

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

MEETING AGENDA – June 22, 2023


The Hudson Zoning Board of Adjustment will hold a meeting on Thursday, **June 22, 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 HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:**

DEFERRED HEARING:

1. **Case 151-009 (06-22-23)(deferred from 05-25-23):** 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.]

- V. **REQUEST FOR REHEARING:** None
- VI. **REVIEW OF MINUTES:**
05/11/23 edited Draft Minutes
05/25/23 edited Draft Minutes
- VII. **OTHER:**



Chris Sullivan, Zoning Administrator



TOWN OF HUDSON

Land Use Division



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

Zoning Administrator Staff Report

Meeting Date: June 22, 2023

cg 6/19/23

Case 151-009 (05-25-23) Deferred to 6/22/2023: 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.]

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 it as a residential single family.

This application was deferred from the May 25, 2023 meeting. The board requested the applicant supply elevation to show the distances of the porch to the property line. See attached plans and elevations.

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: Proposed plot plan dated: May 4, 2023

C: 2022 Aerials

D: Property Card

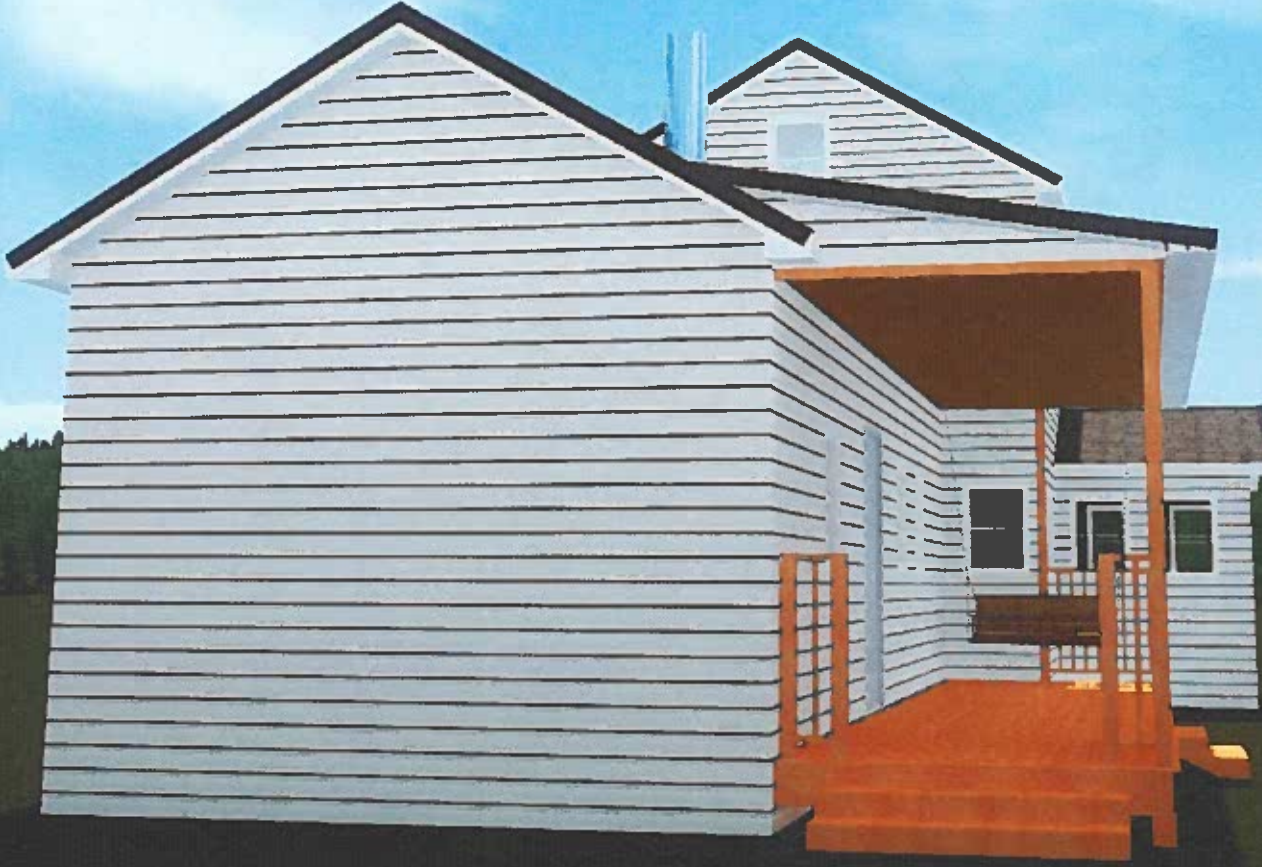
New:

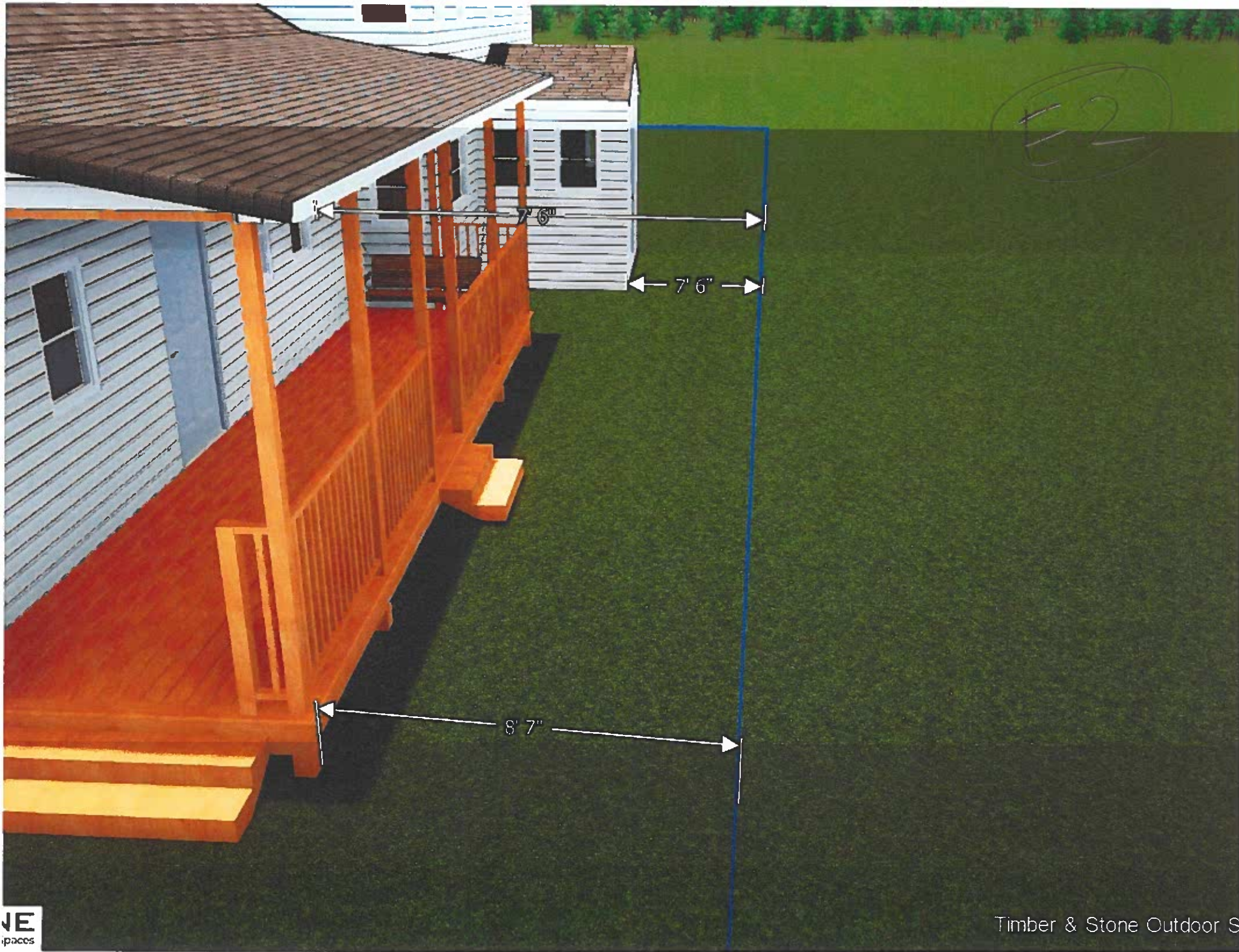
E: Additional requested dwgs/info for the ZBA

