LLC	
Location of Property 181B Webster Street	5-9-2023
Signature of Applicant	Date 5-9-2023
Signature of Property-Owner(s)	Date

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

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/represent 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 per Date received		
Application fee (processing, advertising & recording) (non-refundable): <u>Abutter Notice</u> : <u>Direct Abutters x Certified postage rate</u> \$ <u>4.18</u> = Indirect Abutters x First Class postage rate \$ <u>0,63</u> = Total amount due:	\$ <u>185.00</u> \$ <u>N/A</u> \$ <u>N/A</u> \$ <u>N/A</u> \$ <u>185</u>	Check #
Amt. received:	\$ 740.00	1549 (4 variant
Received by: T30 Receipt No.:	728,860	CA var ann
By determination of the Zoning Administrator, the following Departmental r Engineering Fire Dept Health Officer Planner Oth	_	

TOWN OF HUDSON, NH Variance Application Checklist

The following requirements/checklist pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.

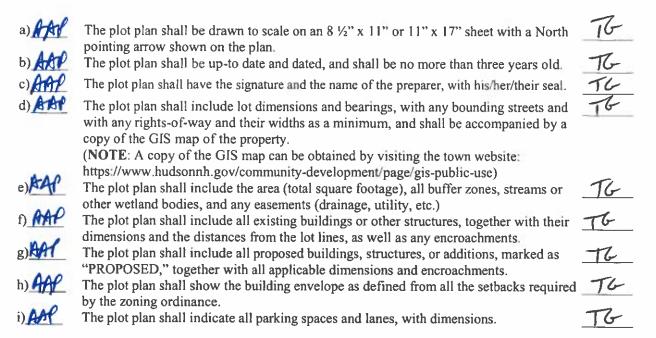
Applicant Staff Initials Initials Please review the application with the Zoning Administrator or staff. The 76 The applicant must provide the original (with wet signatures) of the complete filledout application form and all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples) TC A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation 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. N/A 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.) AD TG 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 by using the Hudson Geographical Information System (GIS) on the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use (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.) AAT TG GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use TG Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office) HAP TG 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. If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Planning Board. Variance or

Rev. July 22, 2021

CERTIFIED PLOT PLAN:

Requests other than 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).



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

Signature of Applicant(s)

Signature of Property Owner(s)

 $\frac{5-9-2023}{Date}$

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147 001	Manuele E. Pintado, Jr. &	2 Scenic Lane
	Karina E. Pintado	Hudson, NH 03051
147 001	Florence Nichols	1 Scenic Lane
		Hudson, NH 03051
147 001	Jeffrey J. Trainor &	2 Shoreline Drive
	Kate M. Trainor	Hudson, NH 03051
147 001	Benjamin Matthew Webster &	1 Shoreline Drive
	Jane Anne Webster	Hudson, NH 03051
147 015	Michael J. Hagan	180 Hollis Street
		Pepperell, MA 01463
156 007	Susan J. Aucoin	177 Webster Street
		Hudson, NH 03051
147 014	Brian D. Pigeon	197 Webster Street
		Hudson, NH 03051
147 013	Lionel St. Laurent &	199 Webster Street
	Kerianne St. Laurent	Hudson, NH 03051
147 001-01	8 Paul & Kimberly Moceri	6 Scenic Lane
		Hudson, NH 03051
156 006	Sparkling River Condominium	19 Cricketfield Lane
	Association Inc.	Hudson, NH 03051
	c/o Richard Frescura	, , , , , , , , , , , , , , , , , , ,
56 008	Reeds Brook Home Owners	8 Madeleine Ct.
	Assoc.	Hudson, NH 03051
	c/o Sandra Pottle, Treasurer	
47 017	Lexington Place Condominiums	24 Lexington Court
	c/o Jack Joyce	Hudson, NH 03051
47 029	Abbie's Landing Homeowners	32 Bowes Circle
	C .	Hudson, NH 03051
47 016	Derry & Webster LLC	253 Main Street
		Nashua, NH 03060
	Keach-Nordstrom, Inc.	11 Commerce Park, Suite 3
	,	Bedford, NH 03110

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
022- 000	Westchester Place Condominiums	7 Westchester Court Hudson, NH 03051
	022-	022- Westchester Place Condominiums

Easy Peel Labels Use Avery® TEMPLATE 5160®

Manuele E. Pintado, Jr. & Karina E. Pintado 2 Scenic Lane Hudson, NH 03053

Florence Nichols 1 Scenic Lane Hudson, NH 03051

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive Hudson, NH 03051

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]



See Instruction Sheet for Easy Peel Feature



*Applicant provided-Abutter Mailing Labels

VERY®5160®

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive

Manuele E. Pintado, Jr. &

Karina E. Pintado

Hudson, NH 03053

Florence Nichols

Hudson, NH 03051

Hudson, NH 03051

1 Scenic Lane

2 Scenic Lane

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

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Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Sens de chargement

Consultez la feuille d'instruction

www.avery.com 1-800-GO-AVERY Easy Peel Labels Use Avery® TEMPLATE 5160®



Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110 Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

See Instruction Sheet

for Easy Peel Feature

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110

AVERY®5160®

* Applicant provided-Abutter Mailing Labels.

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]

USPS-Verified Mail

SENI	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 1 of 2	
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting	
1	9589 0710 5270 0646 5622 73	DERRY & WEBSTER LLC	APPLICANT NOTICE MAILED	
-	1301 0100 JEIO 0848 JUEC 13	253 MAIN STREET, NASHUA, NH 03060		
2	9589 0710 5270 0646 5622 80	MANUEL E. PINTADO, JR; KARINA E. PINTADO	ABUTTER NOTICE MAILED	
		2 SCENIC LANE, HUDSON, NH03051		
3	9589 0710 5270 0646 5622 97	FLORENCE NICOLAS	ABUTTER NOTICE MAILED	
		1 SCENIC LANE, HUDSON, NH 03051		
4	9589 0710 5270 0646 5623 03	JEFFREY J. TRAINOR & KATE M. TRAINOR	ABUTTER NOTICE MAILED	
_		2 SHORELINE DRIVE, HUDSON, NH 03051		
5_	9589 0710 5270 0646 5623 10	BENJAMIN MATTHEW WEBSTER & JANE ANNE WEBSTER	ABUTTER NOTICE MAILED	
		1 SHORELINE DRIVE, HUDSON, NH 03051		
5	9589 0710 5270 0646 5623 27	MICHAEL J. HAGAN	ABUTTER NOTICE MAILED	
_		180 HOLLIS STREET, PEPPERELL, MA 01463		
7	9589 0710 5270 0646 5623 34	SUSAN J. AUCOIN	ABUTTER NOTICE MAILED	
_		177 WEBSTER STREET, HUDSON, NH 03051	HUDIS	
3	9589 0710 5270 0646 5623 41	BRIAN D. PIGEON	ABUTTER NOTICE MAILED	
_		197 WEBSTER STREET, HUDSON, NH 03051	113 12	
9	9589 0710 5270 0646 5623 58	LIONEL ST. LAURENT & KERIANNE ST. LAURENT	ABUTTER NOTICE MAILED	
		199 WEBSTER STREET, HUDSON, NH 03051	6 05	
10	9589 0710 5270 0646 5623 65	PAUL & KIMBERLY MOCERI	ABUTTER NOT SE VAILED	
		6 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOTICE MAILED	
11				
	Total Number of pieces listed by sender 10	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)	

TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051		12 SCHOOL STREET	US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 2 of 2	
SENL	DER:				
		ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting	
	9589 07	10 5270 0646 5623 72	SPARKLING RIVER CONDOMINIUM ASSOC. INC.; c/o RICHARD FRESCURA	ABUTTER NOTICE MAILED	
2	9589 07	10 5270 0646 5623 8 9	19 CRICKETFIELD LANE, HUDSON, NH 03051 REEDS BROOK HOMEOWNERS ASSOC.; c/o SANDRA POTTLE, TREASURER	ABUTTER NOTICE MAILED	
8		10 5270 0646 5623 96	8 MADELEINE CT.,HUDSON, NH 03051 LEXINGTON PLACE CONDOMINIUMS;		
3			c/o JACK JOYCE 24 LEXINGTON COURT, HUDSON, NH 03051	ABUTTER NOTICE MAILED	
<u>-</u>	9589 07	10 5270 0646 5624 02 . T	ABBIE'S LANDING HOMEOWNERS 32 BOWES CIRCLE, HUDSON, NH 03051	ABUTTER NOTICE MAILED	
<u> </u>	9589 07	10 5270 0646 5624 19	KEACH-NORDSTROM, INC. 11 COMMERCE PARK, SUITE 3, BEDFORD, NH 03110	APPLICANT NOTICE MAILED	
5	9589 07	10 5270 0646 5624 26	ANDREW PROLMAN, ESQ., PRUNIER & PROLMAN, PLLC 20 TRAFALGAR SQUARE, STE 100, NASHUA, NH 03063-1981	APPLICANT NOTICE MAILED	
7	Stanfal (Bear)		20 IRAFALGAR SQUARE, STE 100, MASHOR, MI 00000 1901		
3				THIDSON NH GOOST	
9				MAY 16 2023	
10	4			10 2023	
1				USPS	
		Total Number of pieces listed by sender 6	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)	

USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 147-016 (a-d)4-VARIANCES181 B WEBSTER STREETMap 147/Lot 016-0001 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	Mailed First Class	WESTCHESTER PLACE CONDOMINIUMS	ABUTTER NOTICE MAILED
		7 WESTCHESTER COURT, HUDSON, NH 03051	
2			
3			
4			
5			HUDSON
6			
7			
8			
9			
	Total # of pieces listed by sender	Total # of pieces rec'vd at Post Office	Postmaster (receiving Employee)



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 147-016 (05-25-23)</u>: Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for <u>181 B Webster St.</u>, Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:

- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

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

Respectfully,

Bruce Buttrick 🖌 Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

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- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the Hudson Town Hall.

Bruce Buttrick Zoning Administrator

APPLICATION FOR A VARIANCE

RETAIL LANDSCAPING PRODUCTS BUSINESS VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article V, HZO Section(s) 334-21, Table (D-30) in order to permit the following:

To allow the existing landscaping business to continue to sell retail landscaping products.

FACTS SUPPORTING THIS REQUEST:

.

1. Granting the requested variance will not be contrary to the public interest, because:

There has been a landscaping business at this site for decades. Regis Landscaping provides services off site and sells retail landscaping products from 187 Webster Street. In that regard, Regis is conducting itself like any other landscaping business. Allowing the sale of landscaping products on this lot to continue will not alter the character of the neighborhood, nor threaten the public health safety or welfare of the neighborhood nor the Town of Hudson.

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

Similar to the public interest criteria, allowing the sale of landscaping products to continue on this large lot will not harm any public rights nor alter the character of the neighborhood. Indeed, the retail sales on this site have been going on so long that they <u>are</u> the character of the neighborhood.

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

Regis Landscaping is an ongoing business providing services to the residences and businesses in the Town of Hudson and surrounding communities and maintains many employees through the year. Allowing Regis to continue its current operations is a significant benefit to Regis, its employees, and the property owner with no adverse impact to the Town. The balancing test of the substantial justice criteria weighs in favor of the applicant

4. The proposed use will not diminish the values of surrounding properties, because:

We know there has been no impact to surrounding property values because of the successful build out of nearby developments.

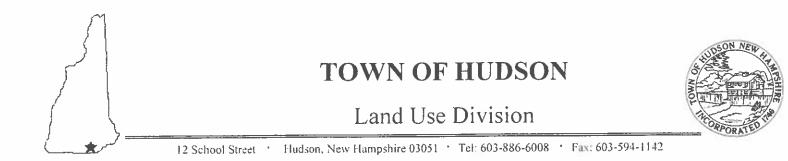
RETAIL LANDSCAPING PRODUCTS BUSINESS VARIANCE

- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary** hardship, because:
 - A. 1) 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 <u>and</u>

The property is unique and unusual given its long history with multiple mixed uses. Further, there are large area wetlands at the rear of the property which must be respected. Given the successful use of the property, the restriction of prohibiting retail sale of landscaping product is not fair and reasonable to the applicant nor Regis Landscaping.

2) Explain how the special conditions of the property cause the proposed use to be reasonable.

Regis's operation is a benign commercial operation, as opposed to heavy industrial uses. Regis's business provides services to residential customers. Allowing the long time landscaping operation to continue is a reasonable use of this lot.



Zoning Determination #23-027

March 16, 2023

Andrew A. Prolman Prunier & Prolman, PLLC Ste 100 20 Trafalgar Sq Nashua, NH 03063 **Re:**

Variance request/application

Map 147 Lot 016-000 District: Residential Two (R-2)

Dear Andrew,

I am in receipt of your 02/15/23 request as to which variances are needed for the entity/operation known as "Regis Landscaping" to continue at 181A Webster St, and per Superior Court Order dated August 3, 2022.

Currently this operation needed/needs variances to the Zoning Ordinance as follows: **§334-10A** Mixed uses on a lot. The R-2 district does not allow mixed uses.

§334-21 <u>Table of Permitted Principal Uses</u>. This use as a Landscaping business (E-10) is not a permitted use in this district.

§334-21 <u>Table of Permitted Principal Uses</u>. This use also has associated retail sales of landscaping products (D-30) and is not a permitted use in this district.

