



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 AGENDA – May 11, 2023

The Hudson Zoning Board of Adjustment will hold a meeting on Thursday, **May 11, 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:

NEW & DEFERRED HEARING:

1. **Case 165-139 (05-11-23):** Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH [Map 165, Lot 139-000, Zoned Business (B)] requests two (2) Variances as follows:
 - a. **(New):** To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 - b. **(Deferred from 04-27-23):** To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

NEW HEARING:

2. **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.]

V. REQUEST FOR REHEARING: None

VI. OTHER:

Bruce Buttrick, Zoning Administrator

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL PROPERTY

By virtue and in execution of the Power of Sale contained in a certain mortgage given by **Michael Pelletier** (the "Mortgagor") to Option One Mortgage Corporation and now held by **Deutsche Bank National Trust Company as Trustee for GSAMP Trust 2004-OPT, Mortgage Pass-Through Certificates Series 2004-OPT** (the "Mortgagee"), said mortgage dated August 4, 2004, and recorded with the Merrimack County Registry of Deeds in Book 2688 at Page 104 (the "Mortgage"), pursuant to and for breach of the conditions in said Mortgage and for the purpose of foreclosing the same will be sold at:

Public Auction
On
June 08, 2023 at 10:00 AM
Said sale to be held on the mortgaged premises described in said mortgage and having a present address of 4 Valley Street, Allentown, Merrimack County, New Hampshire.

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

YOU ARE ALSO NOTIFIED THAT THE ADDRESS OF THE MORTGAGEE FOR SERVICE OF PROCESS IS: 1761 EAST ST, ANDREW PLACE, SANTA ANA, CA 92705. THE NAME OF THE MORTGAGEE'S AGENT FOR SERVICE OF PROCESS IS: DEUTSCHE BANK NATIONAL TRUST COMPANY.

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 contact information for the New Hampshire banking department is 53 Regional Drive, Suite 200, Concord, NH 03301, with an email address of nhbdbanking.nh.gov.

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".

TERMS OF SALE
A deposit of Five Thousand (\$5,000.00) Dollars in the form of a certified check, 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 sixty (60) 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 amend the terms of the sale by written or oral announcement made before or during the foreclosure sale.

Dated at Farmington, CT on April 13, 2023
Deutsche Bank National Trust Company as Trustee for GSAMP Trust 2004-OPT, Mortgage Pass-Through Certificates Series 2004-OPT
By its Attorney,
/s/ Mark Lamper
Mark H. Lamper, Esq.
Bendett & McHugh, P.C.
270 Farmington Avenue, Ste. 151
Farmington, CT 06032
(860) 677-2868
(UL - Apr. 19, 26; May 3)

Legal Notice

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH SUPERIOR COURT

Cheshire Superior Court
33 Winter Street, Suite 2
Keene NH 03431
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: **U.S. Bank National Association, not in its individual capacity but solely as tru v Tara Livengood, et al**
Case Number: **213-2023-CV-00064**

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) Nicole DeRosia; Heirs Devises and Legal Representatives of David G. Livengood; Tara Livengood; Neil A. Livengood Jr ; John D. Livengood; George M. Livengood.

The Court ORDERS:
U.S. Bank National Association, not in its individual capacity but solely as tru shall give notice to Nicole DeRosia; Heirs Devises and Legal Representatives of David G. Livengood; Tara Livengood; Neil A. Livengood Jr ; John D. Livengood; George M. Livengood 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 May 29, 2023

Also, ON OR BEFORE 30 days after the last publication - Nicole DeRosia; Heirs Devises and Legal Representatives of David G. Livengood; Tara Livengood; Neil A. Livengood Jr ;

John D. Livengood; George M. Livengood shall electronically file an Appearance and Answer or other responsive pleading with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

June 19, 2023 - U.S. Bank National Association, not in its individual capacity but solely as tru 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 Nicole DeRosia; Heirs Devises and Legal Representatives of David G. Livengood; Tara Livengood; Neil A. Livengood Jr ; John D. Livengood; George M. Livengood: 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.nhccourt.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:
Keith Andrew Mitchell, ESQ, Orlans PC, 204 2nd Ave, Ste 320, Waltham MA 02451
Tara Livengood, 76 Ellis Road, Sullivan NH 03445
Nicole DeRosia, 434 Old Standard Road, Nelson NH 03457
Neil A. Livengood, JR, 84 Joslin Station Road, Apt FC, North Swazey NH 03431
John D. Livengood, 40 Ferry Brook Road, Keene NH 03431
George M. Livengood, 6714 Balboa Blvd, Apt 2, Van Nuys CA 91406
Heirs Devises and Legal Representatives of David G. Livengood, No Known Address
BY ORDER OF THE COURT
April 14, 2023
Brendon C. Thurston
Clerk of Court

(126277)
(UL - Apr. 19, 26; May 3)

Public Notices...
your right to know!
Read them in
New Hampshire Union Leader
and
New Hampshire Sunday News
and
online
at
www.unionleader.com

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL PROPERTY

By virtue of a Power of Sale contained in a certain mortgage given by **Jeremie M. Washburn** ("the Mortgagor(s)") to Mortgage Electronic Registration Systems, Inc., as nominee for Residential Mortgage Services, Inc., dated May 12, 2015 and recorded in the Sullivan County Registry of Deeds in Book 1942, Page 992, as modified by a certain modification agreement dated January 17, 2020, and recorded with said Sullivan County Registry of Deeds in Book 2099, Page 44, (the "Mortgage"), which mortgage is held by PennyMac Loan Services, LLC, the present holder of said Mortgage, pursuant to and in execution 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 20, 2023
at
2:00 PM

Said sale being located on the mortgaged premises and having a present address of 14 Lea Street, Claremont, Sullivan County, New Hampshire. The premises are more particularly described in the Mortgage.