③

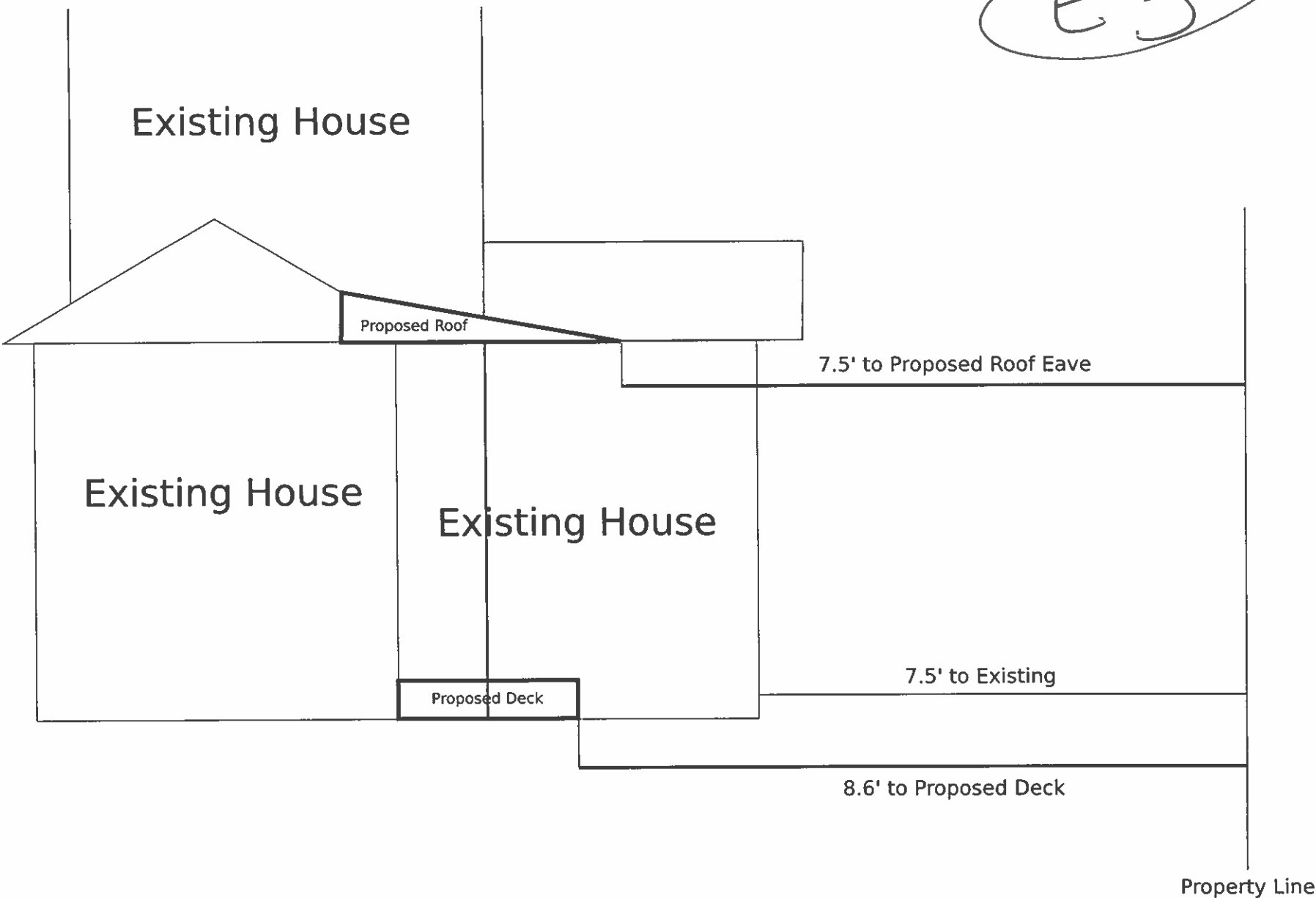


E1



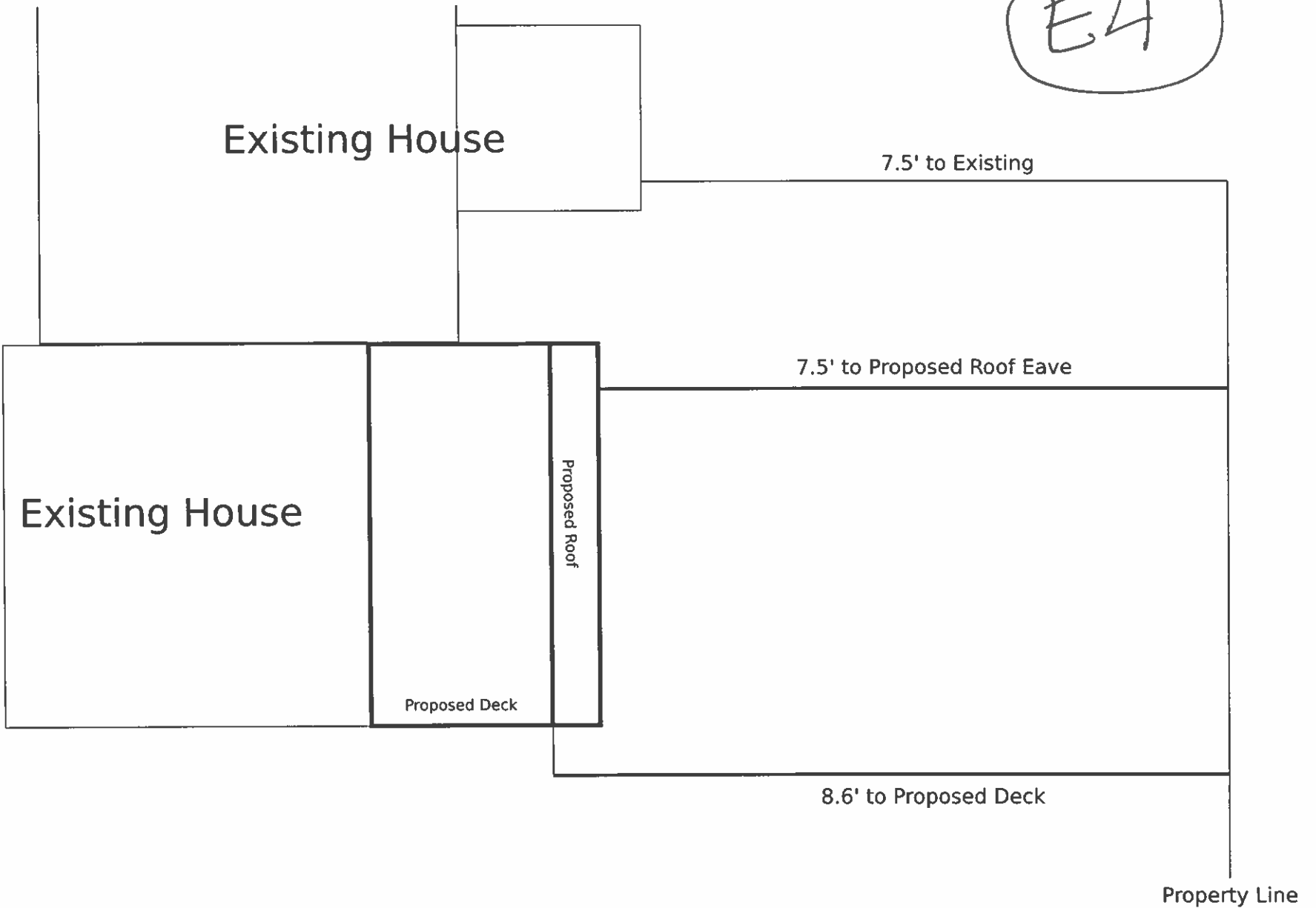


E3



30 Barretts Hill - Elevation View

E21



30 Barretts Hill - Plan View

REMINDER:

Please bring the following case application previously mailed in your 05/25/2023 ZBA Meeting Packet:

Case 151-009: 30 Barretts Hill Rd

Variance Application

(Deferred to 06-22-2023)

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

On **06/22/2023**, the Zoning Board of Adjustment heard **Case 151-009 (deferred from 05/25/2023)**, being a case brought by **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.]