§334-22 <u>Table of Permitted Accessory Uses</u>. The garaging or parking of: two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in this district.

§334-13 <u>Junkvards prohibited; outdoor storage</u>, current operation has numerous unregistered/junked vehicles/equipment, and **junk/debris**. Would need variance to maintain/continue such for a site plan approval.

Not seeing a site plan to review, there may be issues/activity within the Wetland Buffers on site needing a Variance: operations around and within the Buffer of the man-made wetland (small pond) in yard adjacent to side of building, as well as stockpiled landscape material and graded/disturbed ground surfaces in back yard.

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

Sincerely, mar Zilli Bruce Buttrick

Zoning Administrator/Code Enforcement Officer (603) 816-1275 <u>bbuttrick@hudsonnh.gov</u>

encls: 02/15/2023 Zoning Determination Request and Superior Court Final Order item#14

cc: Public Folder Town Planner – B. Groth Town Counsel – D. LeFevre file

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

+23-



Town of Hudson

REQUEST FOR ZONING and/or PLANNING INFORMATION / DETERMINATION

Date of request	02/15/2023
Property Location	181B Webster Street
	Map 147 Lot 16 Sublot 000
Zoning District if knowr	R-2
C 2	Type of Request Coning District Determination Use Determination Set-Back Requirements Process for Subdivision/ Site Plan if required Other
Description of re	equest / determination: (Please attach all relevant documentation)
<u>Landscapin</u> <u>Town of Hu</u>	vise as to the variance(s) required to keep Regis ag on site per \$14 of the August 3, 2022 Final Order in adson v. Derry & Webster, LLC, Hillsborough County Court Docket No, 226-220-CV-00632.
Applicant Cont	act Information:
Name: Address:	Andrew A. Prolman, Prunier & Prolman, PLLC 20 Trafalgar Sq., Ste. 100, Nashua, NH 03063 603.883.8900 aprolman@prunierlaw.com
	For Office use
ATTACHMEN NOTES:	NTS: TAX CARDI GÌS V

ZONING DETERMINATION LETTER SENT () DATE:

13. The 3-family residence must be converted to a 2-family residence. All independent living facilities must be removed from the illegal 3rd residential unit, which must be combined with the other two (2) units such that there are only two (2) residential units. All work must comply with all applicable life safety and building codes. All required permits must be obtained from the Town prior to beginning any construction. The Court recognizes that the illegal 3rd residential unit is currently being occupied by a tenant under a lease which expires on November 30, 2022. The current tenant shall be required to vacate the illegal unit at the expiration of the lease, failing which, Derry & Webster shall commence the necessary eviction proceeding to gain possession of the 3rd residential unit and bring the Property into compliance.

14. The use of the Property related to the landscaping business as it currently exists is not permitted. The only permitted landscaping use is the "planting, growing and selling nursery stock." All other uses related or ancillary to the existing landscaping business are not permitted. Derry & Webster must cease and desist the illegal landscaping business and bring the Property into compliance within a period of eight (8) months from the date of this Order. If, during this eight (8) month time period, Derry & Webster should obtain a variance to permit the landscaping business or some iteration thereof, use of the Property shall comply with the terms and conditions of any such variance. Otherwise, the illegal landscaping use must cease and desist, and the Property must be brought into compliance with the HZO.

15. Except as may be permitted by the variances, the outdoor storage of materials, vehicles, heavy equipment, and junk is not permitted, and must be removed from the Property in keeping with the terms and conditions of this Order.

16. Any uses and disturbances within the WC overlay zoning district must be abated. In conjunction with obtaining site plan approval from the Planning Board, Derry & Webster shall obtain approval of a remediation plan to restore any disturbed areas within the protected wetland or the adjacent buffer.

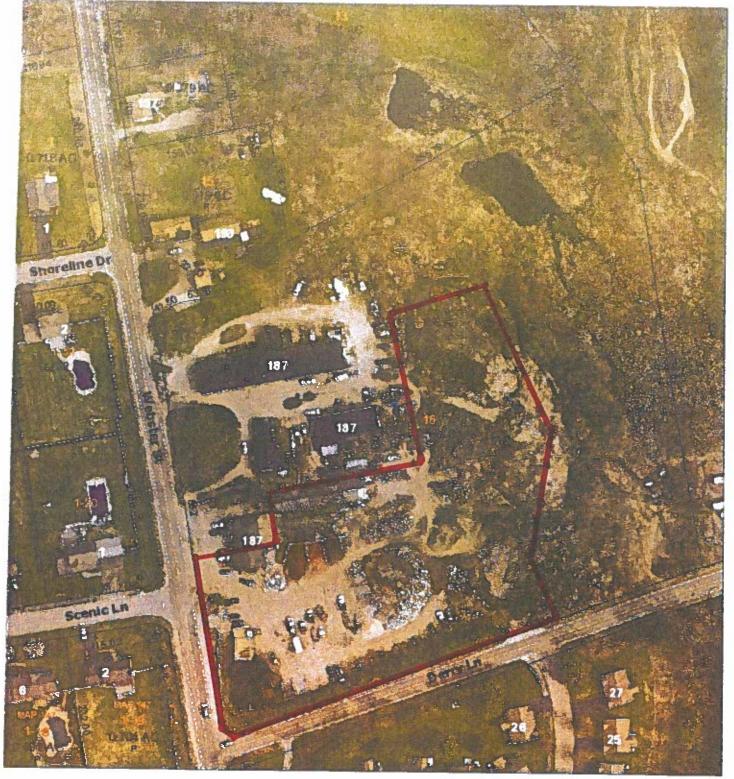
17. Site plan approval for the complete site (Map 147, Lot 016-000) must be obtained no later than January 23, 2024.

18. Hudson is hereby awarded its attorney fees and costs actually expended in this matter pursuant to RSA § 676:17, II. Hudson is hereby awarded its attorney fees and costs in the amount of \$7,750.00. Derry & Webster shall tender payment to Hudson in four (4) equal monthly payments, with the first payment being due within thirty (30) days of this Order, and each subsequent payment due on the same day of each month thereafter until paid in full.

19. Pursuant to RSA § 676:17, I, Derry & Webster is subject to civil fines and penalties up to \$275.00 for first offenses, and \$550.00 per day for second offenses, for each day the violations have continued. Derry & Webster was first notified of the offenses on September 30, 2019. By agreement of the parties, the imposition of civil fines and penalties against Derry & Webster is to be withheld, provided that, Derry & Webster complies with this Final Order. In the event that Derry & Webster fails to comply with this Final Order, the Town of Hudson may bring the matter forward for a further hearing for purposes of assessment of civil fines and penalties.

Refer to Variance a. For parcel Tax Assessor cards Map 147 Lot 016-000

185 Webster Street (Map 147 Lot 016-000)



May 8, 2023

Legen 3

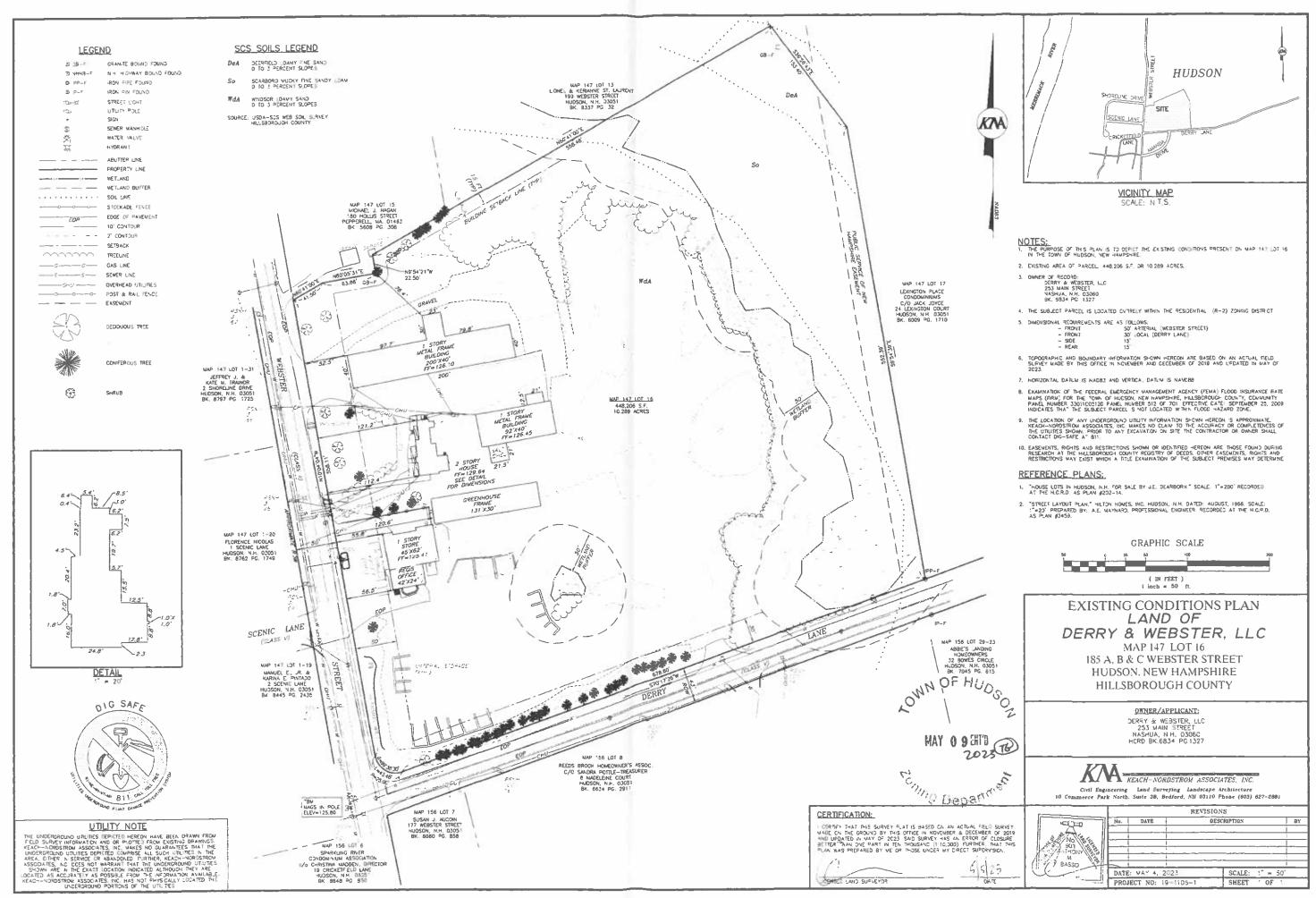
Easement_Lines

Parcels

APPROXIMATE AREA OF REGIS LANDSCAPING

		1:1,582	
) L	0.0125	0.025	0 05 m
)	3 02	3.24))3 km





Printed 5/09/2023 4:28PM	3		Town o	tion Receipt		Receip	tgoodwyn
Created 5/09/2023 4:19 PM	3			chool Street NH 03051-4249			
		Description		Current Invoice	Payment	Balan	ice Due
	1.00	Zoning Application 181 B Webster Str Map 147 Lot 016-0 Four (4) Variances	00 (R-2 Zone)	0.00	740.0000		0.00
		Abutter Notices		0.00	77.1100		0.00
					Total:		817.11
	Remitter		Рау Туре	Reference	Tendered	Change	Net Paid
	Derry & W	/ebster, LLC	CHECK	CHECK # 1549	740.00	0.00	740.00
	Derry & V	/ebster, LLC	CHECK	CHECK # 1550	77.11	0.00	77.11
					Total Due:	105	817.11
					Total Tendered:		817.11
					Total Change:		0.00
					Net Paid:		817.11

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HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On 05/25/2023, the Zoning Board of Adjustment heard Case 147-016 c., being a case brought by Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests a Variance for 181 B Webster St., Hudson, NH to allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]

After reviewing the petition, hearing all of the evidence, and taking into consideration any personal knowledge of the property in question, the undersigned member of the Zoning Board of Adjustment sitting for this case made the following determination:

Y	Ν	1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.
Y	Ν	4. The proposed use will not diminish the values of surrounding properties.

(Continue-next page-Hardship Criteria)

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

(Continued)

Y N N/A	5.	A.	 The Applicant established that literal enforcem would result in an unnecessary hardship. "Unn to special conditions of the property that distinarea: (1) No fair and substantial relationship exist b the ordinance provision and the specific a property; and 	necessary hardship" means that, owing nguish it from other properties in the netween the general public purposes of
			(2) The proposed use is a reasonable one.	
Y N		 B.	Alternatively, if the criteria above (5.A) are no will be deemed to exist if, and only if, owing to that distinguish it from other properties in the a used in strict conformance with the ordinance, to enable a reasonable use of it.	o special conditions of the property area, the property cannot be reasonably
Nr 1	D			
C			member of the Hudson ZBA	Date
Print na	ame:			
Stipula	tions: _			
-	_			

APPLICATION	Garaging or Parkin Commercial Vehicle N FOR A VARIANCE Equipment
ng Jepeoning Board of Adjustment Town of Hudson	Entries in this box are to be filled out by Land Use Division personnel Case No. $147 - 016(05 - 25 - 23)$ Date Filed $5/9/23$
Name of Applicant Derry & Webster, LLC c/o Vatche Manoukian, M Telephone Number (Home) 603-883-8900 Mailing Address 253 Main Street, Na	Map: 147 Lot: 16 Zoning District: R2 (Work)
Owner Derry & Webster, LLC	
Location of Property 181B Webster Street (Street Addres	
Signature of Applicant Signature of Property-Owner(s)	Date 5-9-2023

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

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/represent 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 p Date receive		
COST: Application fee (processing, advertising & recording) (nor <u>Abutter Notice</u> :		\$_185.00	
Direct Abutters x Certified postage rate \$4,7 Indirect Abutters x First Class postage rate \$0.6 Total amount due:		\$ N/A \$ N/A \$ 185	as htt
Am	t. received:	\$ 740.00	Check# 1549
Received by: TSO Rec	eipt No.:		(4 Variances)
By determination of the Zoning Administrator, the following Engineering Fire Dept Health Officer P		-	

TOWN OF HUDSON, NH Variance Application Checklist

The following **requirements/checklist** pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.