For mortgagor(s)'s title see deed recorded with the Sullivan County Registry of Deeds in Book 1942, Page 990.

NOTICE
PURSUANT TO NEW HAMPSHIRE RSA 479:25, YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORTGAGED PREMISES ARE SITUATED, 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 2 1/2 Beacon Street, Concord, NH 03301 and the name of the mortgagee's agent for service of process is CT Corporation System.

You can contact the New Hampshire Banking Department by e-mail at nhbdbanking.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".

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, Massachusetts, on April 18, 2023.
PennyMac Loan Services, LLC
By its Attorney,
Autumn Sarzana
Harmon Law Offices, P.C.
PO Box 610389
Newton Highlands, MA 02461
617-558-0500
21923
(UL - Apr. 26; May 3, 10)

Legal Notice

Public Auction J&M Towing and Recovery 410 South Stark Highway Weare, NH 03261 May 14, 2023 at 10:00 am
2004 Ford Ranger
VIN: 1FTZR15E94TA10389
2004 Honda Civic
VIN: 1HGES16324L013295
(UL - May 3)

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL ESTATE

By virtue of a Power of Sale contained in a certain Mortgage given by **Vaughan R. Stiles, Individually and as Trustee of the Vaughan R. Stiles 2001 Revocable Trust** (the "Mortgagor") to Mortgage Electronic Registration Systems, Inc., as nominee for Northeast Home Loan, LLC., its successors and assigns, dated September 2, 2014 and recorded in the Grafton County Registry of Deeds in Book 4081, Page 502 (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 May 17, 2023 at 9:00 AM
Said sale being located on the mortgaged premises and having a present address of **40 Forest Hill Street, Lisbon, Grafton County, NH**. The premises are more particularly described in the Mortgage.

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

The mortgagor's name and address for service of process is NORTHEAST HOME LOAN, LLC c/o The Money Source Inc. at 500 South Broad St. Ste 100A, Meriden, CT, 06451. The name and address of the mortgagee's agent for service of process is CT Corporation System at 2 1/2 Beacon Street, Concord, NH 03301. You can contact the New Hampshire Banking Department by e-mail at nhbdbanking.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 foreclosure 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 said mortgage shall control in the event of an error in this publication.
NORTHEAST HOME LOAN, LLC

Present Holder of said Mortgage, By Its Attorneys,
Orlans PC
PO Box 540540
Waltham, Massachusetts 02454
Phone: (781) 790-7800
(UL - Apr. 26; May 3, 10)

Legal Notice

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH SUPERIOR COURT

Rockingham Superior Court
Rockingham Cty Courthouse
PO Box 1258
Kingston NH 03848-1258
Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>
CITATION FOR PUBLICATION COMPLAINT TO QUIET TITLE Superior Court Rule 4(d)
Case Name: **Lakeview Loan Servicing, LLC v Heirs, Devises & Legal Representatives of Andrew C. Garofalo**
Case Number: **218-2023-CV-00424**
Date Complaint Filed: March 29, 2023

A Complaint to Quiet Title to a certain tract of land with any attached buildings located in Plaistow, in the State of New Hampshire has been filed with this court. The property is described as follows: **8 Davis Park, Plaistow, NH. Book 6002 Page 951**
The Court ORDERS:
Lakeview Loan Servicing, LLC shall give notice to Heirs, Devises & Legal Representatives of Andrew C. Garofalo 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 May 28, 2023.

Also, ON OR BEFORE 30 days after the last publication - Heirs, Devises & Legal Representatives of Andrew C. Garofalo shall electronically file an Appearance and Answer or responsive pleading with this court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

June 18, 2023 - Lakeview Loan Servicing, LLC 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, Devises & Legal Representatives of Andrew C. Garofalo: 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.nhccourt.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.

Jeffrey J. Hardiman, ESQ, Brock & Scott PLLC, 1080 Main St, Ste 200, Pawtucket RI 02860
Heirs, Devises & Legal Representatives of Andrew C. Garofalo, No Known Address
BY ORDER OF THE COURT
April 13, 2023
Jennifer M. Haggart
Clerk of Court
(126954)
(UL - Apr. 19, 26; May 3)

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL PROPERTY

By virtue of a Power of Sale contained in a certain mortgage given by **Tyrone Blaine Wakefield, Jr., Kalia M. Nuzzello** ("the Mortgagor(s)") to Mortgage Electronic Registration Systems, Inc., as nominee for CMG Mortgage, Inc. dba CMG Financial, dated May 14, 2021 and recorded in the Carroll County Registry of Deeds in Book 3590, Page 399, (the "Mortgage"), which mortgage is held by Federal National Mortgage Association, the present holder of said Mortgage, pursuant to and in execution 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 15, 2023
at
12:00 PM

Said sale being located on the mortgaged premises and having a present address of 179 Boulder Road, Madison, Carroll County, New Hampshire. The premises are more particularly described in the Mortgage.

For mortgagor(s)'s title see deed recorded with the Carroll County Registry of Deeds in Book 3590, Page 397.