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:

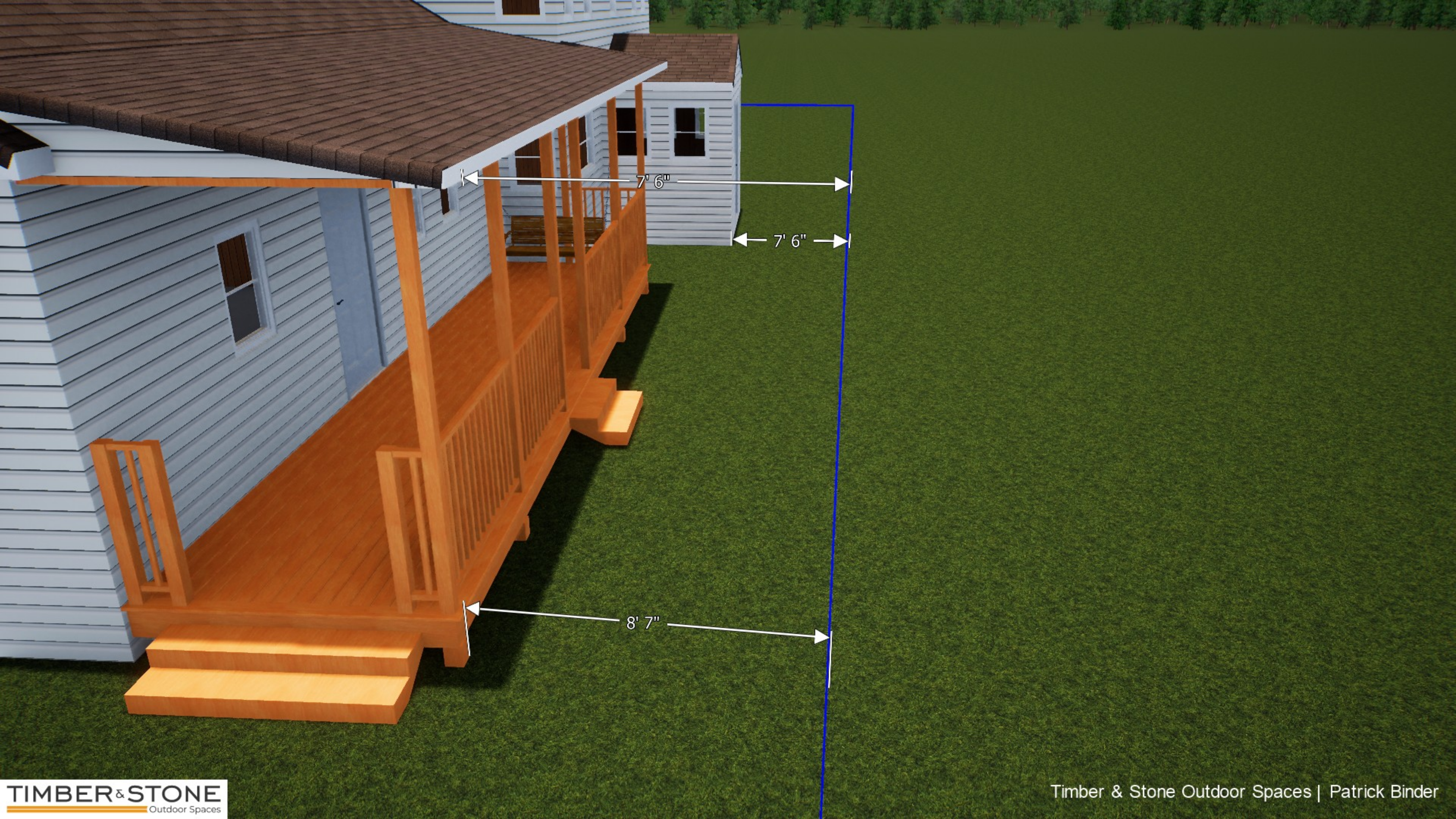
Y **N** **1.** Granting of the requested variance will not be contrary to the public interest, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”

Y **N** **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 **N** **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 **N** **4.** The proposed use will not diminish the values of surrounding properties.