Applicant Initial Please review the application with the Zoning Administrator or staff. AAV The applicant must provide the original (with wet signatures) of the complete filledout application form and all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples)

A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation 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.

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.)

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 by using the Hudson Geographical Information System (GIS) on the town website:

https://www.hudsonnh.gov/community-development/page/gis-public-use

(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.)



NA

ARY

GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief.

A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use



Provide a copy of all **single sided pages** of the assessor's card. (**NOTE**: these copies are available from the Assessor's Office)



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.



If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Planning Board.

NA

Staff

Initials

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CERTIFIED PLOT PLAN:

Requests other than 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).

a) AAP b) AAP	The plot plan shall be drawn to scale on an $8\frac{1}{2}$ x 11" or 11" x 17" sheet with a North pointing arrow shown on the plan. The plot plan shall be up-to date and dated, and shall be no more than three years old.	76- 76-
c)	The plot plan shall have the signature and the name of the preparer, with his/her/their seal.	TG
d) AAP	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.	TC
	(NOTE: A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use)	
e) AAP	The plot plan shall include the area (total square footage), all buffer zones, streams or other wetland bodies, and any easements (drainage, utility, etc.)	TG
f) AAP	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.	TG
g) AAP	The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments.	16
h) AAP	The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.	TG
i) AAP	The plot plan shall indicate all parking spaces and lanes, with dimensions.	TG

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

Signature of Applicant(s)

Signature of Property Owner(s)

5-9-2023 Date 5-9-2023

Date

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	001	Manuele E. Pintado, Jr. &	2 Scenic Lane
		Karina E. Pintado	Hudson, NH 03051
147	001	Florence Nichols	1 Scenic Lane
			Hudson, NH 03051
147	001	Jeffrey J. Trainor &	2 Shoreline Drive
		Kate M. Trainor	Hudson, NH 03051
147	001	Benjamin Matthew Webster &	1 Shoreline Drive
		Jane Anne Webster	Hudson, NH 03051
147	015	Michael J. Hagan	180 Hollis Street
			Pepperell, MA 01463
156	007	Susan J. Aucoin	177 Webster Street
			Hudson, NH 03051
147	014	Brian D. Pigeon	197 Webster Street
			Hudson, NH 03051
147	013	Lionel St. Laurent &	199 Webster Street
		Kerianne St. Laurent	Hudson, NH 03051
147	001-018	Paul & Kimberly Moceri	6 Scenic Lane
			Hudson, NH 03051
156	006	Sparkling River Condominium	19 Cricketfield Lane
		Association Inc.	Hudson, NH 03051
		c/o Richard Frescura	
156	008	Reeds Brook Home Owners	8 Madeleine Ct.
		Assoc.	Hudson, NH 03051
		c/o Sandra Pottle, Treasurer	
147	017	Lexington Place Condominiums	24 Lexington Court
		c/o Jack Joyce	Hudson, NH 03051
147	029	Abbie's Landing Homeowners	32 Bowes Circle
			Hudson, NH 03051
147	016	Derry & Webster LLC	253 Main Street
			Nashua, NH 03060
		Keach-Nordstrom, Inc.	11 Commerce Park, Suite 3
			Bedford, NH 03110

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	022- 000	Westchester Place Condominiums	7 Westchester Court Hudson, NH 03051
			1

Easy Peel Labels Use Avery® TEMPLATE 5160®

Manuele E. Pintado, Jr. & Karina E. Pintado 2 Scenic Lane Hudson, NH 03053

Florence Nichols 1 Scenic Lane Hudson, NH 03051

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive Hudson, NH 03051

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]



See Instruction Sheet for Easy Peel Feature



*Applicant provided-Abutter Mailing Labels

VERY®5160®

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive

Manuele E. Pintado, Jr. &

Karina E. Pintado

Hudson, NH 03053

Florence Nichols

Hudson, NH 03051

Hudson, NH 03051

1 Scenic Lane

2 Scenic Lane

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Sens de chargement

Consultez la feuille d'instruction

www.avery.com 1-800-GO-AVERY Easy Peel Labels Use Avery® TEMPLATE 5160®



Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110 Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

See Instruction Sheet

for Easy Peel Feature

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110

AVERY®5160®

* Applicant provided-Abutter Mailing Labels.

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]

USPS-Verified Mail

SENI	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 1 of 2
	ARTICLE NUMBER	LE NUMBER Name of Addressee, Street, and post office address	
1	9589 0710 5270 0646 5622 73	DERRY & WEBSTER LLC	APPLICANT NOTICE MAILED
-	1201 RUTO 2510 0848 2855 12	253 MAIN STREET, NASHUA, NH 03060	
2	9589 0710 5270 0646 5622 80	MANUEL E. PINTADO, JR; KARINA E. PINTADO	ABUTTER NOTICE MAILED
		2 SCENIC LANE, HUDSON, NH03051	
3	9589 0710 5270 0646 5622 97	FLORENCE NICOLAS	ABUTTER NOTICE MAILED
-		1 SCENIC LANE, HUDSON, NH 03051	
1	9589 0710 5270 0646 5623 03	JEFFREY J. TRAINOR & KATE M. TRAINOR	ABUTTER NOTICE MAILED
-		2 SHORELINE DRIVE, HUDSON, NH 03051	
5_	9589 0710 5270 0646 5623 10	BENJAMIN MATTHEW WEBSTER & JANE ANNE WEBSTER	ABUTTER NOTICE MAILED
		1 SHORELINE DRIVE, HUDSON, NH 03051	
5	9589 0710 5270 0646 5623 27	MICHAEL J. HAGAN	ABUTTER NOTICE MAILED
_		180 HOLLIS STREET, PEPPERELL, MA 01463	
7	9589 0710 5270 0646 5623 34	SUSAN J. AUCOIN	ABUTTER NOTICE MAILED
-		177 WEBSTER STREET, HUDSON, NH 03051	HUDIS
3	9589 0710 5270 0646 5623 41	BRIAN D. PIGEON	ABUTTER NOTICE MAILED
-		197 WEBSTER STREET, HUDSON, NH 03051	1/3 12
9	9589 0710 5270 0646 5623 58	LIONEL ST. LAURENT & KERIANNE ST. LAURENT	ABUTTER NOTICE MAILED
		199 WEBSTER STREET, HUDSON, NH 03051	6 00
10	9589 0710 5270 0646 5623 65	PAUL & KIMBERLY MOCERI	ABUTTER NOT SE MAILED
		6 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOT SE VAILED
11			
	Total Number of pieces listed by sender 10	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)

SENI		TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 2 of 2
SENL	DER:			
		ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
	9589 07	10 5270 0646 5623 72	SPARKLING RIVER CONDOMINIUM ASSOC. INC.; c/o RICHARD FRESCURA	ABUTTER NOTICE MAILED
2	9589 07	10 5270 0646 5623 89	19 CRICKETFIELD LANE, HUDSON, NH 03051 REEDS BROOK HOMEOWNERS ASSOC.; c/o SANDRA POTTLE, TREASURER	ABUTTER NOTICE MAILED
8		10 5270 0646 5623 96	8 MADELEINE CT.,HUDSON, NH 03051 LEXINGTON PLACE CONDOMINIUMS;	
3			c/o JACK JOYCE 24 LEXINGTON COURT, HUDSON, NH 03051	ABUTTER NOTICE MAILED
<u>-</u>	9589 07	10 5270 0646 5624 02 _	ABBIE'S LANDING HOMEOWNERS 32 BOWES CIRCLE, HUDSON, NH 03051	ABUTTER NOTICE MAILED
<u> </u>	9589 07	10 5270 0646 5624 19	KEACH-NORDSTROM, INC. 11 COMMERCE PARK, SUITE 3, BEDFORD, NH 03110	APPLICANT NOTICE MAILED
5	9589 07	10 5270 0646 5624 26	ANDREW PROLMAN, ESQ., PRUNIER & PROLMAN, PLLC 20 TRAFALGAR SQUARE, STE 100, NASHUA, NH 03063-1981	APPLICANT NOTICE MAILED
7	- Standard Barrier		20 TRAFALGAR SQUARE, STE 100, MASHOR, MI 00000 TOT	
3				THIDSON NH GOOST
9				MAY 16 2023
0				10 2023
1				USPS
-		Total Number of pieces listed by sender 6	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)

USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 1 of 1 05/25/2023 ZBA Meeting 1 1		
	ARTICLE NUMBER	Name of Addressee, Street, and post office address			
1	Mailed First Class	WESTCHESTER PLACE CONDOMINIUMS	ABUTTER NOTICE MAILED		
		7 WESTCHESTER COURT, HUDSON, NH 03051			
2					
3					
4					
5			HUDSON		
6					
7					
8					
9					
	Total # of pieces listed by sender	Total # of pieces rec'vd at Post Office	Postmaster (receiving Employee)		



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 147-016 (05-25-23)</u>: Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for <u>181 B Webster St.</u>, Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:

- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

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

Respectfully,

Bruce Buttrick 🖌 Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

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- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the Hudson Town Hall.

Bruce Buttrick Zoning Administrator

APPLICATION FOR A VARIANCE

COMMERCIAL VEHICLE VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article V, HZO Section(s) 334-22, Accessory Use Table in order to permit the following:

To allow garaging or parking of commercial vehicles and equipment to continue to use 187 Webster Street.

FACTS SUPPORTING THIS REQUEST:

1. Granting the requested variance will not be contrary to the public interest, because:

There has been a landscaping business at this site for decades. A successful landscaping business inherently has multiple commercial vehicles. Allowing Regis's commercial vehicles to continue using this lot will not alter the character of the neighborhood, nor threaten the public health safety or welfare of the neighborhood nor the Town of Hudson.

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

Similar to the public interest criteria, allowing the multiple commercial vehicles to continue on this large lot will not harm any public rights nor alter the character of the neighborhood. Indeed, the landscaping business on this site has been going on so long that it is part of the character of the neighborhood.

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

Regis Landscaping is an ongoing business providing services to the residences and businesses in the Town of Hudson and surrounding communities and maintains many employees through the year. Allowing Regis to continue is a significant benefit to Regis, its employees, and the property owner with no adverse impact to the Town. The balancing test of the substantial justice criteria weighs in favor of the applicant.

4. The proposed use will not diminish the values of surrounding properties, because:

We know there has been no impact to surrounding property values because of the successful build out of nearby developments.

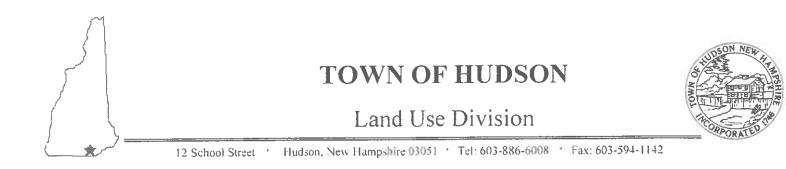
COMMERCIAL VEHICLE VARIANCE

- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary** hardship, because:
 - A. 1) 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 <u>and</u>

The property is unique and unusual given its long history with multiple mixed uses. Further, there are large area wetlands at the rear of the property which must be respected. Given the successful use of the property, the restriction of prohibiting multiple commercial vehicles is not fair and reasonable to the applicant nor Regis Landscaping.

2) Explain how the special conditions of the property cause the proposed use to be reasonable.

Regis's operation is a benign commercial operation, as opposed to heavy industrial uses. Regis's business provides services to residential customers. Allowing the long time landscaping operation to continue is a reasonable use of this lot.



Zoning Determination #23-027

March 16, 2023

Andrew A. Prolman Prunier & Prolman, PLLC Ste 100 20 Trafalgar Sq Nashua, NH 03063 **Re:**

Variance request/application

Map 147 Lot 016-000 District: Residential Two (R-2)

Dear Andrew,

I am in receipt of your 02/15/23 request as to which variances are needed for the entity/operation known as "Regis Landscaping" to continue at 181A Webster St, and per Superior Court Order dated August 3, 2022.

Currently this operation needed/needs variances to the Zoning Ordinance as follows: **§334-10A** <u>Mixed uses on a lot</u>. The R-2 district does not allow mixed uses.

§334-21 <u>Table of Permitted Principal Uses</u>. This use as a Landscaping business (E-10) is not a permitted use in this district.

§334-21 <u>Table of Permitted Principal Uses</u>. This use also has associated retail sales of landscaping products (D-30) and is not a permitted use in this district.

§334-22 <u>Table of Permitted Accessory Uses</u>. The garaging or parking of: two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in this district.