NOTICE
PURSUANT TO NEW HAMPSHIRE RSA 479:25, YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORTGAGED PREMISES ARE SITUATED, 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 Federal National Mortgage Association (Fannie Mae), Legal Department, Granite Park VII, 5600 Granite

Parkway, Plano, TX 75024 and the name of the mortgagee's agent for service of process is R. Scott Luttrull.

You can contact the New Hampshire Banking Department by e-mail at nhbdbanking.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".

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, Massachusetts, on April 24, 2023.

Federal National Mortgage Association
By its Attorney,
Nicholas J Danforth
Harmon Law Offices, P.C.
PO Box 610389
Newton Highlands, MA 02461
617-558-0500
23264
(UL - Apr. 26; May 3, 10)

Legal Notice

Request for Qualifications Photovoltaic Solar Systems for Town of Wolfeboro Municipal Properties

The Town of Wolfeboro and the Wolfeboro Municipal Electric Department are soliciting qualifications related to the design, financing, procurement, installation, operation, and maintenance of multiple photovoltaics (PV) solar systems on Town of Wolfeboro, New Hampshire municipal properties. It is the Town's intent to use this qualification process to select a firm or firms to then submit full contractual proposals.

To review the Request for Qualifications, please visit <https://www.wolfeboronh.us> and click on Bids and RFPs. Qualifications must be submitted in the required format and delivered or mailed to: Photovoltaic Solar Systems for the Town of Wolfeboro, N.H., Attention: Wolfeboro Finance Department, 84 S. Main St, Wolfeboro, NH 03894. Qualification statements must be received by 2:00 pm on June 13, 2023. Any qualifications received after this time will not be considered. An optional site visit will be held at 10:00 a.m. on May 31, 2023 beginning at Pop Whalen Ice Arena, 390 Pine Hill Road, Wolfeboro, NH 03894.
(UL - May 3)

Legal Notice

MORTGAGEE'S NOTICE OF SALE OF REAL PROPERTY

By virtue of a Power of Sale contained in a certain mortgage given by **Christopher W. Floyd, Sr.** ("the Mortgagor(s)") to Mortgage Electronic Registration Systems, Inc., as nominee for Santander Bank, N.A., dated April 6, 2018 and recorded in the Hillsborough County Registry of Deeds in Book 9065, Page 2551, (the "Mortgage"), which mortgage is held by Santander Bank, N.A., the present holder of said Mortgage, pursuant to and in execution 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 15, 2023
at
12:00 PM

Said sale being located on the mortgaged premises and having a present address of 179 Boulder Road, Madison, Carroll County, New Hampshire. The premises are more particularly described in the Mortgage.

For mortgagor(s)'s title see deed recorded with the Carroll County Registry of Deeds in Book 9065, Page 2551.

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The address of the mortgagee for service of process is Federal National Mortgage Association (Fannie Mae), Legal Department, Granite Park VII, 5600 Granite

June 21, 2023
at
3:00 PM
Said sale being located on the mortgaged premises and having a present address of 25 David Drive, Hudson, Hillsborough County, New Hampshire. The premises are more particularly described in the Mortgage.

For mortgagor(s)'s title see deed recorded with the Hillsborough County Registry of Deeds in Book 6874, Page 1591.

NOTICE
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The address of the mortgagee for service of process is 2 1/2 Beacon Street , Concord, NH 03301 and the name of the mortgagee's agent for service of process is CT Corporation System.

You can contact the New Hampshire Banking Department by e-mail at nhbdbanking.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.

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Dated at Newton, Massachusetts, on April 24, 2023.

Santander Bank, N.A.
By its Attorney,
Nicholas J Danforth
Harmon Law Offices, P.C.
PO Box 610389
Newton Highlands, MA 02461
617-558-0500
23535
(UL - Apr. 26; May 3, 10)

Legal Notice

NOTICE OF CONTINUANCE OF MORTGAGEE'S SALE

NOTICE IS HEREBY GIVEN that a Foreclosure Sale originally scheduled for **Wednesday May 3, 2023 at 2:00pm** against real estate owned by **Maureen A. Turner** (the "Borrower") located at 490 North River Road Unit 21, Manchester, Hillsborough County, New Hampshire 03104, to be conducted pursuant to a Statutory Power of Sale contained in a Mortgage from the Borrower to St. Mary's Bank, of 200 McGregor Street, Manchester, New Hampshire, dated April 4, 2018 and recorded in the Hillsborough County Registry of Deeds at Book 9061, Page 2007, is hereby continued to **Tuesday May 30, 2023 at 2:45pm** at said premises situated at 490 North River Road Unit 21, Manchester, Hillsborough County, New Hampshire 03104.

Dated at Milford, New Hampshire this 2nd day of May 2023.
ST. MARY'S BANK
by its Attorney,
Dustin N. Gauthier
Gauthier & MacMartin, PLLC
123 Elm Street, Milford, NH 03055
(603) 673-7220
By: Dustin N. Gauthier,
BNH 20086
(UL - May 3)

TOWN OF HUDSON
ZONING BOARD OF ADJUSTMENT
Notice of Public Meeting & Hearings
THURSDAY, MAY 11, 2023

The Hudson Zoning Board of Adjustment will hold a public meeting on Thursday, **May 11, 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).

PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. NEW & DEFERRED HEARING:
Case 165-139 (05-11-23): Kevin A. & Lucie Y. Jeffery, **99 Webster St., Hudson, NH** [Map 165, Lot 139-000, Zoned Business (B)] requests two (2) Variances as follows:
a. (New): To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
b. (Deferred from 04-27-23): To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

2. NEW HEARING:
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.]

Bruce Buttrick, Zoning Administrator



TOWN OF HUDSON

Land Use Division



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

Zoning Administrator Staff Report

Meeting Date: May 11, 2023 *BB 4-28-23*

Deferred from 4-27-23:

Case 165-139 (04-27-23): Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH requests a Variance to allow a proposed 805 sq. ft. deck expansion on an existing non-conforming structure. The deck expansion encroaches 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [Map 165, Lot 139-000, Zoned Business (B);HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

To new case:

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

- a. To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.] **New**
- b. To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.] **Deferred**

Address: 99 Webster St

Zoning district: Business (B)

Summary:

Applicant requests:

- 1) a use variance to allow the expansion of an existing non-conforming use (residential) of the deck and relocated stairs in the Business (B) district.
- 2) a variance to the Table of Dimensional Requirements:
 - a) Side yard setback: where the existing non-conforming deck currently encroaches 5 ft with 10 ft of side setback, and proposed expansion of deck with a resultant setback of 2.3 ft where 15 ft is required.

b) Front yard setback: where the existing non-conforming deck currently encroaches 27ft with 23ft of front setback, and proposed expansion of deck with a resultant setback of 19.2 ft where 50 ft is required.

Property description:

Lot of record, existing non-conforming area with 15,000 SF, where 30,000 SF is required, with non-conforming frontage with 102 ft where 150 ft is required. Existing non-conforming use as single family residential.

LAND USE HISTORY:

Building permit: #207-000 issued Nov 5, 1999 to: *“relocate existing bathroom on 1st flr.”*

Town in-house review comments:

Fire Dept: comments: yes

Town Engr: comments: yes

Town Planner: comments: yes

Attachments:

A: *Building Permit #207-000 issued Nov 5, 1999 to: Relocate existing bathroom on 1st Flr”*

B: Fire Dept in-house comments

C: Town Eng in-house comments

D: Town Planner in-house comments

A STATE OF NEW HAMPSHIRE-LICENSED PLUMBER IS REQUIRED TO DO THE PLUMBING WORK. ELECTRICAL AND PLUMBING PERMITS ARE REQUIRED.

BUILDING PERMIT

DEPT. FILE COPY

AMOUNT PAID

MAP 54 LOT55

VALIDATION

APPLICANT RITA BARTON DATE NOVEMBER 5, 19 99 PERMIT NO. 207-00
ADDRESS 99 WEBSTER STREET HUDSON NH 882-3187
(NO.) (STREET) (CONTR'S LICENSE)

PERMIT TO CONSTRUCT ALTERATION (TYPE OF IMPROVEMENT) NO. (-) STORY RESIDENTIAL (PROPOSED USE) NUMBER OF DWELLING UNITS ONE

AT (LOCATION) 99 WEBSTER STREET ZONING DISTRICT _____
(NO.) (STREET)
BETWEEN _____ AND _____
(CROSS STREET) (CROSS STREET)

SUBDIVISION _____ LOT 55 BLOCK 54 LOT SIZE _____

BUILDING IS TO BE _____ FT. WIDE BY _____ FT. LONG BY _____ FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCTION

TO TYPE _____ USE GROUP _____ BASEMENT WALLS OR FOUNDATION _____ (TYPE)

REMARKS: RELOCATE EXISTING BATHROOM ON FIRST FLOOR, WOOD FRAME, OIL HEAT, TOWN SEWER/WATER.

AREA OR VOLUME 126.5 SQUARE FEET ESTIMATED COST \$ 2,000.00 PERMIT FEE \$ 20.00
(CUBIC/ SQUARE FEET)

OWNER RITA BARTON BUILD BY [Signature]
ADDRESS HUDSON NH

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

A

FORM NO. BOCA - BP 1984

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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-139 (05-11-23) (USE VARIANCE)

Property Location: 99 Webster Street

For Town Use

Plan Routing Date: 04/21/2023 Reply requested by: 04/27/2023 ZBA Hearing Date: 05/11/2023

I have no comments I have comments (see below)

DRH _____ Name: David Hebert _____ Date: 04/24/2023
(Initials)

DEPT: Town Engineer Fire/Health Department Town Planner

[Empty rectangular box for comments]

B1



TOWN OF HUDSON

FIRE DEPARTMENT

INSPECTIONAL SERVICES DIVISION



12 SCHOOL STREET, HUDSON, NEW HAMPSHIRE 03051

Emergency 911
Business 603-886-6005
Fax 603-594-1142

Scott Tice
Chief of Department

TO: Bruce Buttrick
Zoning Administrator

FR: David Hebert
Fire Marshal

DT: April 24, 2023

RE: 99 Webster Street

Building permits will be required prior to construction

David Hebert
Fire Marshall

B_e

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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-139 (04-27-23) (VARIANCE)

Property Location: 99 Webster Street

For Town Use

Plan Routing Date: 04/07/2023 Reply requested by: 04/13/2023 ZBA Hearing Date: 04/27/2023

I have no comments I have comments (see below)

EZD _____ Name: Elvis Dhima, P.E Date: 04/13/2023
(Initials)

DEPT: Town Engineer Fire/Health Department Town Planner

1. The proposed work related to the deck is within 50 foot wetland buffer.
2. Applicant does not show the access from the road to the proposed structure / garage in back.
3. Based on 2022 flyover it appears the applicant is trespassing on private property and on Town easement.