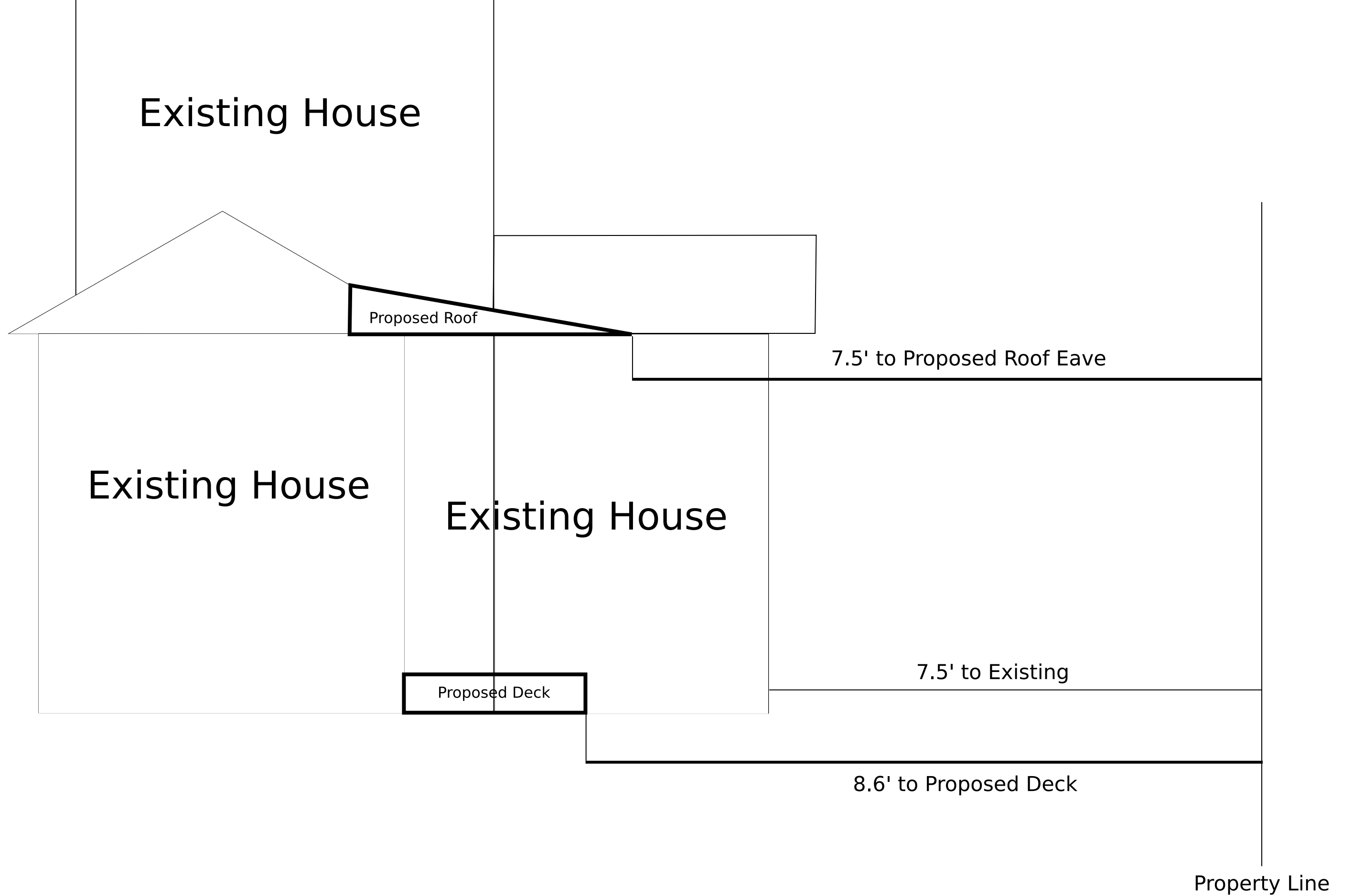
(Continue-next page-Hardship Criteria)



7' 6"

7' 6"

8' 7"