§334-13 <u>Junkyards prohibited; outdoor storage</u>, current operation has numerous unregistered/junked vehicles/equipment, and **junk/debris**. Would need variance to maintain/continue such for a site plan approval.

Not seeing a site plan to review, there may be issues/activity within the Wetland Buffers on site needing a Variance: operations around and within the Buffer of the man-made wetland (small pond) in yard adjacent to side of building, as well as stockpiled landscape material and graded/disturbed ground surfaces in back yard.

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

Sincerely, market Bruce Buttrick

Zoning Administrator/Code Enforcement Officer (603) 816-1275 bbuttrick@hudsonnh.gov

encls: 02/15/2023 Zoning Determination Request and Superior Court Final Order item#14

cc: Public Folder Town Planner – B. Groth Town Counsel – D. LeFevre file

23-



Town of Hudson

REQUEST FOR ZONING and/or PLANNING INFORMATION / DETERMINATION

Date of request	02/15/2023					
Property Location	181B Webster Street					
	Map <u>147</u> Lot <u>16</u> Sublot 550					
Zoning District if known	R-2					
□ 2	<u>Type of Request</u> Coning District Determination U se Determination Set-Back Requirements Process for Subdivision/Site Plan if required Other					
Description of re	equest / determination: (Please attach all relevant documentation)					
<u>Landscapin</u> <u>Town of Hu</u>	Please advise as to the variance(s) required to keep Regis Landscaping on site per §14 of the August 3, 2022 Final Order in Town of Hudson v. Derry & Webster, LLC, Hillsborough County Superior Court Docket No. 226-220-CV-00632.					
Applicant Cont	act Information:					
Applicant Contact Information:Name:Andrew A. Prolman, Prunier & Prolman, PLLCAddress:20 Trafalgar Sq., Ste. 100, Nashua, NH 03063Phone Number:603.883.8900Email:aprolman@prunierlaw.com						
	For Office use					
ATTACHMENTS: TAX CARDI GÌS M NOTES:						

ZONING DETERMINATION LETTER SENT () DATE:

13. The 3-family residence must be converted to a 2-family residence. All independent living facilities must be removed from the illegal 3rd residential unit, which must be combined with the other two (2) units such that there are only two (2) residential units. All work must comply with all applicable life safety and building codes. All required permits must be obtained from the Town prior to beginning any construction. The Court recognizes that the illegal 3rd residential unit is currently being occupied by a tenant under a lease which expires on November 30, 2022. The current tenant shall be required to vacate the illegal unit at the expiration of the lease, failing which, Derry & Webster shall commence the necessary eviction proceeding to gain possession of the 3rd residential unit and bring the Property into compliance.

14. The use of the Property related to the landscaping business as it currently exists is not permitted. The only permitted landscaping use is the "planting, growing and selling nursery stock." All other uses related or ancillary to the existing landscaping business are not permitted. Derry & Webster must cease and desist the illegal landscaping business and bring the Property into compliance within a period of eight (8) months from the date of this Order. If, during this eight (8) month time period, Derry & Webster should obtain a variance to permit the landscaping business or some iteration thereof, use of the Property shall comply with the terms and conditions of any such variance. Otherwise, the illegal landscaping use must cease and desist, and the Property must be brought into compliance with the HZO.

15. Except as may be permitted by the variances, the outdoor storage of materials, vehicles, heavy equipment, and junk is not permitted, and must be removed from the Property in keeping with the terms and conditions of this Order.

16. Any uses and disturbances within the WC overlay zoning district must be abated. In conjunction with obtaining site plan approval from the Planning Board, Derry & Webster shall obtain approval of a remediation plan to restore any disturbed areas within the protected wetland or the adjacent buffer.

17. Site plan approval for the complete site (Map 147, Lot 016-000) must be obtained no later than January 23, 2024.

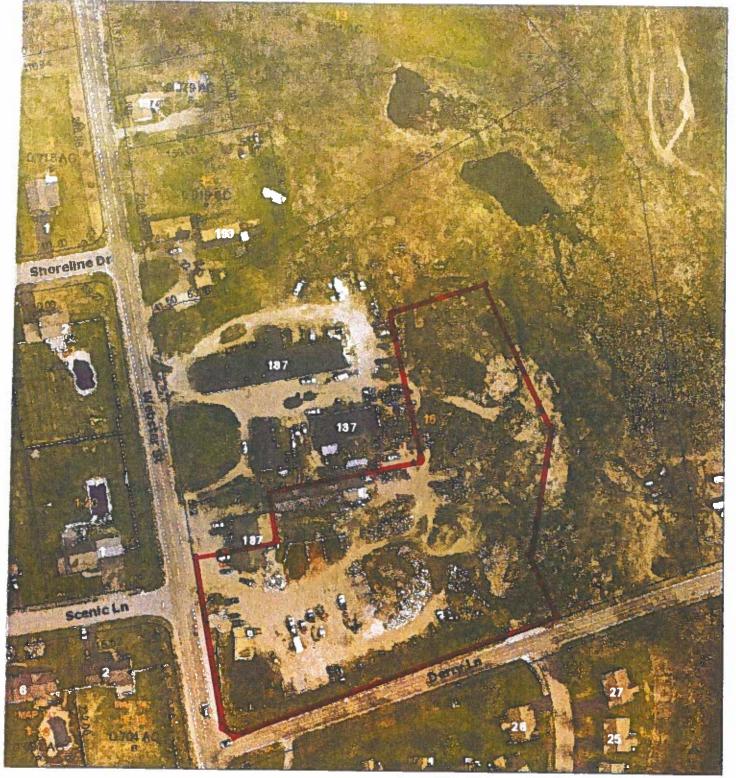
18. Hudson is hereby awarded its attorney fees and costs actually expended in this matter pursuant to RSA § 676:17, II. Hudson is hereby awarded its attorney fees and costs in the amount of \$7,750.00. Derry & Webster shall tender payment to Hudson in four (4) equal monthly payments, with the first payment being due within thirty (30) days of this Order, and each subsequent payment due on the same day of each month thereafter until paid in full.

19. Pursuant to RSA § 676:17, I, Derry & Webster is subject to civil fines and penalties up to \$275.00 for first offenses, and \$550.00 per day for second offenses, for each day the violations have continued. Derry & Webster was first notified of the offenses on September 30, 2019. By agreement of the parties, the imposition of civil fines and penalties against Derry & Webster is to be withheld, provided that, Derry & Webster complies with this Final Order. In the event that Derry & Webster fails to comply with this Final Order, the Town of Hudson may bring the matter forward for a further hearing for purposes of assessment of civil fines and penalties.

Refer to Variance a. For parcel Tax Assessor cards Map 147 Lot 016-000

4

185 Webster Street (Map 147 Lot 016-000)



May 8, 2023

Lagan s

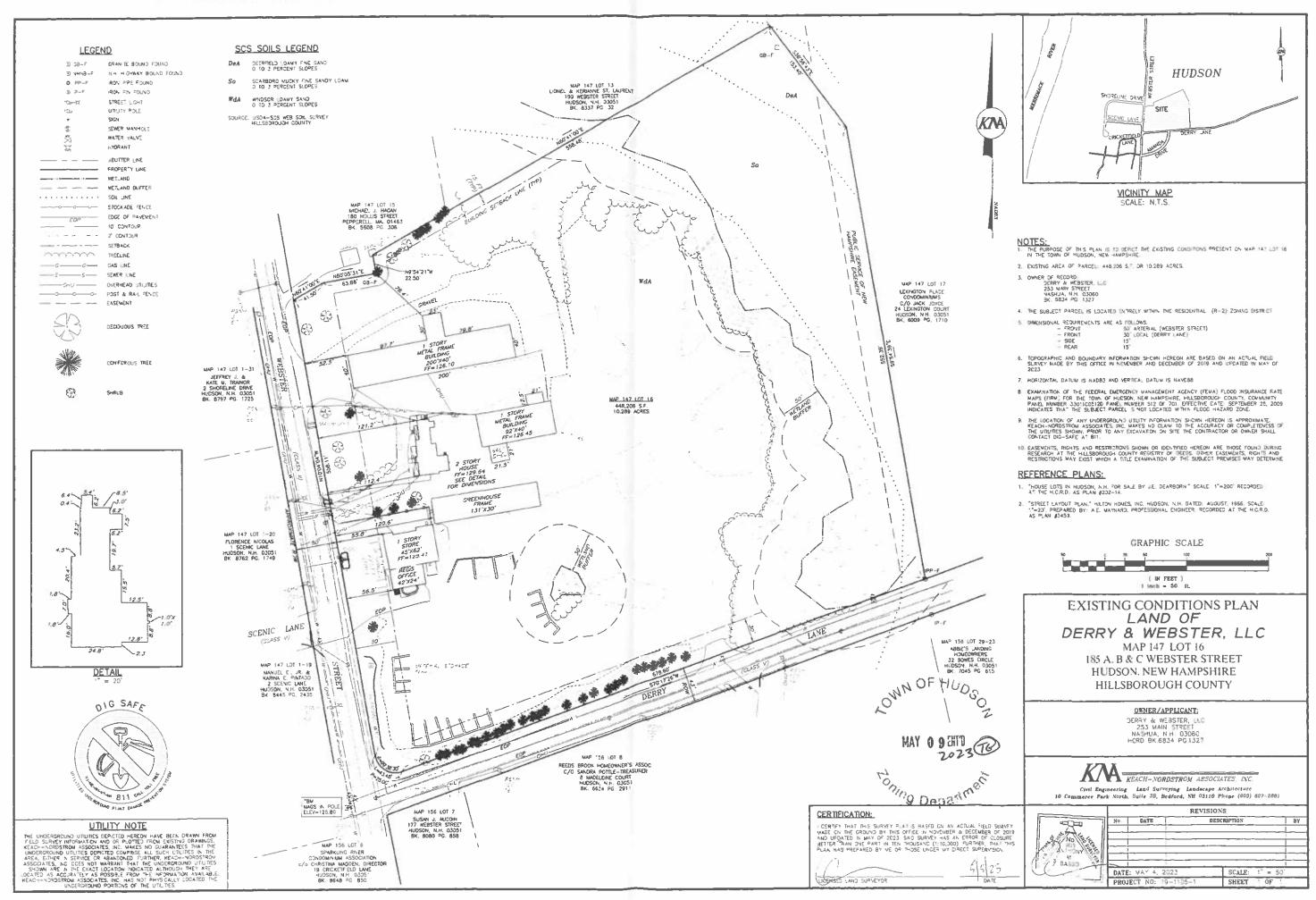
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APPROXIMATE AREA OF REGIS LANDSCAPING

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2	2 32	0.04 	





Printed 5/09/2023 4:28PM Created 5/09/2023 4:19 PM			Town o 12 Se	tion Receipt f Hudson, NH chool Street NH 03051-4249		Receip	t# 728,860 tgoodwyn
		Description		Current Invoice	Payment	Balan	ice Due
	1.00	Zoning Application 181 B Webster Street Map 147 Lot 016-000 Four (4) Variances		0.00	740.0000		0.00
		Abutter Notices		0.00	77.1100		0.00
					Total:		817.11
Re	mitter		Рау Туре	Reference	Tendered	Change	Net Paid
De	erry & W	ebster, LLC	CHECK	CHECK # 1549	740.00	0.00	740.00
De	erry & W	ebster, LLC	CHECK	CHECK # 1550	77.11	0.00	77.11
15					Total Due:		817.11
					Total Tendered:		817.11
					Total Change:		0.00
					Net Paid:		817.11

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On **05/25/2023**, the Zoning Board of Adjustment heard **Case** 147-016 **d**., being a case brought by **Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests a Variance for 181 B Webster St., Hudson, NH** to allow the continuation of additional mixed uses on the lot where **mixed uses on a lot are not permitted in the R-2 district.** [Map 147, Lot 016-000; Zoned Residential-Two (R-2); HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

After reviewing the petition, hearing all of the evidence, and taking into consideration any personal knowledge of the property in question, the undersigned member of the Zoning Board of Adjustment sitting for this case made the following determination:

Y	Ν	1. Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
\mathbf{V}	Ν	2
1	1	2. The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
Y	Ν	3. Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.
Y	Ν	4. The proposed use will not diminish the values of surrounding properties.

(Continue-next page-Hardship Criteria)

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

(Continued)

Y 5. **A.** The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing Ν to special conditions of the property that distinguish it from other properties in the N/A area: (1) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (2) The proposed use is a reasonable one. **B.** Alternatively, if the criteria above (5.A) are not established, an unnecessary hardship Y will be deemed to exist if, and only if, owing to special conditions of the property Ν 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. Member Decision: _____ Signed: Sitting member of the Hudson ZBA Date Print name: _____ Stipulations: _____

	N FOR A VARIANCE Mixed Use
MAY 09 CHID 2 0 2 3 To: Zathing Board of Adjustment Town of Hudson	Entries in this box are to be filled out by Land Use Division personnel Case No. $147-016(05-25-23)$ Date Filed $5/9/23$
Name of Applicant Derry & Webster, LLC c/o Vatche Manoukian, Ma Telephone Number (Horne) 603-883-8900 Mailing Address 253 Main Street, Nas	(Work)
Owner <u>Derry & Webster, LLC</u> Location of Property <u>181B Webster Street</u> (Street Addres Signature of Applicant	$\frac{5-9-2023}{\text{Date}}$
Signature of Property-Owner(s)	<u>5-9-2023</u> Date

By filing this application as indicated above, the owner(s) hereby give permission to the Town of Hudson, it's officials, employees, and agents, including the members of the Zoning Board of Adjustment (ZBA), as well as, abutters and other interested members of the public, to enter upon the property which is the subject of this application during any public meeting conducted at the property, or at such reasonable times as may be authorized by the ZBA, for the purpose of such examinations, surveys, tests and inspections as may be deemed appropriate by the ZBA. The owner(s) release(s) any claim to or right he/she (they) may now or hereafter possess against any of the above identified parties or individuals as a result of any such public meeting, examinations, surveys, tests and/or inspections conducted on his/her (their) property in connection with this application.