(C1)



C₂

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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-139 (05-11-23) (USE VARIANCE)

Property Location: 99 Webster Street

For Town Use

Plan Routing Date: 04/21/2023 Reply requested by: 04/27/2023 ZBA Hearing Date: 05/11/2023

I have no comments I have comments (see below)

BG Name: Brian Groth Date: 04/27/2023
(Initials)

DEPT: Town Engineer Fire/Health Department Town Planner

1. If the variances are granted, the proposal will also require a Wetland Conservation District Conditional Use Permit for work within a wetland buffer.

(D)

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

**Variance
(Use)**

On **05/11/2023**, the Zoning Board of Adjustment heard **Case 165-139a**, being a case brought by **Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH** requests a **Variance to allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District.** [Map 165, Lot 139-000, Zoned Business (B); HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and 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 **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)

TOWN OF HUDSON

APR 21 REC'D
2023

TSG

APPLICATION FOR A VARIANCE (USE)

Zoning Department
Zoning Board of Adjustment
Town of Hudson

Entries in this box are to be filled out by
Land Use Division personnel
Case No. 165-139^a(65-11-23)
Date Filed 4/21/2023

Name of Applicant Kevin & Lucie Jeffery Map: 165 Lot: 139 Zoning District: B

Telephone Number (Home) 603-398-1955 (Work) N/A

Mailing Address 99 Webster Street Hudson, NH. 03051

Owner Kevin & Lucie Jeffery

Location of Property 99 Webster Street Hudson, NH 03051
(Street Address)

Signature of Applicant [Signature] Date 4-19-23

Signature of Property Owner(s) [Signature] Date 4-19-23

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 personnel

Date received: 4/21/23

COST:

Application fee (processing, advertising & recording) (non-refundable): \$ 185.00

6 Abutter Notice:

6 Direct Abutters x Certified postage rate \$ _____ = \$ N/A

8 Indirect Abutters x First Class postage rate \$ _____ = \$ N/A

Total amount due: \$ 185

Amt. received: \$ 185

Receipt No.: 726, 573

Received by: [Signature]

By determination of the Zoning Administrator, the following Departmental review is required:
 Engineering Fire Dept. Health Officer Planner Other

check #
0117

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 Initials		Staff Initials
<u>LA</u>	Please review the completed application with the Zoning Administrator or staff before making copies in next step.	<u>TG</u>
<u>LA</u>	The applicant must provide the original (with wet signatures) of the complete filled-out application form <u>and</u> all required attachments listed below together with thirteen (13) single-sided copies of the assembled application packet. (Paper clips, no staples)	<u>TG</u>
<u>LA</u>	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.	<u>TG</u>
<u>LA</u>	If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.)	<u>TG</u>
<u>LA</u>	Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) prepared by applicant, with the proper mailing addresses, must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained 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.)	<u>TG</u>
<u>LA</u>	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	<u>TG</u>
<u>LA</u>	Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office)	<u>TG</u>
<u>LA</u>	A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.	<u>TG</u>
<u>LA</u>	If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact <u>Y</u> or N (circle one). If yes, submit an application to the Planning Board.	<u>TG</u>

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)

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
		*Include Applicant & Owner(s)	
165	139	Kevin & Lucie Jeffery	99 Webster St. Hudson, NH 03051
165	038	Town of Hudson 1 Kenyon St.	12 School St. Hudson, NH 03051
165	039	Don & Lisa Fitzgerald	100 Webster St. Hudson, NH 03051
165	127	Debra & Gary Lavoie	4 Maywood St. Hudson, NH 03051
165	138	Kelly & Norman Nantel	16 Summer Ave Hudson, NH 03051
165	140	Daniel & Patricia Farland	34 Grand Ave Hudson, NH 03051
165	141	Abbot Farm Condominiums 40 Great North Property Mgmt. ATTN: TRACEY MADDEN	636 Daniel Webster Hwy Merrimack NH 03054

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.

(Use additional copies of this page if necessary)

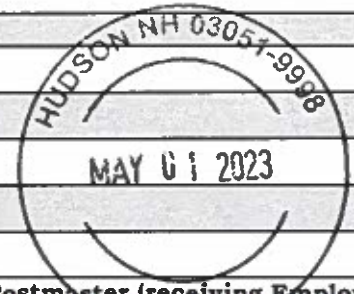
MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
165	006	Poul & Donna Thorn	12 Grouse Lane Litchfield, NH 03052
165	037	Alexander Galloway	3 Kenyon Street Hudson, NH 03051
165	040	Jay Piche	2 Merrimack St. Hudson, NH 03051
165	041	Jay Piche	2 Merrimack St. Hudson, NH 03051
165	042	Aaron Ives	6 Merrimack St Hudson, NH 03051
165	126	Debra & Gary Lavoie <u>Esther Levesque Life Estate</u>	4 Maywood St. Hudson, NH 03051
165	128	Raymond & Donna Turcotte Turcotte Family Rev. Trust.	11 Summer Ave Hudson, NH 03051
165	137	Charles Lawrette Donna St. Louis	14 Summer Ave Hudson, NH. 03051
165	126		7 Newland Ave. Hudson, NH 03051

(16)

(16)