Existing House

Existing House

Existing House

Proposed Roof

Proposed Deck

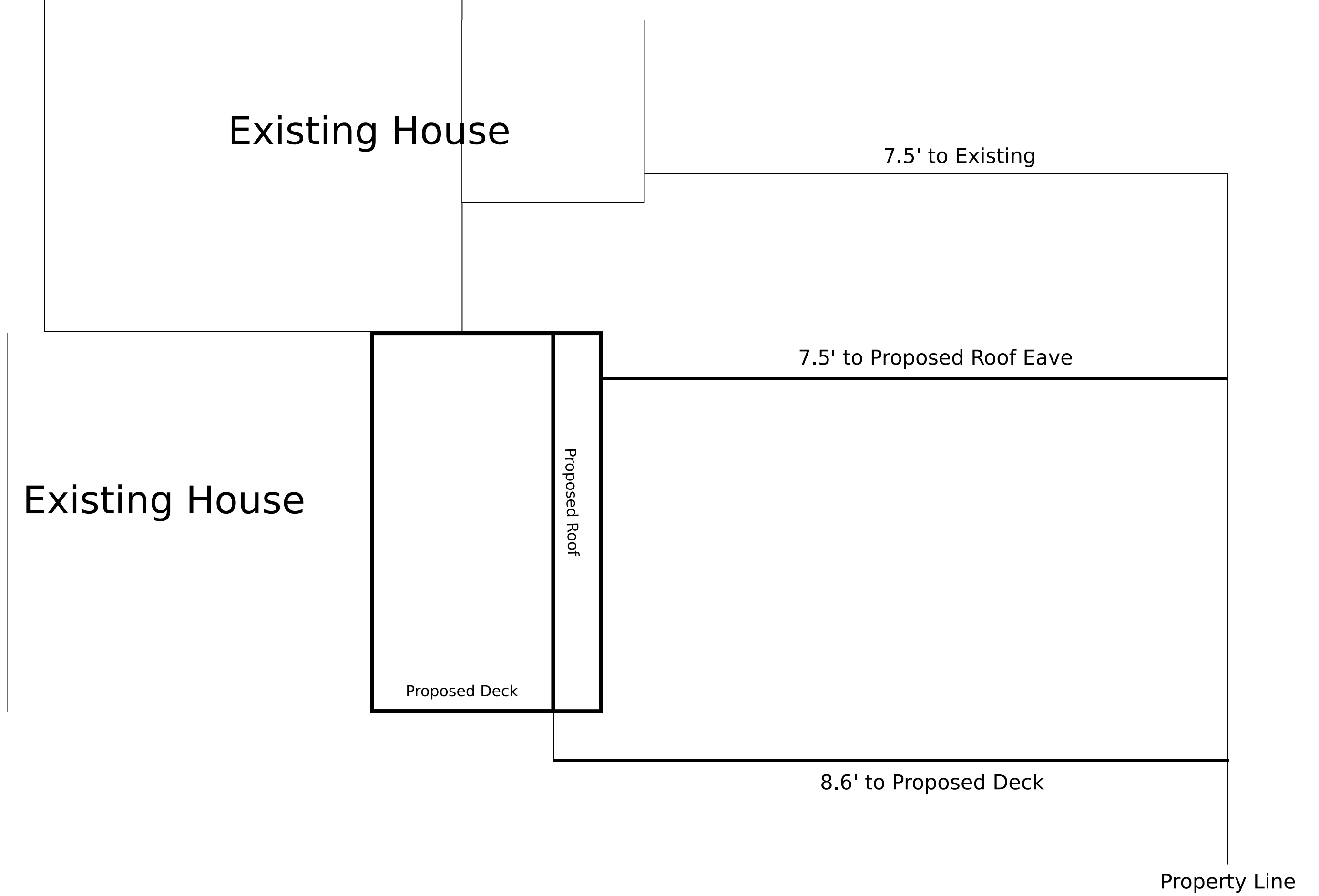
7.5' to Proposed Roof Eave

7.5' to Existing

8.6' to Proposed Deck

Property Line

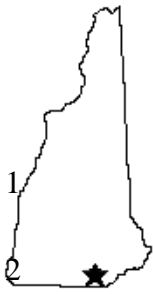
30 Barretts Hill - Elevation View



30 Barretts Hill - Plan View







TOWN OF HUDSON

Zoning Board of Adjustment

Gary M. Daddario, Chairman Kara Roy, Selectmen Liaison

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

MEETING MINUTES – May 11, 2023 - edited

The Hudson Zoning Board of Adjustment met on Thursday, **May 11, 2023** at **7:00 PM** in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ATTENDANCE**

Acting Chairman Norman Martin called the meeting to order at 7:00 PM, invited everyone to stand for the Pledge of Allegiance and read the Preamble (Exhibit A in the Board’s Bylaws) regarding the procedure and process of the meeting.

Members present were Tristan Dion (Alternate), Tim Lanphear (Alternate), Normand Martin (Regular/Vice Chair), Marcus Nicolas (Regular), Jim Pacocha (Regular), Dean Sakati (Regular) and Edward Thompson (Alternate/Clerk). Also present were Bruce Buttrick, Zoning Administrator, Louise Knee, Recorder (remote) and Dillon Dumont, Selectman Liaison. Excused was Gary Daddario (Regular/Chair). Alternate Dion was appointed to vote.

Mr. Martin directed the Board’s attention to the New Hearing Case first as notice of withdrawal was received.

IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

NEW HEARING:

1. **Case 198-147 (05-11-23):** Roderick LeFort, Manager, DBA Proscapes, LLC, 126 Talent Rd., Litchfield, NH requests a Variance **for 100 Lowell Rd., Hudson, NH** to allow the operation of a landscaping business on the lot with a proposed development as shown on ZBA Exhibit Plan dated 3/16/2023. The proposed use: Contractor’s yard, landscaping business (E-15) is not permitted in the Business Zone. [Map 198, Lot 147-000, Zoned Business (B); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]

Mr. Martin read the Case into the record and stated that an email dated 5/9/2023 was received from Atty. Carroll to withdraw the application without prejudice. Motion made by Mr. Pacocha and seconded by Mr. Dion to accept requested withdrawal without prejudice. Roll call vote was 5:0. Case withdrawn without prejudice.

NEW & DEFERRED HEARING:

Not Official until reviewed, approved and signed.

DRAFT As Edited [BB,]

- 48 2. **Case 165-139 (05-11-23):** Kevin A. & Lucie Y. Jeffery, **99 Webster St.,**
 49 **Hudson, NH [Map 165, Lot 139-000, Zoned Business (B)]** requests two
 50 (2) Variances as follows:
 51

52 Mr. Buttrick read both Cases into the record noting that this Case has two
 53 variance requests – one (dimensional relief) haven been previously noticed, and a
 54 new one (Zone/Use relief), referenced his Staff Report initialed 4/28/23, noted
 55 that the site has been surveyed by Gregg R. Jeffrey, LLS, depicting nearly half of
 56 the existing dwelling to be in the front setback and the plan prepared identifying
 57 the proposed expansion of the existing deck further into both the front and side
 58 setback and a proposed new 14' x 32' structure within the building envelope.
 59 Mr. Buttrick also noted that In-House comments have been received from the
 60 Fire Department, the Town Engineer and the Town Planner. The Fire Marshall
 61 noted that Building Permits will be required prior to construction. The Town
 62 Engineer made three (3) comments: (1) proposed work related to the deck is
 63 within the 50' wetland buffer; (2) the proposed plan does not show access from
 64 the road to the proposed new structure/garage; and (3) based on the 2022
 65 flyover it appears that the Applicant is trespassing on private property and on
 66 Town easement. The Town Planner's comment noted that if the Variance is
 67 granted, the proposal will also require a Wetland Conservation District
 68 Conditional Use Permit from the Planning Board.
 69

- 70 a. **(New):** To allow a proposed 805 sq. ft. deck on an existing non-
 71 conforming use (residential) within the Business District. [HZO
 72 Article VIII: Nonconforming Uses, Structures and Lots; §334-29,
 73 Extension or enlargement of nonconforming uses and HZO Article V:
 74 Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 75

76 Lucie Jeffery of 99 Webster Street introduced herself and addressed the criteria
 77 necessary for the granting of a Variance. The information shared included:
 78

- 79 (1) *not contrary to public interest*
 80 • the neighborhood is currently used as Residential
 81 • the proposed deck expansion is with the same use, just a larger footprint
 82 (2) *will observe the spirit of the Ordinance*
 83 • the deck expansion is still keeping the residential use which is an existing non-
 84 conforming use
 85 • the neighborhood is residential
 86 (3) *substantial justice done*
 87 • the current use has always been residential and the deck expansion is allowing
 88 us and others the ability to use/enjoy our property as we intended when we
 89 purchased, for residential use
 90 (4) *not diminish surrounding property values*
 91 • the deck expansion is an improvement with new construction and more safety,
 92 which adds value to all properties in the neighborhood
 93 (5) *hardship*
 94 • the Town created this hardship on this existing property that has been
 95 used as a residential to a Business District, hence making any
 96 continued residential use of this property “non-conforming”
 97 • this property has been a residential use since 1931, before Zoning
 98 • this is a correct and reasonable request for a residential use
 99