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/represent 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 L COST:	and Use Division p Date receive		
Application fee (processing, advertising & recording) <u>Abutter Notice</u> : Direct Abutters x Certified postage rate \$	(non-refundable): 4,78 =	\$ <u>185.00</u>	
Indirect Abutters x First Class postage rate \$ Total amount due	0.63 =	\$ N/A \$ 185-	Charle #
	Amt. received:	\$ 740.00	1549
Received by: TSG	Receipt No.:	728,860	(4 Variances
By determination of the Zoning Administrator, the follo Engineering Fire Dept Health Officer	wing Departmental n	-	

TOWN OF HUDSON, NH Variance Application Checklist

The following requirements/checklist pertain to the Zoning Board of Adjustment applications. Fill in all portions of this Application Form(s) as applicable. This application will not be accepted unless all requirements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate.

The applicant must provide the original (with wet signatures) of the complete filledout application form and all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples) A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation 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. \mathcal{N} A 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.)

Please review the application with the Zoning Administrator or staff.

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 by using the Hudson Geographical Information System (GIS) on the town website:

https://www.hudsonnh.gov/community-development/page/gis-public-use

(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.)



Applicant

Initials

(HAP)

GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website:

https://www.hudsonnh.gov/community-development/page/gis-public-use

AAY

Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office)

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.

AAN

If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the nea Planning Board. variance dutcome

N/A

Staff

Initials

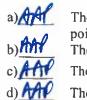
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TG

CERTIFIED PLOT PLAN:

Requests other than 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).



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.

The plot plan shall be up-to date and dated, and shall be no more than three years old.

The plot plan shall have the signature and the name of the preparer, with his/her/their seal.

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: A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use)



The plot plan shall include the area (total square footage), all buffer zones, streams or other wetland bodies, and any easements (drainage, utility, etc.) 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. The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments.

The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.

The plot plan shall indicate all parking spaces and lanes, with dimensions.

TG TC

16

16

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

Signature of Applicant(s)

Signature of Property Owner(s)

 $\frac{5 - 9 - 2023}{Date}$

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 adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	001	Manuele E. Pintado, Jr. &	2 Scenic Lane
		Karina E. Pintado	Hudson, NH 03051
147	001	Florence Nichols	1 Scenic Lane
			Hudson, NH 03051
147	001	Jeffrey J. Trainor &	2 Shoreline Drive
		Kate M. Trainor	Hudson, NH 03051
147	001	Benjamin Matthew Webster &	1 Shoreline Drive
		Jane Anne Webster	Hudson, NH 03051
147	015	Michael J. Hagan	180 Hollis Street
			Pepperell, MA 01463
156	007	Susan J. Aucoin	177 Webster Street
			Hudson, NH 03051
147	014	Brian D. Pigeon	197 Webster Street
			Hudson, NH 03051
147	013	Lionel St. Laurent &	199 Webster Street
		Kerianne St. Laurent	Hudson, NH 03051
147	001-018	Paul & Kimberly Moceri	6 Scenic Lane
			Hudson, NH 03051
156	006	Sparkling River Condominium	19 Cricketfield Lane
		Association Inc.	Hudson, NH 03051
		c/o Richard Frescura	
156	008	Reeds Brook Home Owners	8 Madeleine Ct.
		Assoc.	Hudson, NH 03051
		c/o Sandra Pottle, Treasurer	
147	017	Lexington Place Condominiums	24 Lexington Court
		c/o Jack Joyce	Hudson, NH 03051
147	029	Abbie's Landing Homeowners	32 Bowes Circle
		U U	Hudson, NH 03051
147	016	Derry & Webster LLC	253 Main Street
			Nashua, NH 03060
		Keach-Nordstrom, Inc.	11 Commerce Park, Suite 3
			Bedford, NH 03110

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. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. 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.

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
147	022- 000	Westchester Place Condominiums	7 Westchester Court Hudson, NH 03051

Easy Peel Labels Use Avery® TEMPLATE 5160®

Manuele E. Pintado, Jr. & Karina E. Pintado 2 Scenic Lane Hudson, NH 03053

Florence Nichols 1 Scenic Lane Hudson, NH 03051

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive Hudson, NH 03051

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]



See Instruction Sheet for Easy Peel Feature



*Applicant provided-Abutter Mailing Labels

VERY®5160®

Jeffrey J. Trainor & Kate M. Trainor 2 Shoreline Drive

Manuele E. Pintado, Jr. &

Karina E. Pintado

Hudson, NH 03053

Florence Nichols

Hudson, NH 03051

Hudson, NH 03051

1 Scenic Lane

2 Scenic Lane

Benjamin Matthew Webster & Jane Anne Webster 1 Shoreline Drive Hudson, NH 03051

Michael J. Hagan 180 Hollis Street Pepperell, MA 01463

Susan J. Aucoin 177 Webster Street Hudson, NH 03051

Brian D. Pigeon 197 Webster Street Hudson, NH 03051

Lionel St. Laurent & Kerianne St. Laurent 199 Webster Street Hudson, NH 03051

Paul & Kimberly Moceri 6 Scenic Lane Hudson, NH 03051

Sparkling River Condominium Association, Inc. c/o Richard Frescura 19 Cricketfield Lane Hudson, NH 03051

Sens de chargement

Consultez la feuille d'instruction

www.avery.com 1-800-GO-AVERY Easy Peel Labels Use Avery® TEMPLATE 5160®



Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110 Reeds Brook Home Owners Assoc. c/o Sandra Pottle, Treasurer 8 Madeleine Ct. Hudson, NH 03051

See Instruction Sheet

for Easy Peel Feature

Lexington Place Condominiums c/o Jack Joyce 24 Lexington Court Hudson, NH 03051

Abbie's Landing Homeowners 32 Bowes Circle Hudson, NH 03051

Westchester Place Condominiums 7 Westchester Court Hudson, NH 03051

Derry & Webster, LLC 253 Main Street Nashua, NH 03060

Keach-Nordstrom, Inc. 11 Commerce Park, Suite 3 Bedford, NH 03110

AVERY®5160®

* Applicant provided-Abutter Mailing Labels.

Étiquettes faciles à peler Utilisez le gabarit AVERY[®] 5160[®]

USPS-Verified Mail

SENI	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	12 SCHOOL STREET	
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting
1	9589 0710 5270 0646 5622 73	DERRY & WEBSTER LLC	APPLICANT NOTICE MAILED
-	1201 RUTO 2510 0848 2855 12	253 MAIN STREET, NASHUA, NH 03060	
2	9589 0710 5270 0646 5622 80	MANUEL E. PINTADO, JR; KARINA E. PINTADO	ABUTTER NOTICE MAILED
		2 SCENIC LANE, HUDSON, NH03051	
3	9589 0710 5270 0646 5622 97	FLORENCE NICOLAS	ABUTTER NOTICE MAILED
-		1 SCENIC LANE, HUDSON, NH 03051	
1	9589 0710 5270 0646 5623 03	JEFFREY J. TRAINOR & KATE M. TRAINOR	ABUTTER NOTICE MAILED
-		2 SHORELINE DRIVE, HUDSON, NH 03051	
5_	9589 0710 5270 0646 5623 10	BENJAMIN MATTHEW WEBSTER & JANE ANNE WEBSTER	ABUTTER NOTICE MAILED
		1 SHORELINE DRIVE, HUDSON, NH 03051	
5	9589 0710 5270 0646 5623 27	MICHAEL J. HAGAN	ABUTTER NOTICE MAILED
_		180 HOLLIS STREET, PEPPERELL, MA 01463	
7	9589 0710 5270 0646 5623 34	SUSAN J. AUCOIN	ABUTTER NOTICE MAILED
-		177 WEBSTER STREET, HUDSON, NH 03051	HUDIS
3	9589 0710 5270 0646 5623 41	BRIAN D. PIGEON	ABUTTER NOTICE MAILED
-		197 WEBSTER STREET, HUDSON, NH 03051	1/3 12
9	9589 0710 5270 0646 5623 58	LIONEL ST. LAURENT & KERIANNE ST. LAURENT	ABUTTER NOTICE MAILED
		199 WEBSTER STREET, HUDSON, NH 03051	6 00
10	9589 0710 5270 0646 5623 65	PAUL & KIMBERLY MOCERI	ABUTTER NOT SE MAILED
		6 SCENIC LANE, HUDSON, NH 03051	ABUTTER NOT SE VAILED
11			
	Total Number of pieces listed by sender 10	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)

TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051		12 SCHOOL STREET		Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 2 of 2	
SENL	DER:				
		ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/25/2023 ZBA Meeting	
	9589 07	10 5270 0646 5623 72	SPARKLING RIVER CONDOMINIUM ASSOC. INC.; c/o RICHARD FRESCURA	ABUTTER NOTICE MAILED	
2	9589 07	10 5270 0646 5623 89	19 CRICKETFIELD LANE, HUDSON, NH 03051 REEDS BROOK HOMEOWNERS ASSOC.; c/o SANDRA POTTLE, TREASURER	ABUTTER NOTICE MAILED	
8		10 5270 0646 5623 96	8 MADELEINE CT.,HUDSON, NH 03051 LEXINGTON PLACE CONDOMINIUMS;		
3			c/o JACK JOYCE 24 LEXINGTON COURT, HUDSON, NH 03051	ABUTTER NOTICE MAILED	
<u>-</u>	9589 07	10 5270 0646 5624 02 _	ABBIE'S LANDING HOMEOWNERS 32 BOWES CIRCLE, HUDSON, NH 03051	ABUTTER NOTICE MAILED	
<u> </u>	9589 07	10 5270 0646 5624 19	KEACH-NORDSTROM, INC. 11 COMMERCE PARK, SUITE 3, BEDFORD, NH 03110	APPLICANT NOTICE MAILED	
5	9589 07	10 5270 0646 5624 26	ANDREW PROLMAN, ESQ., PRUNIER & PROLMAN, PLLC 20 TRAFALGAR SQUARE, STE 100, NASHUA, NH 03063-1981	APPLICANT NOTICE MAILED	
7	Second Course		20 TRAFALGAR SQUARE, STE 100, MASHOR, MI 00000 TOT		
3				THIDSON NH GOOST	
9				MAY 16 2023	
0				10 2023	
1				USPS	
-		Total Number of pieces listed by sender 6	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee)	

USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 147-016 (a-d) 4-VARIANCES 181 B WEBSTER STREET Map 147/Lot 016-000 1 of 1 05/25/2023 ZBA Meeting 05/25/2023 ZBA Meeting 05/25/2023 ZBA Meeting		
	ARTICLE NUMBER	Name of Addressee, Street, and post office address			
1	Mailed First Class	WESTCHESTER PLACE CONDOMINIUMS	ABUTTER NOTICE MAILED		
		7 WESTCHESTER COURT, HUDSON, NH 03051			
2					
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4					
5			HUDSON		
6					
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	Total # of pieces listed by sender	Total # of pieces rec'vd at Post Office	Postmaster (receiving Employee)		



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

May 15, 2023

APPLICANT NOTIFICATION

You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, **05/25/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

<u>Case 147-016 (05-25-23)</u>: Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for <u>181 B Webster St.</u>, Hudson, NH [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:

- a. To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- b. To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
- c. To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

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

Respectfully,

Bruce Buttrick 🖌 Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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- d. To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.

Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting to provide information or comments on the proposal. If you are unable to attend, you may also mail or email your comments prior to the ZBA meeting. Submit written comments by mail to ZBA, c/o Bruce Buttrick, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: <u>bbuttrick@hudsonnh.gov</u>. In either instance, include your full name, address and the case you wish to make your comment.

A full copy of this application is available for your review on the Hudson Town Hall website: www.hudsonnh.gov or in the Land Use Department located at the Hudson Town Hall.

Bruce Buttrick Zoning Administrator

APPLICATION FOR A VARIANCE

MIXED USE VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article III, HZO Section(s) 334-10A in order to permit the following:

To maintain the existing mixed uses on 185-187 Webster Street.

FACTS SUPPORTING THIS REQUEST:

1. Granting the requested variance will not be contrary to the public interest, because:

There has been a landscaping business at this site for decades. Allowing the mixed uses on this lot to continue will not alter the character of the neighborhood, nor threaten the public health safety or welfare of the neighborhood nor the Town of Hudson.

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

Similar to the public interest criteria, allowing the multiple uses to continue on this large lot will not harm any public rights nor alter the character of the neighborhood. Indeed, the mixed uses on this site have been going on so long that they <u>are</u> the character of the neighborhood.

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

Regis Landscaping is an ongoing business providing services to the residences and businesses in the Town of Hudson and surrounding communities and maintains many employees through the year. Allowing Regis to continue is a significant benefit to Regis, its employees, and the property owner with no adverse impact to the Town. The balancing test of the substantial justice criteria weighs in favor of the applicant.