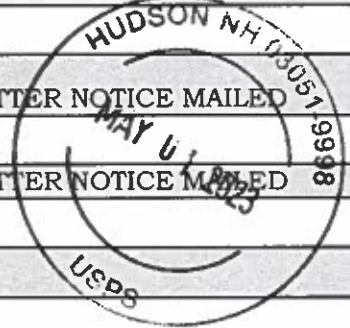
USPS-Verified Mail

SENDER:		US POSTAL SERVICE - CERTIFIED MAIL	Case# 165-139 VARIANCE (USE & DIM.) 99 Webster Street Map 165/Lot 139-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	7022 2410 0001 2971 7450	JEFFERY, KEVIN & LUCIE 99 WEBSTER ST., HUDSON, NH 03051	APPLICANT NOTICE MAILED
2	7022 2410 0001 2971 7467	FITZGERALD, DON & LISA 100 WEBSTER STREET, HUDSON, NH 03051	ABUTTER NOTICE MAILED
3	7022 2410 0001 2971 7474	LAVOIE, DEBRA AND GARY 4 MAYWOOD STREET, HUDSON, NH 03051	ABUTTER NOTICE MAILED
4	7022 2410 0001 2971 7481	NANTEL, KELLY & NORMAN 16 SUMMER AVE., HUDSON, NH 03051	ABUTTER NOTICE MAILED
5	7022 2410 0001 2971 7498	FARLAND, DANIEL & PATRICIA 34 GRAND AVE., HUDSON, NH 03051	ABUTTER NOTICE MAILED
6	7022 2410 0001 2971 7504	ABBOTT FARM CONDOMINIUMS; C/O GREAT NORTH PROPERTY MGMT; ATTN: TRACEY MADDEN 636 DANIEL WEBSTER HWY., MERRIMACK, NH 03054	ABUTTER NOTICE MAILED
7		TOWN OF HUDSON 12 SCHOOL STREET, HUDSON, NH-03051	N/C for Notice- RE: 1 Kenyon St., Hudson, NH 03051 Variance application received.
8			
9			
10			
11			
Total Number of pieces listed by sender 6		Total number of pieces rec'vd at Post Office 6	Postmaster (receiving Employee) <i>Paula Spagnoli</i>



USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 165-139 VARIANCE (USE & DIM.) 99 Webster Street Map 165/Lot 139-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	Mailed First Class	THORN, PAUL & DONNA	ABUTTER NOTICE MAILED
		12 GROUSE LANE, LITCHFIELD, NH 03052	
2	Mailed First Class	GALLOWAY, ALEXANDER	ABUTTER NOTICE MAILED
		3 KENYON ST., HUDSON, NH 03051	
3	Mailed First Class	PICHE, JAY	ABUTTER NOTICE MAILED
		2 MERRIMACK STREET, HUDSON, NH 03051	
4	Mailed First Class	IVES, AARON	ABUTTER NOTICE MAILED
		6 MERRIMACK STREET, HUDSON, NH 03051	
5	Mailed First Class	LAVOIE, DEBRA & GARY	ABUTTER NOTICE MAILED
		4 MAYWOOD STREET, HUDSON, NH 03051	
6	Mailed First Class	TURCOTTE, RAYMOND & DONNA, TRUSTEES; TURCOTTE FAMILY REV TRUST	ABUTTER NOTICE MAILED
		11 SUMMER AVE., HUDSON, NH 03051	
7	Mailed First Class	LAURETTE, CHARLES.; ST. LOUIS, DONNA	ABUTTER NOTICE MAILED
		14 SUMMER AVE., HUDSON, NH 03051	
8	Mailed First Class	LEVESQUE, ESTHER, LIFE ESTATE	ABUTTER NOTICE MAILED
		7 NEWLAND AVE., HUDSON, NH 03051	
9			
	Total # of pieces listed by sender 8	Total # of pieces rec'vd at Post Office 8	Postmaster (receiving Employee) <i>Paula Angelli</i>





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

April 28, 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, **05/11/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

NEW & DEFERRED HEARING:

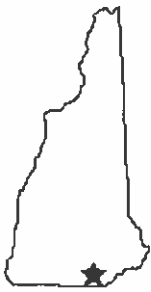
Case 165-139 (05-11-23): Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH [Map 165, Lot 139-000, Zoned Business (B)] requests two (2) Variances as follows:

- a. **(New): To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]**
- b. **(Deferred from 04-27-23): To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [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

Kara Roy, Selectmen Liaison

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

April 28, 2023

ABUTTER 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, **05/11/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

NEW & DEFERRED HEARING:

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

- a. **(New): To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]**
- b. **(Deferred from 04-27-23): To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [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: bbuttrick@hudsonnh.gov. 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 V of HZO Section(s) 334-21 in order to permit the following:

TB

TB

To be granted a variance for use as residential. Which is an existing non-conforming use within the Business District.

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:

I.(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:

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.

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

This neighborhood is currently used as residential. The proposed deck expansion is with the same use, just a larger footprint.

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

The deck expansion is still keeping the residential use which is existing non-conforming use and the neighborhood is residential.

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

The current use has always been residential, and the deck expansion is allowing us and others the ability to use/enjoy our property as we intended when purchased, for residential use.

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.)

This deck expansion is an improvement with new construction and more safety, which adds value to all properties in neighborhood.

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:

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 and

The Town created this hardship on this existing property that has been used as residential ~~to~~ to a Business district, hence making any continued residential use of this property “non-conforming”.