100 Public testimony opened at 7:20 PM. No one addressed the Board.
101

102 Mr. Nicolas asked and received confirmation that this is the Applicant's primary
103 residence. Mr. Sakati asked about the detached building on the plan and Ms.
104 Jeffrey responded that it would be a sunroom, perhaps a music room, and in her
105 mind that is Phase II as the deck expansion is Phase I.
106

107 Mr. Sakati noted that the deck appears to be quite large. Ms. Jeffrey stated that
108 it is not that large and distributed several pictures taken from the deck in every
109 direction to show how remote it is and added that the deck today is
110 approximately 760 SF and the plan is to add 3' to the width and 7' to the back.
111

112 Mr. Pacocha questioned the picture with the pavers and whether the wall at the
113 end of the driveway was part of a foundation or just a retaining wall and to
114 address the car that appears on Town property in the aerial picture. Ms. Jeffrey
115 stated that the picture with the pavers is approximately seven, that the wall at
116 the end of the driveway is just a retaining wall and that they do not access the
117 abutting Town property or have an illegal driveway onto it, that the car in the
118 picture actually died there and was there for about seven months.
119

120 Mr. Thompson questioned the expansion of the deck and stairs into the front
121 setback and wetland buffer. Ms. Jeffrey stated that approximately 48% of her
122 home is in the front setback, that the expansion of the stairs and deck was a
123 safety and beautification consideration and that they have learned will need to
124 pursue a Conditional Use Permit (CUP) with the Planning Board. Kevin Jeffrey,
125 99 Webster Street, asked and received confirmation that they can replace
126 existing non-conformities but cannot expand without first obtaining a Variance
127 or a CUP. Ms. Jeffrey stated that they are willing to give up the idea of
128 expanding in the front. Mr. Buttrick noted that a revised plan will need to be
129 submitted.
130

131 Mr. Dion expressed concern with the slope in the front of the house and only
132 twenty eight inches (28") available to the side property line when the deck is
133 expanded to get construction materials and work trucks to construct the
134 detached structure and noted that there is to be no trespassing onto the
135 drainage easement as that is on private property. Mr. Buttrick suggested
136 allowing at least four feet (4') from the edge of the expanded deck to the property
137 line. Ms. Jeffrey stated that she understood but foresees no difficulty with
138 bringing materials and tools over the retaining wall.
139

140 Mr. Dion made the motion to grant the Use Variance with the stipulation that
141 the plan be revised so that there is no additional encroachment into the front
142 setback and wetland buffer than what currently exists. Mr. Pacocha seconded
143 the motion.
144

145 Mr. Dion spoke to his motion noting that it has been a residence since
146 construction in 1931, that it was once in the residential zone but Zoning
147 changed and is now in the Business Zone and construction of a deck will not
148 impede public rights and does not alter a mostly residential neighborhood and
149 will not diminish property values and would normally be allowed if Zoned
150 Residential as a deck is a reasonable Use. Mr. Pacocha spoke to his second
151 noting that the proposal does not conflict with the purpose of the Ordinance

152 because it is a residence that was once in a Residential Zone and later changed
 153 to Business Zone, that the proposed Use is a residential use causing no harm to
 154 the general public or diminish any property values.

155

156 Roll call vote was 5:0. Variance granted with one (1) stipulation. The 30-day
 157 Appeal period was noted along with the need for a revised plan.

158

159 b. **(Deferred from 04-27-23):** To allow the proposed deck expansion to
 160 encroach 12.7 feet into the side yard setback leaving 2.3 feet where
 161 15 feet is required and 30.8 feet into the front yard setback leaving
 162 19.2 feet where 50 feet is required. [HZO Article VII: Dimensional
 163 Requirements; §334-27, Table of Minimum Dimensional
 164 Requirements.]
 165

166 Both Lucie Jeffrey and Kevin Jeffrey sat at the Applicant's table. Lucie Jeffrey addressed the
 167 criteria for the granting of a Variance. The information shared included:
 168

169

(1) *not contrary to public interest*

170

- granting the request will not be contrary to public interest because it will become more beautiful, safer and ensure that no injuries comes or threatens public health

171

- the deck cannot be seen by passers by, overlooks a wooded lot and will better suit the home

172

- the public, such as delivery people and emergency people will benefit more

173

(2) *will observe the spirit of the Ordinance*

174

- the request does not conflict with the "spirit of the ordinance"

175

- it will add character and beauty to the home and therefore the public and neighborhood

176

- it will be safer to all that may use it or approach it

177

(3) *substantial justice done*

178

- substantial justice would be done to the homeowners who would be so grateful

179

- the property value would increase and bring great joy

180

- the public will not, however, lose any benefits already in existence or have any harm in any way come to them if granted

181

(4) *not diminish surrounding property values*

182

- there will not be a diminish of value to any surrounding property if granted

183

- it will add curb appeal and value to the home and neighborhood

184

(5) *hardship*

185

- if the ordinance is enforced and enlarging the deck is not permitted, it would not serve the purpose of the restriction fairly and reasonably

186

- we will cause no harm to any neighbor, public passerby or alter the character of the neighborhood

187

- we will not inflict any injury to public rights not threaten the health, safety or welfare of public rights

188

- we, as homeowners who are faithful tax payers and want the best for ourselves and the community would be safer and happier

189

- we have elderly family and sickness that include wheelchairs and walkers and it is a hardship to accommodate these health mechanisms of the existing deck

190

- the special conditions of the property would "allow" the use to be reasonable by giving by having ourselves and many of our family the use of wheelchairs and walkers and safer accommodations

191

192

193

194

195

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197

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199

200

201

202

- 203 • what makes this property characteristically different from others is that it is
- 204 adjacent to a vacant and unbuildable piece of property with a thirty foot drop
- 205 • the lot is secluded on almost three sides. Except the back abutters, Kelly and
- 206 Norm Nantel, 16 Summer Ave.
- 207 • the home was built in 1931 and on a hill that is private
- 208 • Zoning was nonexistent back then as were setbacks
- 209 • House is actually sitting on a strange property zoned as business, not residential
- 210

211 Both Mr. and Ms. Jeffrey stated that they could consider increasing the distance
212 from 2.3' to 4' from the property line.

213
214 Public testimony opened at 8:04 PM. No one addressed the Board.

215
216 Mr. Nicolas expressed concern for emergency access and asked if increasing the
217 distance to five feet (5') should be considered. Mr. Martin stated that with the
218 slope, foot access only is possible. Mr. Dumont stated that it is a preexisting
219 house and a deck is not asking for much and stated that he does not see the
220 benefit to increasing the distance to four feet (4') from the property line. Mr.
221 Buttrick stated that with the conditional granting of the previous Use Variance,
222 the Applicant can now rebuild and expand the current deck if the Dimensional
223 Variance is granted, whether it is to be 2.3' as per the Plan prepared or to
224 another number of feet per condition of this approval. Mr. Lanphear asked and
225 received confirmation that the setback in a residential zone, per the Ordinance,
226 is fifteen feet (15'). Mr. Dion expressed concern that if a fence is ever installed at
227 the property line, that 2.3' would be quite tight to grant access to the backyard.
228 Mr. Lanphear asked if electricity was planned for the new structure and Mrs.
229 Jeffrey responded that she was hopeful that it would be provided.