4. The proposed use will not diminish the values of surrounding properties, because:

We know there has been no impact to surrounding property values because of the successful build out of nearby developments.

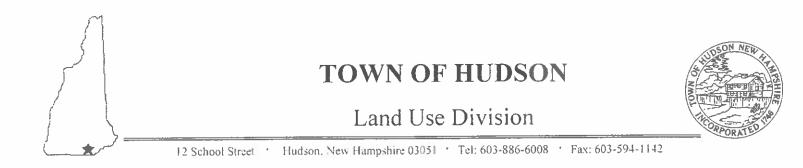
MIXED USE VARIANCE

- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary** hardship, because:
 - A. 1) 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 <u>and</u>

The property is unique and unusual given its long history with multiple mixed uses. Further, there are large area wetlands at the rear of the property which must be respected. Given the successful use of the property, the restriction of prohibiting mixed uses is not fair and reasonable to the applicant nor Regis Landscaping.

2) Explain how the special conditions of the property cause the proposed use to be reasonable.

Regis's operation is a benign commercial operation, as opposed to heavy industrial uses. Regis's business provides services to residential customers. Allowing the long time landscaping operation to continue is a reasonable use of this lot.



Zoning Determination #23-027

March 16, 2023

Andrew A. Prolman Prunier & Prolman, PLLC Ste 100 20 Trafalgar Sq Nashua, NH 03063 **Re:**

Variance request/application

Map 147 Lot 016-000 District: Residential Two (R-2)

Dear Andrew,

I am in receipt of your 02/15/23 request as to which variances are needed for the entity/operation known as "Regis Landscaping" to continue at 181A Webster St, and per Superior Court Order dated August 3, 2022.

Currently this operation needed/needs variances to the Zoning Ordinance as follows: **§334-10A** <u>Mixed uses on a lot</u>. The R-2 district does not allow mixed uses.

§334-21 <u>Table of Permitted Principal Uses</u>. This use as a Landscaping business (E-10) is not a permitted use in this district.

§334-21 <u>Table of Permitted Principal Uses</u>. This use also has associated retail sales of landscaping products (D-30) and is not a permitted use in this district.

§334-22 <u>Table of Permitted Accessory Uses</u>. The garaging or parking of: two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in this district.

§334-13 <u>Junkyards prohibited; outdoor storage</u>, current operation has numerous unregistered/junked vehicles/equipment, and **junk/debris**. Would need variance to maintain/continue such for a site plan approval.

Not seeing a site plan to review, there may be issues/activity within the Wetland Buffers on site needing a Variance: operations around and within the Buffer of the man-made wetland (small pond) in yard adjacent to side of building, as well as stockpiled landscape material and graded/disturbed ground surfaces in back yard.

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

Sincerely, mil Zild Bruce Buttrick

Zoning Administrator/Code Enforcement Officer (603) 816-1275 bbuttrick@hudsonnh.gov

encls: 02/15/2023 Zoning Determination Request and Superior Court Final Order item#14

cc: Public Folder Town Planner – B. Groth Town Counsel – D. LeFevre file

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

F23-





Town of Hudson

REQUEST FOR ZONING and/or PLANNING INFORMATION / DETERMINATION

Date of request	02/15/2023			
Property Location	181B Webster Street			
	Map <u>147</u> Lot <u>16</u> Sublot <u>000</u>			
Zoning District if known	R - 2			
Z	<u>Type of Request</u> Coning District Determination			
Description of re	equest / determination: (Please attach all relevant documentation)			
<u>Landscapin</u> <u>Town of Hu</u>	Please advise as to the variance(s) required to keep Regis Landscaping on site per §14 of the August 3, 2022 Final Order in Town of Hudson v. Derry & Webster, LLC, Hillsborough County Superior Court Docket No, 226-220-CV-00632.			
Applicant Cont	act Information:			
Name: Address: Phone Number:	Andrew A. Prolman, Prunier & Prolman, PLLC 20 Trafalgar Sq., Ste. 100, Nashua, NH 03063 603.883.8900 aprolman@prunierlaw.com			
	For Office use			
NOTES:	NTS: TAX CARD GÌS M			
ZONING DETERMINATION LETTER SENT DATE:				

13. The 3-family residence must be converted to a 2-family residence. All independent living facilities must be removed from the illegal 3rd residential unit, which must be combined with the other two (2) units such that there are only two (2) residential units. All work must comply with all applicable life safety and building codes. All required permits must be obtained from the Town prior to beginning any construction. The Court recognizes that the illegal 3rd residential unit is currently being occupied by a tenant under a lease which expires on November 30, 2022. The current tenant shall be required to vacate the illegal unit at the expiration of the lease, failing which, Derry & Webster shall commence the necessary eviction proceeding to gain possession of the 3rd residential unit and bring the Property into compliance.

14. The use of the Property related to the landscaping business as it currently exists is not permitted. The only permitted landscaping use is the "planting, growing and selling nursery stock." All other uses related or ancillary to the existing landscaping business are not permitted. Derry & Webster must cease and desist the illegal landscaping business and bring the Property into compliance within a period of eight (8) months from the date of this Order. If, during this eight (8) month time period, Derry & Webster should obtain a variance to permit the landscaping business or some iteration thereof, use of the Property shall comply with the terms and conditions of any such variance. Otherwise, the illegal landscaping use must cease and desist, and the Property must be brought into compliance with the HZO.

15. Except as may be permitted by the variances, the outdoor storage of materials, vehicles, heavy equipment, and junk is not permitted, and must be removed from the Property in keeping with the terms and conditions of this Order.

16. Any uses and disturbances within the WC overlay zoning district must be abated. In conjunction with obtaining site plan approval from the Planning Board, Derry & Webster shall obtain approval of a remediation plan to restore any disturbed areas within the protected wetland or the adjacent buffer.

17. Site plan approval for the complete site (Map 147, Lot 016-000) must be obtained no later than January 23, 2024.

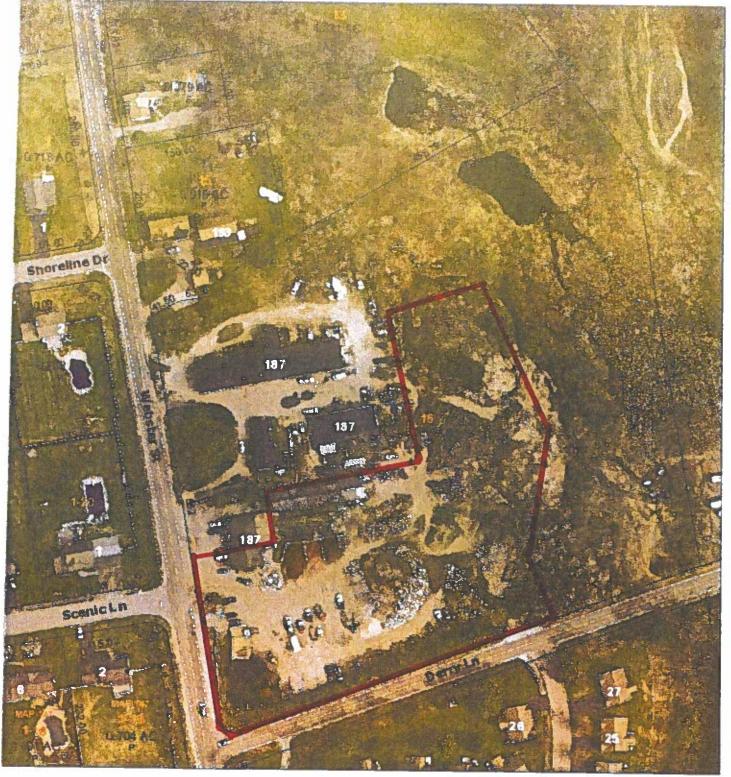
18. Hudson is hereby awarded its attorney fees and costs actually expended in this matter pursuant to RSA § 676:17, II. Hudson is hereby awarded its attorney fees and costs in the amount of \$7,750.00. Derry & Webster shall tender payment to Hudson in four (4) equal monthly payments, with the first payment being due within thirty (30) days of this Order, and each subsequent payment due on the same day of each month thereafter until paid in full.

19. Pursuant to RSA § 676:17, I, Derry & Webster is subject to civil fines and penalties up to \$275.00 for first offenses, and \$550.00 per day for second offenses, for each day the violations have continued. Derry & Webster was first notified of the offenses on September 30, 2019. By agreement of the parties, the imposition of civil fines and penalties against Derry & Webster is to be withheld, provided that, Derry & Webster complies with this Final Order. In the event that Derry & Webster fails to comply with this Final Order, the Town of Hudson may bring the matter forward for a further hearing for purposes of assessment of civil fines and penalties.

Refer to Variance a. For parcel Tax Assessor cards Map 147 Lot 016-000

4

185 Webster Street (Map 147 Lot 016-000)



May 8, 2023

Ləgiən ti

Easement_Lines

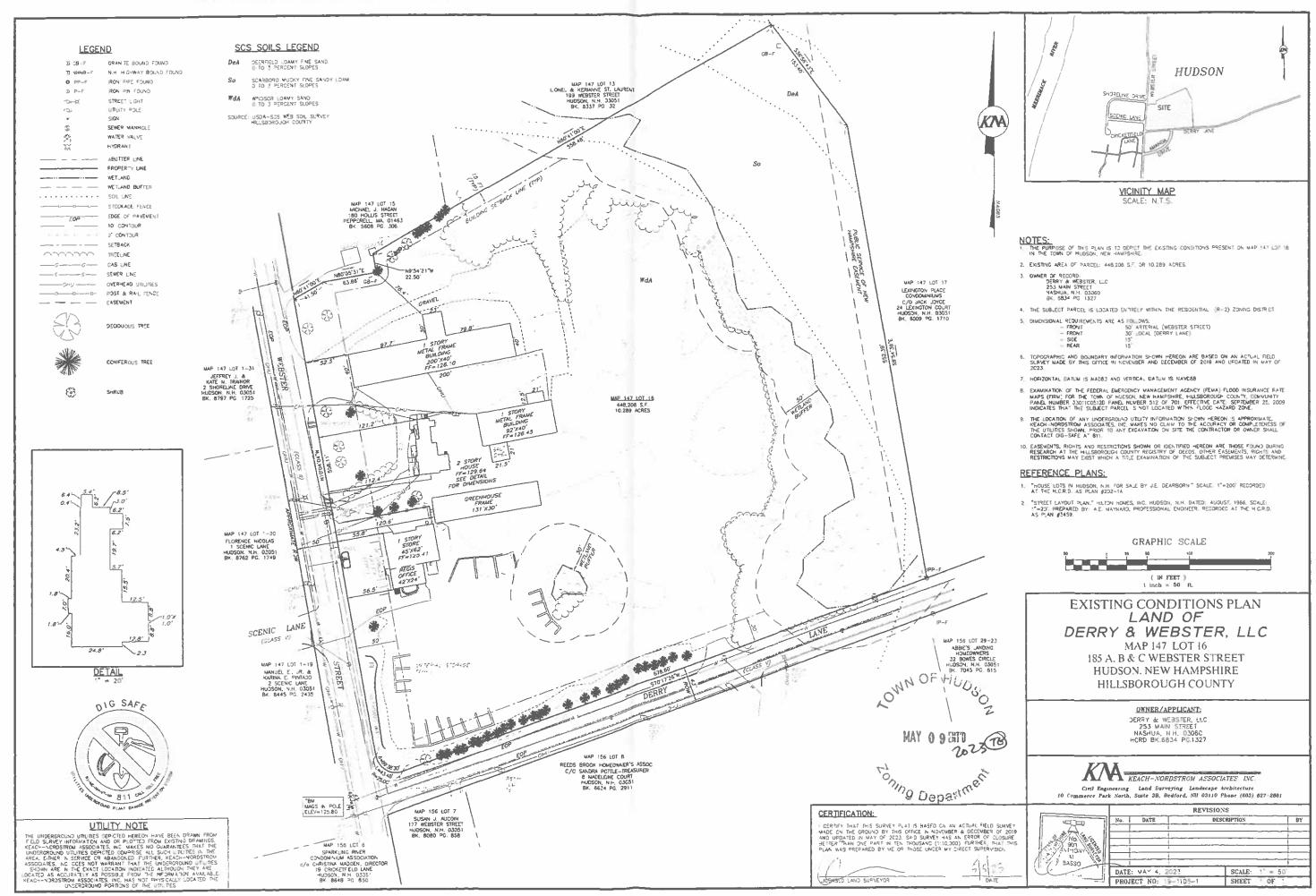
Parcels

APPROXIMATE AREA OF REGIS LANDSCAPING

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)	0.0125	0.025	0 05 m
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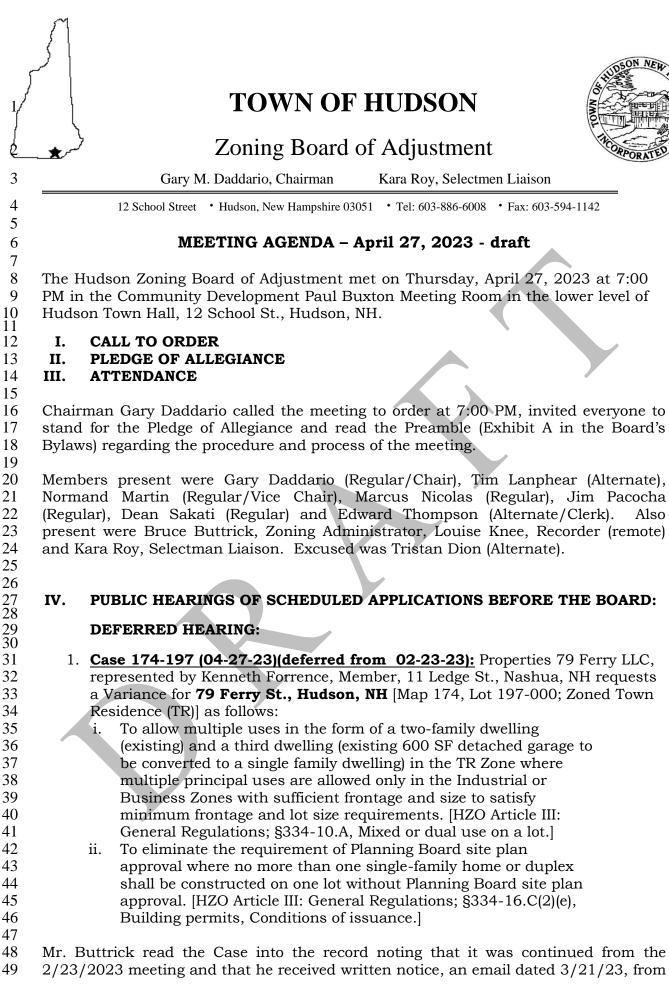