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

The Town's Zoning Ordinance district as “Business” was placed on the property by the Town, and will always cause this property to be “non-conforming”. This hardship was caused by the Town's Zoning Ordinance. Therefore residential use since 1931 is correct and Reasonable.

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.

N/A



TOWN OF HUDSON

Land Use Division



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

Zoning Determination #23-050

April 3, 2023

Luci Jeffery
99 Webster St
Hudson, NH 03051

Re: **99 Webster St Map 165 Lot 139-000**
District: Business (B)

Dear Ms. Jeffery,

Your request: You propose to remove the existing deck and stairs and rebuild as a larger footprint. What to do about an existing shed in the rear setback?

Zoning Review / Determination:

This parcel and structure is an existing non-conforming lot and use.

- 1) You would need a variance to expand the footprint, as this residential use is an existing non-conforming use within the business district, per §334-29: "A nonconforming use shall not be extended or enlarged, except by variance."
- 2) You would need a variance (to further encroach into the required setbacks) from §334-27 Table of Minimum Dimensional Requirements.
- 3) Regarding the existing shed in the rear setback: either move into compliance leaving 15 ft of setback, or apply for an Equitable Waiver of Dimensional Requirement, per RSA 674:33-a.

Sincerely,

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

cc: Public File
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.*



TOWN OF HUDSON

Land Use Division



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

Zoning Determination #23-050 Rev1 Addendum #1

April 14, 2023

Luci Jeffery
99 Webster St
Hudson, NH 03051

Re: 99 Webster St Map 165 Lot 139-000
District: Business (B)

Dear Ms. Jeffery,

Zoning Review / Determination Addendum:

As you are aware, this parcel and structure is an existing non-conforming lot and use.

Upon further review of your ZBA application #165-139 (04-27-23), I have observed and determined that *the deck expansion with stairs*, is an impact within the Wetland Conservation District (50 ft wetland buffer), and that "activity" will require an application for a Conditional Use Permit from the Planning Board, per §334-36C (4):

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

(4) Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this article; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:

Please contact Brian Groth – Town Planner (603) 886-6008 for the Conditional Use Permit application and details.

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

Sincerely,



Bruce Buttrick

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

bbuttrick@hudsonnh.gov

cc: Public File
B. Groth, Town Planner
E. Dhima, Town Engr
File

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

Property Location: 99 WEBSTER ST
 Vision ID: 7467 Account #: 5650

Parcel ID: 165/ 139/ 000/ 1
 Bldg #: 1

Card Address:
 Card #: 1 of 1

LUC: 1010
 Print Date: 3/30/2023 3:57:50 PM

CURRENT OWNER		ASSESSING NEIGHBORHOOD				PREVIOUS ASSESSMENTS (HISTORY)							
		Nbhd	Nbhd Name		Year	Code	Assessed	Year	Code	Assessed Val	Year	Code	Assessed
JEFFERY, KEVIN A.		RE	Residential Average		2022	1010	183,500	2022	1010	125,000	2021	1010	125,000
JEFFERY, LUCIE Y.		TOPO	UTILITIES			1010	123,500		1010	83,600		1010	83,600
99 WEBSTER ST.		Abv St	Town Water			1010	1,900		1010	1,200		1010	1,200
HUDSON NH 03051			Town Sewer										
					Total		308,900	Total		209,800	Total		209,800

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	SALE NOTES	APPRAISED VALUE SUMMARY				
JEFFERY, KEVIN A.		9531 1210	09-23-2021	U	I	349,900	38	Grantor: BARTON, RITA V. Grantor: BARTON, RITA V.	Appraised Bldg. Value (Card)				183,500
BARTON, RITA V.		2576 157	11-28-1977	Q	I		00		Appraised Xf (B) Value (Bldg)				0
									Appraised Ob (B) Value (Bldg)				1,900
									Appraised Land Value (Bldg)				123,500
									Special Land Value				0
									Total Appraised Parcel Value				308,900
									Valuation Method				C

SUPPLEMENTAL DATA			CURRENT ASSESSMENT													
Parcel ID	Zoning	Flood Hazard	Neigh/Abut1	Neigh/Abut2	Neigh/Abut3	GIS ID	PREV	Assoc Pid#	Descript	Code	Appraised	Assessed	Total	Appraised	Assessed	Total
165-139-000	BD:BD	C				165-139-000	0054-0055-0000		BLDG	1010	183,500	183,500	308,900	183,500	183,500	308,900
									LAND	1010	123,500	123,500				
									OB	1010	1,900	1,900				
												Total:	308,900	308,900	Total Appraised Parcel Value	308,900

NOTES		VISIT / CHANGE HISTORY			
		Date	Id	Cd	Purpost/Result
4/22 - EG - DOG - NO INFO		07-19-2022	24	45	Field Review
		04-11-2022	23	04	Info At Door
		04-11-2022	23	02	Measured
		01-15-2021	18	02	Measured
		06-04-2014	15	03	Meas/Inspect
		06-06-2006	03	14	Inspected
		05-11-2006	08	02	Measured
		07-20-2005	01	71	Acreage Adjustment From New Map

BUILDING PERMIT RECORD								
Permit Id	Issue Date	Permit C	Description	Amount	Status	Applicant	SQ ft	Comments
2019-01259	12-13-2019	MECH	Mechanical		C			