230
231 Mr. Nicolas made the motion to grant the Variance with the stipulation that the
232 deck be placed a minimum of four feet (4') from the property line as indicated on
233 Exhibit A (created tonight) ~~on~~, the modified plan stamped by Gregg R. Jeffrey,
234 LLS of Jeffrey Land Survey, LLC changing the distance of 2.3' to 4' from the deck
235 to the property line and eliminating the expansion of the deck and staircase into
236 the front yard setback / wetland buffer. Mr. Sakati seconded the motion.

237
238 Mr. Nicolas spoke to his motion noting that the granting will not be contrary to
239 public interest, that the proposed use will not alter the character of the
240 neighborhood or diminish property values, that there is no threat to public
241 health, safety or welfare, that the benefit to the property owner does not
242 outweigh any harm to the general public, that the hardship is caused by the
243 layout of the land and the Zone change to the Business District and that the
244 proposed use is reasonable. Mr. Sakati spoke to his second noting that a
245 residential deck is keeping with the character of the neighborhood, that it is
246 consistent with the spirit of a residential property and allows for outdoor
247 recreation, that justice is done by approving with no harm to the neighborhood,
248 that the new deck will enhance surrounding property values in the
249 neighborhood, that there was no public opposition presented and that hardship
250 is present because the property was rezoned to Business and the layout of the
251 land and lastly, a deck is reasonable and consistent with residential properties.

252
253 Roll call vote was 5:0. Variance granted with one (1) stipulation.

254

255 The 30-day Appeal period was noted. Ms. Jeffrey inquired when Permits could be obtained
256 and Mr. Buttrick responded that it could be conditionally granted at any point, however, if
257 pulled before the Appeal period has expires, there is a risk of an appeal even though no one
258 spoke at the meeting.

259
260 **V. REQUEST FOR REHEARING:**

261
262 There were no requests presented for Board consideration.

263
264 **VI. OTHER:**

265
266 No other business was presented for Board consideration.

267
268
269 Motion made by Mr. Nicolas, seconded by Mr. Sakati and unanimously voted to adjourn the
270 meeting. The 5/11/2023 ZBA meeting adjourned at 8:19 PM.

271
272
273 Respectfully submitted,
274 Louise Knee, Recorder

AS Edited



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

MEETING MINUTES – May 25, 2023 – as edited

The Hudson Zoning Board of Adjustment met on Thursday, May 25, 2023 at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level Hudson Town Hall, 12 School St., Hudson, NH,

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ATTENDANCE**

Chairman Gary Daddario called the meeting to order at 7:05 PM, apologized ~~the~~ for the late start, invited everyone to stand for the Pledge of Allegiance and read the Preamble (Exhibit A in the Board’s Bylaws) regarding the procedure and process of the meeting.

Members present were Gary Daddario (Regular/Chair), Tristan Dion (Alternate), Tim Lanphear (Alternate), Normand Martin (Regular/Vice Chair), Jim Pacocha (Regular), Dean Sakati (Regular) and Edward Thompson (Alternate/Clerk). Also present were Bruce Buttrick, Zoning Administrator, Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote), and Chris Sullivan, New Zoning Administrator. Excused was Marcus Nicolas (Regular). Alternate Lanphear was appointed to vote.

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

1. **Case 151-009 (05-25-23):** 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.]

Mr. Buttrick read the case into the record, referenced the Staff Report initialed by Mr. Sullivan and dated 5/17/2023, noted that it is an existing non-conforming lot of record and that no comments have been received from Town Officials.

Mari Fontaine introduced herself as representing the Property Owner and stated that a Variance is being sought to construct a covered 8’W x 35’L farmer’s porch along the

43 easterly front of the structure that will encroach into the front setback leaving 8.6'
44 where 50' is required.

45

46 Ms. Fontaine addressed the criteria necessary for the granting of a Variance.
47 The information shared included:

48

49 (1) *not contrary to public interest*

- 50 • the porch does not pose a public hazard and is not contrary to public interest
- 51 • the porch would not alter the essential character of the neighborhood
- 52 • the porch would enhance the neighborhood by improving the home's features
53 and attractiveness of the front yard space

54 (2) *will observe the spirit of the Ordinance*

- 55 • Zoning Ordinances are designed to protect public safety, ensure appropriate
56 land use, prevent pollution, limit overcrowding, facilitate public utilities
57 and conserve property values
- 58 • The proposed porch is consistent with the Spirit of the Ordinance
- 59 • The proposed porch would not pose a hazard to public safety, would not
60 interfere with public utilities or transportation, would not cause over
61 crowding and would not create pollution
- 62 • the proposed porch would improve the front yard space of a single family
63 home, conforming with current land use, which is residential
- 64 • the proposed porch is not an inappropriate use of land
- 65 • the project would be an enhancement to the esthetic of the home and
66 subsequently the neighborhood

67 (3) *substantial justice done*

- 68 • the proposed porch would not cause suffering to the general public but it
69 would enhance the community
- 70 • the Variance would allow the owner to invest money and time into improving
71 their home
- 72 • homeowners who aim to maintain and improve their homes contribute to a
73 greater spirit of care and maintenance in the neighborhood and this
74 project would contribute to an overall attitude towards home
75 maintenance and upkeep in the community

76 (4) *not diminish surrounding property values*

- 77 • the farmer's porch would not hinder the view of neighbors, would not
78 decrease the aesthetic of the neighborhood, would not affect either traffic
79 or parking in the neighborhood and would not pose dangers to the public
- 80 • the addition of the porch would add an attractive element to the home and
81 contribute to greater home values in the area
- 82 • property values tend to increase when homes in the neighborhood are well
83 maintained

84 (5) *hardship*

- 85 • the house was built in 1800, well before the Town adopted a Zoning
86 Ordinance

- 87 • the classification of the house as being non-conforming was imposed by the
- 88 Town when it adopted a Zoning Ordinance with front setback
- 89 requirements
- 90 • this hardship is not self-imposed by the owner and is a result of the peculiar
- 91 situation that the home predates the Ordinance
- 92 • it would be fair and reasonable to grant the variance that allows the
- 93 homeowners to improve their living conditions
- 94 • a farmer's porch at the front of the home would provide a sturdy entryway
- 95 with code compliant railings and steps for the homeowners to use as they
- 96 age
- 97 • an Ordinance that prevents optimal access to the home would be a hardship
- 98 for the homeowners
- 99 • the age of the home is a special condition
- 100 • a farmer's porch is a reasonable and common attachment to a home
- 101 • the impact of the proposed farmer's porch would be minimal on the
- 102 neighborhood since the open green space across the street from the
- 103 home is also owned by the owners
- 104 • there are no affected homeowners across the street
- 105 • the speed limit on Barretts Hill Road is 30 mph
- 106 • the porch will not encroach the front setback as much as the front entryway
- 107 on the easterly side of the home
- 108 • to deny the variance would result in unnecessary hardship to the
- 109 homeowners because it would prevent them from improving their living
- 110 space in a way that has no negative impact on the neighborhood
- 111