Printed 5/09/2023 4:28PM		Т		ion Receipt Hudson, NH		Receipt	# 728,860 tgoodwyn
Created 5/09/2023 4:19 PM			12 School Street Hudson, NH 03051-4249				
		Description		Current Involce	Payment	Balanc	e Due
	1.00	Zoning Application 181 B Webster Street Map 147 Lot 016-000 (R-2	Zone)				
		Four (4) Variances	,	0.00	740.0000		0.00
		Abutter Notices		0.00	77.1100		0.00
					Total:		817.11
Re	emitter	р	ау Туре	Reference	Tendered	Change	Net Paid

Remitter	Pay Type	Reference	Tendered	Change	Net Paid
Derry & Webster, LLC	CHECK	CHECK # 1549	740.00	0.00	740.00
Derry & Webster, LLC	CHECK	CHECK # 1550	77.11	0.00	77.11
		2-	Total Due:		817.11
			Total Tendered:		817.11
			Total Change:		0.00
			Net Paid:		817.11

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Also

50 the Applicant to withdraw the application and, according to the Board's Bylaws 51 Section 143.10 Deferment and Withdrawal a motion is needed from the Board to 52 accept the withdrawal. Motion made by Mr. Martin and seconded by Mr. Nicolas to 53 accept the requested withdrawal of Case 174-197 without prejudice. Roll call vote was 54 5:0.

Board next addressed Agenda item #5 as it was not properly advertised and requires a
continuation.

NEW HEARINGS:

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1. <u>Case 191-042 (04-27-23)</u>: Christopher Reilly, **24 B Street, Hudson, NH** requests a Variance to install an above ground pool within the front yard setback leaving 15 feet ("A" street side) where 30 feet is required. [Map 191, Lot 042-000; Zoned Town Residence (TR); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Mr. Buttrick read the Case into the record, referenced his Staff Report initialed
4/12/2023 noting that it is a corner lot with a single family conforming Use and two
(2) front setbacks from A Street and B Street and added that the frontage along A
Street actually serves as a Side yard.

Chris Reilly introduced himself as the Property Owner of 24 B Street, stated that his lot is a corner lot with bushes along A Street that is in actuality his sideyard and noted that several abutters also have pools. Mr. Reilly addressed the criteria for the granting of a Variance and the information shared included:

- (1) not contrary to public interest
 - The proposed location of the pool is to be in his backyard
 - Because his lot is a corner lot, his 'backyard' is bordered by A Street which requires a 30' setback instead of a 5' setback
 - The optimal location for the proposed pool is within the front setback of his sideyard as the land is flat
 - To place the pool outside of the setback is topographically unsuitable for a pool as the land is sloped and would require re-grading and the construction of a retaining wall that would be unduly expensive and raise other concerns, especially considering that his neighbor has a fence along the property line
 - There is existing foliage along A Street that will shield the pool from view
- The proposed location for the above ground pool is nowhere near the intersection of A Street and B Street and will not cause any visual impediment
 - There will be no deck construction around the pool just a ladder into the pool
 - The requested Variance will not be contrary to public interest and there will be no overcrowding of land
- (2) will observe the spirit of the Ordinance
 - The spirit of the Ordinance is to keep certain uses separated and promote the health, safety and general welfare of the inhabitants
- This use fits in with the neighborhood there are two (2) direct abutters and many other houses in the neighborhood that have pools

100	• The request is in accord with the essential character of the TR zoning district
100	- small residential lots which reflect that reflect a traditional New
101	England town or village
102	 A backyard pool is a quintessential part of suburban life
103	• The zoning purposes of setbacks will not be impaired, nor will there be
105	overcrowding or safety concerns and nor will there be any aesthetic
106	changes to the neighborhood with the granting of this variance
107	(3) substantial justice done
108	• Because the property is a small 0.277 acre lot size and is a cornet lot with
109	two 30' front setbacks and two 5' rear & side setbacks, there is very little
110	buildable space and the buildable space that is available is
111	topographically challenged and would require re-grading and
112	construction of a retaining wall
113	• The request to install an above-ground pool 15' into the setback is modest
114	and reasonable, especially considering if the side yard was not bordered
115	by the road it would only require a 5' setback and the proposed location
116	would be 60'-100' away from the dwellings of abutters
117	• Substantial justice would be done to the property owner
118	(4) not diminish surrounding property values
119 120	• A pool is a common feature in the neighborhood and will not negatively impact surrounding properties
120	(5) hardship
121	• The lot has an irregular shape and is a corner lot subject to 2 30' front
122	setbacks instead of 3 5' setbacks and 1 30' front setback
123	• The small amount of available land outside the setbacks is
125	topographically unsuited for a pool as the land slopes and would require
126	expensive re-grading of land and construction of a retaining wall
127	• Because of the unique positioning and dimensions of the property, the
128	pool will still be approximately 15' from the Applicant's 'side yard'
129	property line
130	• The proposed distance to the property line is 3X more than what would
131	be required if not bordered by A Street
132	
133	Mr. Lanphear asked and Mr. Reilly confirmed that there will be no deck around the
134 135	pool and that access will just be a ladder. Mr. Pacocha asked why the location could
135	not be further out of the setback and Mr. Reilly stated that the proposed location is flat, that it begins to slope down to his neighbor's lot where he has placed a fence and
130	added that the proposed location also has shrubbery along A Street to shield the pool
138	from view.
139	
140	Public testimony opened at 7:31 PM. No one addressed the Board.
141	
142	Motion made by Mr. Martin and seconded by Mr. Nicolas to grant the motion as
143	requested with no stipulations as all five (5) criteria have been satisfied. Roll call vote
144	was 5:0. Variance granted. The 30-day Appeal period was noted.
145	
146	2. <u>Case 204-003 (04-27-23)</u> : Daniel Proulx, Jr., Managing Member of Monument
147 148	Construction, LLC, 149 Lowell Rd. , Hudson, NH requests a Variance to allow a proposed gravel area for equipment storage in the rear of the existing garage (to
148	be converted to office space) and three (3) 8' x 40' storage containers on a ³ / ₄ "
149	stone pad constituting an Industrial Use as a Contractor's Yard (E-15) where it
150	stone pau constituing an industrial ose as a contractor's raid (12-10) where it

151 152 is not permitted in the Business Zone. [Map 204, Lot 003-000; Zoned Business (B); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]

153

154 Mr. Buttrick read the Case into the record, referenced his Staff Report initialed 155 4/14/2023, noted that at the 3/23/2023 meeting the ZBA upheld his Determination 156 that the Contractor's Yard did exist and required a Variance, and added that both the

157 Town Engineer and the Town Planner submitted review comments.

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159 Atty. Robert Shepard of Smith-Weiss, Shepard, Kanakis & Spony, PC in Nashua, NH 160 introduced himself and Daniel Proulx, Jr. a disabled veteran and manager and operator of Monument Construction LLC, noted that the existing building and garage 161 162 purchased in July 2020 is to be converted to office space for the contractor business, 163 that a Site Plan application was submitted to the Planning Board with a plan prepared by Meisner Prem Corporation dated 11/09/2022 that showed three (3) storage 164 165 containers at the lowest elevation level at the rear of the property and a gravel area 166 that has been determined to classify it as a Contractor's Yard. Atty. Shepard stated 167 that it would be acceptable to add conditions upon the Contractor's Yard like (1) no 168 heavy equipment to be on site, like tractor trailers or excavators; and (2) a restriction 169 that no more than 3 pieces of smaller equipment like skidders and bobcats. The three 170 (3) storage containers are considered accessory structures that are a necessary to the 171 main purpose of the property, which is the business office for Monument Construction 172 services, LLC. The storage containers would be used to store construction materials 173 and equipment and accessed by pick-up trucks. 174

- Atty. Shepard addressed the criteria for the granting of a Variance and the information 175 176 177 shared included:
 - (1) not contrary to public interest
 - Property was a non-conforming Use as a residence in the B Zone and the change to a business office is a Permitted use
 - Adding 3 storage units in the rear of the property will allow Applicant to fully use the business office for the construction company
 - The use of the 3 storage containers will not alter the essential character of the neighborhood, threaten public health, safety or welfare or otherwise injure public rights
 - The use of the property will be according to an approved Site Plan from the Planning Board
 - (2) will observe the spirit of the Ordinance
 - The primary use of the property will be as a business office
 - As an accessory use and structure, Monument Construction Services, LLC, will utilize 3 storage containers to store construction materials, supplies and equipment to better service customers
 - The storage containers will be located in the rear of the property at a lower elevation and probably with plantings to further shield them
- 195 (3) substantial justice done
 - There will be no harm to the general public or other individuals
 - The storage containers will allow the construction companyto better service its customers
 - Substantial justice would be done to the property owner
- 200 (4) not diminish surrounding property values

201	• The proposed Use will be in conformity with the Business Zone and will
202 203	enhance property values, for the Applicant and neighbors
203 204	(5) hardship
204	• Primary purpose of the property will be as a business office for the construction company
205	 It is a normal use for a construction business office to also have storage
200	available for construction materials, supplies and equipment
207	• The contractor's yard portion of the property will be accessory to the
208	• The contractor's yard portion of the property will be accessory to the business office
20)	• It is fair and reasonable to expect that a business office for a
210	• It is fail and reasonable to expect that a business once for a construction company would want to have storage capability for storage
211	for construction materials, supplies and equipment
212	• The property is located o a busy highway surrounded by other more
213	intensive commercial uses
215	• The special condition of the property is that the storage units would be
215	located in the rear of the property, out of sight of the public at large and
217	pursuant to an approved Site Plan by the Planning Board
218	• The ability to have 3 storage containers on the property is essential to
219	the operation of a construction business office
220	• The Zoning Ordinance does not define the term 'contractor's yard'
221	• The use of a contractor's yard in conjunction with the business office can
222	be controlled by conditions imposed by the Planning Board to make it a
223	compatible use in the Business District
224	
225	In response to Mr. Lanphear's question, the height of the 8' x 40' storage containers
226	would be 24'. Mr. Lanphear asked if consideration has been given to pave the gravel
227	area and whether paving would eliminate the classification of a contractor's yard. Mr.
228	Roy noted that there is no definition of a contractor's yard in the Zoning Ordinance, let
229	alone any definition pertaining to the degrees of a contractor's and added that an
230	attempt should be made to reduce the intensity of a contractor's yard in the Business
231	District. It was also confirmed that the site is serviced by Town water and sewer.
232	
233	Public testimony opened at 8:00 PM. No one addressed the Board.
234	
235	Mr. Martin asked if the Site Plan has been approved by the Planning Board. Atty.
236	Shepard responded that it has not been approved as of yet. Mr. Martin and Ms. Roy
237	inquired about the storage containers, whether they were permanent or whether they
238 239	could go onto a job site and received the response that it could be possible, although unlikely, that two (2) could be relocated to a job site but not the third larger/longer
239 240	one.
240 241	one.
242	Discussion ensued regarding potential conditions for the Variance. Mr. Buttrick
243	stated that from a Code Enforcement point of view, the GVW (Gross Vehicle Weight)
244	should also be stipulated, to which Mr. Daddario countered that the stipulation
245	should just be "no heavy equipment stored or parked overnight" regardless of the
246	GVW.
247	
248	In response to Mr. Martin's questions regarding materials, Mr. Proulx responded that
249	ninety percent (90%) of materials go direct from supplier to job sites, which could be in
250	New England, New York, and North Carolina; and any materials or equipment needed
251	from storage containers would generally be retrieved by employees in pickup trucks.

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253 Discussion also arose on the possibility of paving the gravel area. Opinions expressed 254 that pavement could prevent larger equipment to the site and other opinions that the decision should be under the Planning Board's purview as they take into consideration 255 256 other factors like a regulated amount of impervious surface.

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258 Mr. Martin made the motion to grant the Variance with three (3) stipulations:

- (1) No heavy equipment to be onsite day or night
- 259 260 261

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- (2) No more than three (3) pieces of smaller equipment be on site day or night
- (3) Proposed gravel area to be paved unless otherwise directed by the Planning Board during Site Plan Review.
- 263 Mr. Daddario seconded the motion. 264

265 Mr. Martin spoke to his motion noting that the granting of the Variance as conditioned 266 satisfies the criteria for the granting of a Variance as the Applicant will be keeping his 267 business low-key, that substantial justice would be done, that the conversion to a 268 business will enhance the surrounding properties, that enforcing the Zoning 269 Ordinance would cause hardship and that the contractor's yard is a reasonable 270 accessary use to the construction company. Mr. Daddario concurred and added that 271 the change to office space and use meets the Zoning Ordinance since it corrects a 272 prior non-conforming Use, that the contractor's vard will not have any heavy 273 equipment, that all setbacks are exceeded, that it benefits the Property Owner with no 274 harm to the general public, that the transition to office space from a residence in the 275 Business Zone will not diminish surrounding property values, that a contractor's yard 276 without heavy equipment is consistent with the Business Zone and that accessory 277 storage in conjunction with office space for a construction company is reasonable, 278 especially with the stipulations.

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280 Roll call vote was 3:2. Mr. Martin and Mr. Daddario opposed. Variance granted with three (3) stipulations. The 30-day Appeal period was noted. 281 282

283 Board took a break at 8:33 PM. Meeting resumed at 8:42 PM.

- 284 285 3. Case 110-011 (04-27-23): Donald Lamothe, 19 Putnam Rd., Hudson, NH 286 requests an Equitable Waiver of Dimensional Requirement to allow a shed to 287 remain approx. eight (8) feet in the rear yard setback where 15 feet is required. [Map 110, Lot 011-000; Zoned General-One (G-1); HZO Article VII: Dimensional 288 Requirements; §334-27, Table of Minimum Dimensional Requirements.]
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291 Mr. Buttrick read the Case into the record, referenced his Staff Report initialed 292 4/14/2023 noting that it is an existing non-conforming corner lot due to reduced size, 293 and his Zoning Administrator Comment that confirmed that the Applicant/Property 294 Owner secured a Building Permit with the setback indicated, had the inspection and 295 approval by the Town and that there has been no notice of violation nor deficiency 296 noted and concluded that the principal of estopple applies.

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298 Donald Lamothe introduced himself as the Property Owner and stated that the shed in 299 question was built in 2010, over two (2) decades ago, and at that time he believed that 300 the shed was located twenty five feet (25') from his property line. That information was based from the developer that built the house behind him back in 1985. Clearly there 301 302 was a mistake and the shed now appears eight feet (8') from the property line, not the

303 required fifteen feet (15). Mr. Buttrick confirmed that the Building Permit for the shed 304 identified the location to be fifteen feet (15) from the property line. 305 306 Mr. Lamothe stated that there has been no enforcement ever taken because the 307 discrepancy was just noticed on 3/27/2023 by the Zoning and Code Enforcement 308 Administrative Aide Tracy Goodwyn when he applied for a Building Permit for a second 309 shed. Mr. Lamothe stated that no persons have been affected by the shed's current 310 location as the shed is completely on his property and the area of land abutting his 311 property is a wooden section of land that is not being used by the current property

- 312 owners. The shed does not create any public or private nuisance, nor does it obstruct 313 or prevent anyone from using their property. The house in the lot abutting the shed is 314 over one hundred feet away.
- 314 315

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316 Mr. Lamothe stated that he does not believe that any public or private benefit would 317 be gained by moving the shed as it is not interfering with or impeding any use or 318 access of any public or private land use. Mr. Lamothe stated that if the shed needs to 319 be moved, the cost would be high and would include at a minimum: (1) surveying his 320 property to identy the exact location of the property line in question; (2) modifying the 321 irrigation system to move/remove some sprinkler heads; (3) preparing the new location 322 for the shed; and (4) the expense of physically moving the shed and the rough 323 estimates he has received for this work could easily exceed \$3,000. 324

325 Public testimony opened at 8:56 PM. No one addressed the Board.

Mr. Martin made the motion to grant the Equitable Waiver of Dimensional Requirement. Mr. Nicolas seconded the motion. Mr. Martin spoke to his motion noting that the requirements have been met, that the error occurred more than ten (10) years ago with a Building Permit and Inspection, that the location poses no nuisance and that there has never been a complaint registered with the Town and that there is a high correction cost. Mr. Nicolas concurred for the same reasons. Roll call vote was 5:0. Equitable Waiver granted. The 30-day Appeal period was noted.

- 4. <u>Case 136-001 (04-27-23):</u> Joseph A Miara, Jr., Trustee, Granite Realty Trust, 12 Bockes Road, Hudson, NH requests a Variance to build a proposed 80 ft. x 120 ft. garage and attached 80 ft. x 45 ft. covered awning. This is an expansion of an existing, non-conforming use, not permitted in the R-2 district.[Map 136, Lot 001-000, Zoned Residential-Two (R-2); HZO Article VIII, Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses.]
- 341

Mr. Buttrick read the Case into the record, referenced his Staff Report initialed 4/17/2023 noting the previous activity with both the Planning Board (PB) and Zoning Board of Adjustment (ZBA) and that the non-conforming Use status of the lot came into being in 1985 when the area was rezoned to the R-2 District. Mr. Buttrick stated that In-House Review Comments have been received from the Town Engineer regarding intent of providing water and sewer to the proposed structure and the Town Planner noting that Site Plan Review with PB is required.

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350 Mr. Daddario stated that he was formerly engaged in the practice of law with Atty.

351 Westgate but is lo longer and that their practice together had nothing to do with this

- Case, that he does not feel prejudiced in voting on the Case and asked whether he
- 353 should recuse himself. No Board Member asked for his recusal.
- 354

Atty. J. Bradford Westgate of Winer and Bennett, LLP, in Nashua, NH introduced
himself as representing the Applicant, stated that he has no opposition with Mr.
Daddario sitting on the Case, and introduced Allison Lewis from Keach-Nordstrom
Associates, Inc., and Chris Grioux and Chris Cleaver from Miara Transportation.

360 Atty. Westgate stated that in 2022 the Board approved an 80 ft. x ~79 ft. 'hoop' 361 structure attached by 4 (four) 40 ft. ocean containers used as a base with a proposed 362 location in the westerly side at the rear of the property; however, as his client pursued 363 the 'hoop' structure further, it was determined that the 'hoop' structure was not to be 364 a cost-effective solution for his client to store vehicles and equipment out of the elements and allow personnel to clear snow and ice in readiness for travel and 365 366 transport on public roads and comply with Jessica's Law. Atty. Westgate stated that 367 the Variance request now before the Board is for a permanent metal structure for the 368 garage building of approximately 80' x 120' and approximately 25' in height with a 369 proposed covered area of 45' x 80' adjacent to and immediately east of the proposed 370 garage as well as parking spaces, additional paved surfaces for vehicle 371 maneuverability and stormwater management.

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Atty. Westgate stated that Miaria Transportation operates a specialty moving and storage business and deals primarily with storage and shipping of machinery for manufacturing, fabricating and other commercial or industrial facilities that requires a number of specialty and often different and unique flatbeds trailers and flatbed trailers whose oversized loads require special permitting.

- Atty. Westgate addressed the variance criteria necessary to satisfy and the information
 included:
 - (1) not contrary to public interest
 - Not contrary to allow installation and use of a building and overhang to improve operations and aid in compliance to Jessica's Law
 - Site developed when lot was in commercial/industrial zone
 - Proposed location in western section of lot abuts open space parcel for a residential development and has a 150' wide power line easement through it
 - It is in the public interest to permit reasonable, natural expansion of a long standing business property
- 390 (2) will observe the spirit of the Ordinance
 - Observes the spirit of the Ordinance
 - Will permit a reasonable improvement to better facilitate operations in that portion of the property
 - (3) substantial justice done
 - Granting the variance would allow an upgrade to the facility and compliance to Jessica's Law
 - If variance denied, the general public would realize no appreciable gain
 - Is a modest expansion of the non-conforming use and does not increase the land area currently being used to operate the business
 - Substantial justice is done by granting the Variance since it permits the possibility that the project can move forward with Site Plan Review with the Planning Board
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 The general public would realize no appreciable gain from denying the Variance but denial would cause significant adverse impact to the Applicant and deny them reasonable expansion

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406	(4) not diminish surrounding property values
407	• The proposed building/new construction with overhang, parking spaces,
408	additional paved areas, stormwater management facilities on the westerly
409	portion of the property will not diminish property values
410	• The proposed location is many hundreds of feet from the duplex at 16
411	Bockes Road and the residential properties along the southern property
412	line
413	• See supporting letter dated 4/27/2023 from Randy Turmel of Keller
414	Williams Gateway Realty
415	(5) hardship
416	The property is relatively large
417	• When property developed it was a permitted use but in 1984 the Zone
418	changed to residential and the site then became a Non-conforming Use and
419	now requires a variance to expand/grow
420	• Site has existed for over 30 years as a developed moving and storage facility
421	• If site was located across Bockes Road it would be in the G-1 Zone where its
422	use would be permitted and a variance would not be needed
423	• Lot has good onsite buffering in its southerly half and buffering to the west
424	• The building will be integral to Miara Transportation's operation and aid in
425	compliance with Jessica's Law and will be located at the rear of the site
426	where tractor trailers and box trailers and other equipment and vehicles
427	currently reside, but not under cover
428	
429	Mr. Thompson asked Atty. Miner to address the comment from the Town Engineer.
430	Atty. Westgate stated that there is no intent to have the garage water and sewer in the
431	new building. in response to Mr. Sakati's question, Atty. Westgate responded that
432	there are approximately 250' of wooded area between the proposed garage and the
433	houses.
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435	Public testimony opened at 9:26 PM. No one addressed the Board.
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437	Motion made by Mr. Nicolas to grant the Variance as requested. Mr. Pacocha
438	seconded the motion. Mr. Nicolas spoke to his motion stating that the granting of the
439	Variance would not alter the character of the neighborhood, nor would there be any
440	threat to public health or welfare, that it encourages good use of the land and property
441 442	values would not be diminished, that justice would be done to the owner and the
442 443	benefit to the owner would not outweigh benefit to the public, that the proposed
443 444	building is shorter than the hoop structure previously approved in 2022, that the hardship was caused by the Zone change and that the proposed use is reasonable.
444 445	Mr. Pacocha stated that all five (5) criteria have been satisfied and concurred with Mr.
446	Nicolas. Roll call vote was 5:0. Variance granted. The 30day Appeal period was noted
447	Micolas. Roll call vote was 5.0. Variance granicu. The Socialy Appeal period was noted
448	5. Case 165-139 (04-27-23): Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson,
449	NH requests a Variance to allow a proposed 805 sq. ft. deck expansion on an
450	existing non-conforming structure. The deck expansion encroaches 12.7 feet into
451	the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into
452	the front yard setback leaving 19.2 feet where 50 feet is required. [Map 165, Lot
453	139-000, Zoned Business (B); HZO Article VII: Dimensional Requirements; §334-
454	27, Table of Minimum Dimensional Requirements.]
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456 Mr. Buttrick read the Case into the record, noted that request also requires a Use 457 Variance which was not posted/advertised and suggested that the Case should be 458 deferred to the 5/11/2023 meeting. At 7:12 PM Mr. Daddario asked if anyone was present for this Case. No one addressed the Board. Motion made by Mr. Martin and 459 460 seconded by Mr. Nicolas to defer the hearing to the 5/11/2023 meeting. Vote was 5:0. 461 462 Board next addressed the first Case under New Hearings. 463 464 V. **REQUEST FOR REHEARING:** 465 No requests were presented for Board consideration. 466 467 468 VI. **REVIEW OF MINUTES:** 469 470 03/09/23 edited Draft Minutes; Motion made by Mr. Martin, seconded by Mr. 471 Sakati and unanimously voted to approve the 3/9/2023 Minutes as edited and 472 presented. 03/23/23 edited Draft Minutes: Mr. Thompson offered a correction to the name 473 of an abutter. Motion made by Mr. Martin, seconded by Mr. Nicolas and unanimously 474 voted to approve the 3/23/2023 Minutes as edited and amended. 475 476 477 VII. **OTHER:** 478 1) Reminder: Planning & Zoning Spring 2023 Conference- Saturday, April 29, 2023 479 8:45 AM-3:30 PM 480 Mr. Buttrick read the item into the record and encouraged everyone to sign up and attend. 481 482 2) Reminder: May 11. 2023 carry-over ZBA meeting Mr. Buttrick noted that there are two (2) Cases, both Variances, one for 99 Webster Street and 483 484 another for 100 Lowell Road and asked each Member to bring the information for each to that 485 meeting. 486 487 3) ZORC – Zoning Ordinance Review Committee Mr. Buttrick reported that the Planning Board has decided to resume ZORC and seeks two 488 489 (2) volunteers from the Zoning Board. Both Mr. Martin and Mr. Lanphear volunteered. 490 491 492 Motion made by Mr. Martin, seconded by Mr. Nicholas and unanimously voted to adjourn 493 the meeting. The 4/27/2023 ZBA meeting adjourned at 9:37 PM. 494 495 Respectfully submitted, 496 Louise Knee, Recorder