112 Public testimony opened. No one addressed the Board.

113

114 Mr. Daddario asked and received confirmation that the proposed porch would not be
115 the closest portion of the residence to the property line; that the encroachment of the
116 proposed porch into the front setback is not as much as the encroachment that
117 currently exists from the front entryway on the easterly side of the home. Mr. Dion
118 inquired about the roofline of the proposed farmer's porch – how the roofline would
119 blend with existing home roofline and whether the eight-foot (8') distance presented on
120 the undated plan prepared by Jeffrey Land Survey, LLC that has been stamped by LLS
121 (Licensed Land Surveyor). Mr. Buttrick stated that there were no construction
122 drawings available/submitted and added that roof overhangs typically range from one
123 to two feet (1'-2'). Ms. Fontaine stated that constructions drawings have not yet been
124 prepared as the thinking was to obtain the variance first before incurring any more
125 expense. Mr. Lanphear noted that if the variance is approved for eight feet (8'), as
126 requested and as depicted on the plan, than the footprint width of the proposed
127 farmer's porch would need to be less. Mr. Lanphear stated that he would be willing to
128 make a motion with that as a condition of approval. Mr. Dumont noted that it does
129 not need to be a condition of approval as it will become a code enforcement issue after-
130 the-fact. Mr. Martin questioned creating a potential code enforcement issue at all –
131 either defer until construction drawings can be provided or stick to the eight feet (8')
132 as requested. Mr. Daddario stated that the Applicant can make that decision. Ms.

Not Official until reviewed, approved and signed.

As Edited [GD, BB]

133 Fontaine stated that her preference would be to defer/continue the meeting to allow
134 time to prepare construction drawings and identify the exact measurements needed
135 for the variance.

136

137 Motion made by Mr. Martin and seconded by Mr. Lanphear to defer the hearing to the
138 June 22, 2023 ZBA meeting. Roll call vote was 5:0. Case continued to the June
139 meeting.

140

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

148

149 Mr. Buttrick read the case into the record, referenced the Staff Report initialed by Mr.
150 Sullivan and dated 5/17/2023, noted that it is an existing non-conforming lot of
151 record, that no comments have been received from Town Officials and that an aerial
152 view from 2010 showed the existing shed.

153

154 Erich Uhlendorf introduced himself and addressed the criteria necessary to support
155 an Equitable Waiver of Dimensional Requirement and the information shared
156 included:

157 (a) violation existed more than 10 years

- 158 • the shed was built in 2003 and installed in 2004 by the previous
159 homeowner

160 (b) violation has caused no nuisance

- 161 • the violation has caused no nuisance
- 162 • please see attached letter from Abutters Brustas of 5 Jacqueline Street
163 dated 5/4/2023 testifying that they are aware and have no issue

164 (c) there is a high correction cost to correct

- 165 • moving the shed would need to also include moving the foundation as
166 well as electrical

- 167 • please see estimate received 3/28/2023 from NH Elevation, LLC, for a
168 total of \$3,200 to relocate the shed

- 169 • there is also a stone walkway to the shed that will need to be addressed

170

171 Mr. Martin inquired how this came to the Board's attention. Mr. Buttrick responded
172 that the Uhlendorf's wanted to add an addition to their home and that required a plot
173 plan and that plot plan identified the shed three feet to the property line.

174

175 Public testimony opened at 7:47 PM. No one addressed the Board.

176

177 Mr. Martin made the motion to grant the Equitable Waiver of Dimensional
178 Requirement as the violation occurred more than a decade ago, that it has posed no
179 nuisance and it would be too high a correction cost to correct. Mr. Sakati seconded
180 the motion with the same reasoning. Roll call vote was 5:0. Equitable Waiver of
181 Dimensional Requirement granted. Mr. Daddario stated that normally they advise an
182 Applicant of the 30-day Appeal period, but since this has existed for over a decade, it
183 is still at the Applicant's discretion whether to wait

184

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

189

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

205

206 Mr. Buttrick read the requests into the record, referenced his Staff Report initialed
207 5/17/2023, noted that the request is a result of Code Enforcement action with quite a
208 bit of history, provided a historical overview of actions taken, noted that it is before the
209 Board subsequent Superior Court Final Order, that an Abutter letter was received
210 speaking against the requests and that the Town Planner submitted seven (7)
211 comments.

212

213 Atty. Andrew Prolman of Prunier & Prolman, PLLC introduced himself as representing
214 the Property Owner and noted that Vatche Manoukian of Derry & Webster LLC and
215 Tony Basso, PE of Keach-Nordstrom, Inc. were also present. Atty. Prolman stated that
216 the Court Order placed a deadline of April 3, 2023 and he apologized for missing the
217 deadline, that it was his doing and not the Property Owner for the delay.

218

219 Atty. Prolman asked the Board to do a Site Walk. Mr. Daddario stated that there are
220 new faces on the Board and a Site Walk is a good idea. Mr. Martin concurred and
221 noted that if the first Variance request is not granted, the remaining become moot.
222 Mr. Pacocha asked if the Existing Condition Site Plan is accurate. Atty. Prolman
223 stated that there is a more detail plan prepared for the Change of Use application to
224 the Planning Board that he could provide the ZBA. Mr. Dion asked if the new plan
225 included the new building and Atty. Prolman did not think so.

226

227 Board discussion focused on potential dates for the Site Walk. Conflicts appeared for
228 every Saturday in June.

229

230 Motion made by Mr. Martin and seconded by Mr. Lanphear to schedule a Site Walk for
231 Saturday 7/8/2023 @ 9:00 AM and to continue the Case to Thursday 7/13/2023 @
232 7:00 PM. Vote was 5:0.

233

234 **V. REQUEST FOR REHEARING:**

235 No request received for Board Consideration

236 **VI.**

237 **VII. REVIEW OF MINUTES:**

238

239 04/27/23 edited Draft Minutes

240 Motion made by Mr. Martin, seconded by Mr. Lanphear and unanimously voted to
241 adopt the 4/27/2023 Minutes as edited.

242

243

244 Motion made by Mr. Martin, seconded by Mr. Sakati and unanimously voted to
245 adjourn the meeting. The 5/25/2023 ZBA meeting adjourned at 8:11 PM.

246

247 Respectfully submitted,

248 Louise Knee, Recorder