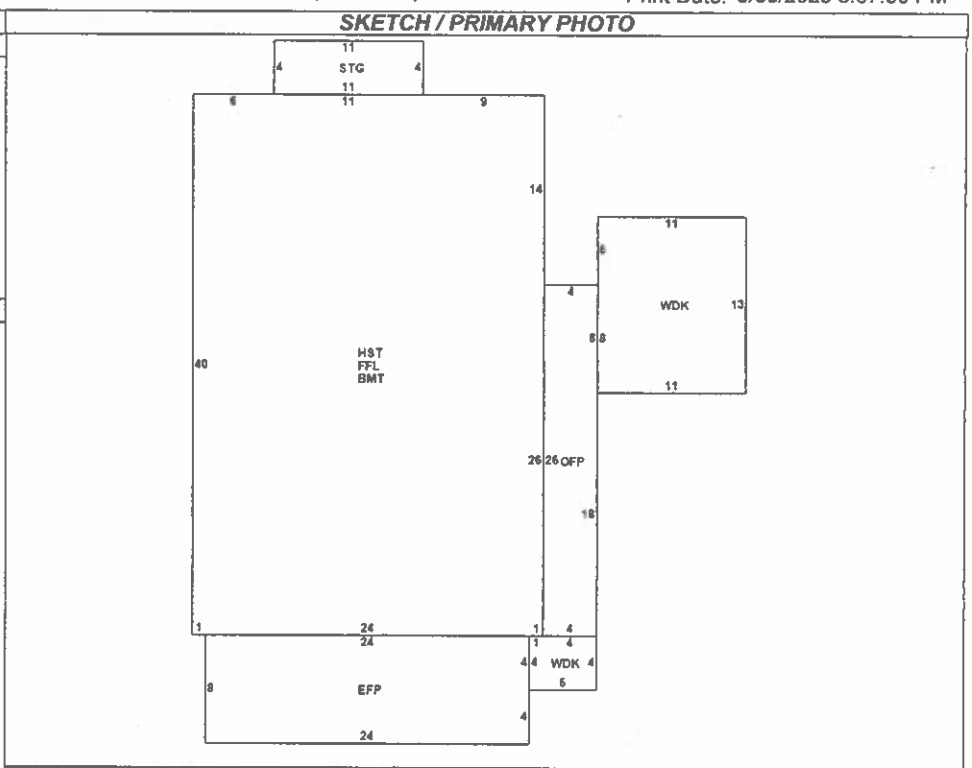
LAND LINE VALUATION SECTION																
B #	LandUse Code	Description	Land Type	Land Units	Unit Price	Acrege Disc.	Size Adj.	Site Index	Cond.	Nbhd.	Nbhd Adj.	Land Adjustment			Notes	Land Value
1	1010	SINGLE FAMILY RES	Site	0.333 AC	170,000		2.29	5	1.00	RE	1.00	Location	0.95		DRAINAGE;	123,500
Total Card Land Units:				0.333 AC	Parcel Total Land Area:				0.333 AC	Total Land Value:			123,500			

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

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Model	01	Residential	Avg Ht/FL	8	
Stories:	1		Extra Kitchens	0	
Style:	113	NEW ENGLANDR	Add Kitchen Ra		
Grade:	C-	Avg/Fair			
(Liv) Units	1				
Exterior Wall 1	21	Conc Block			
Roof Structure	01	Gable			
Roof Cover	01	Asph Shing			
Frame	01	Wood			
Foundation	03	Brick/Stone			
Interior Wall 1	02	Plaster			
Interior Floor 1	03	Hardwood			
Heat Fuel	01	Oil			
Heat Type	03	Forced Hw			
# Heat Systems	1				
AC Percent	0				
Total Rooms	6				
Bedrooms	3				
Full Baths	1				
3/4 Baths	0				
Half Baths	0				
Extra Fixtures	0				
Kitchens	1				
Kitchen Rating	AV	Average			
Bath Rating	AV	Average			
Half Bath Rating					
Bsmt Garage	1				
Fireplace(s)	1				
Fireplace Rating	AV	Average			
WS Flues	0				
Color	TAN				
Avg Ht/FL	8				
Extra Kitchens	0				

COST / MARKET VALUATION

Building Value New	282,275
Year Built	1931
Effective Year Built	1987
Depreciation Code	AV
Remodel Rating	
Year Remodeled	
Depreciation %	35
Functional Obsol	
External Obsol	
Trend Factor	1.000
Condition	
Condition %	
Percent Good	65
RCNLD	183,500
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	UOM	Unit Pri	Yr Blt	Cnd.	% G	Assd. Value
SHEDWD	Shed-Wood	L	100	UNITS	31.02	2010	AV	60	1,900

BUILDING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BMT	Basement, Unfinished	0	1,040	260	35.21	36,623
FFL	Encl. Porch, Finished	0	192	134	98.31	18,875
FFL	First Floor, Finished	1,040	1,040	1,040	140.86	146,490
HST	Half Story, Finished	520	1,040	520	70.43	73,245
OFF	Open Frame Porch	0	104	21	28.44	2,958
STG	Storage, Unfinished	0	44	13	41.62	1,831
WDK	Wood Deck, or Composite Dk	0	163	16	13.83	2,254
Total Liv Area/Gr. Area/Eff Are		1,560	3,623	2,004	Total Value	282,276



2022

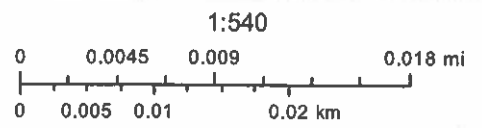


March 22, 2023

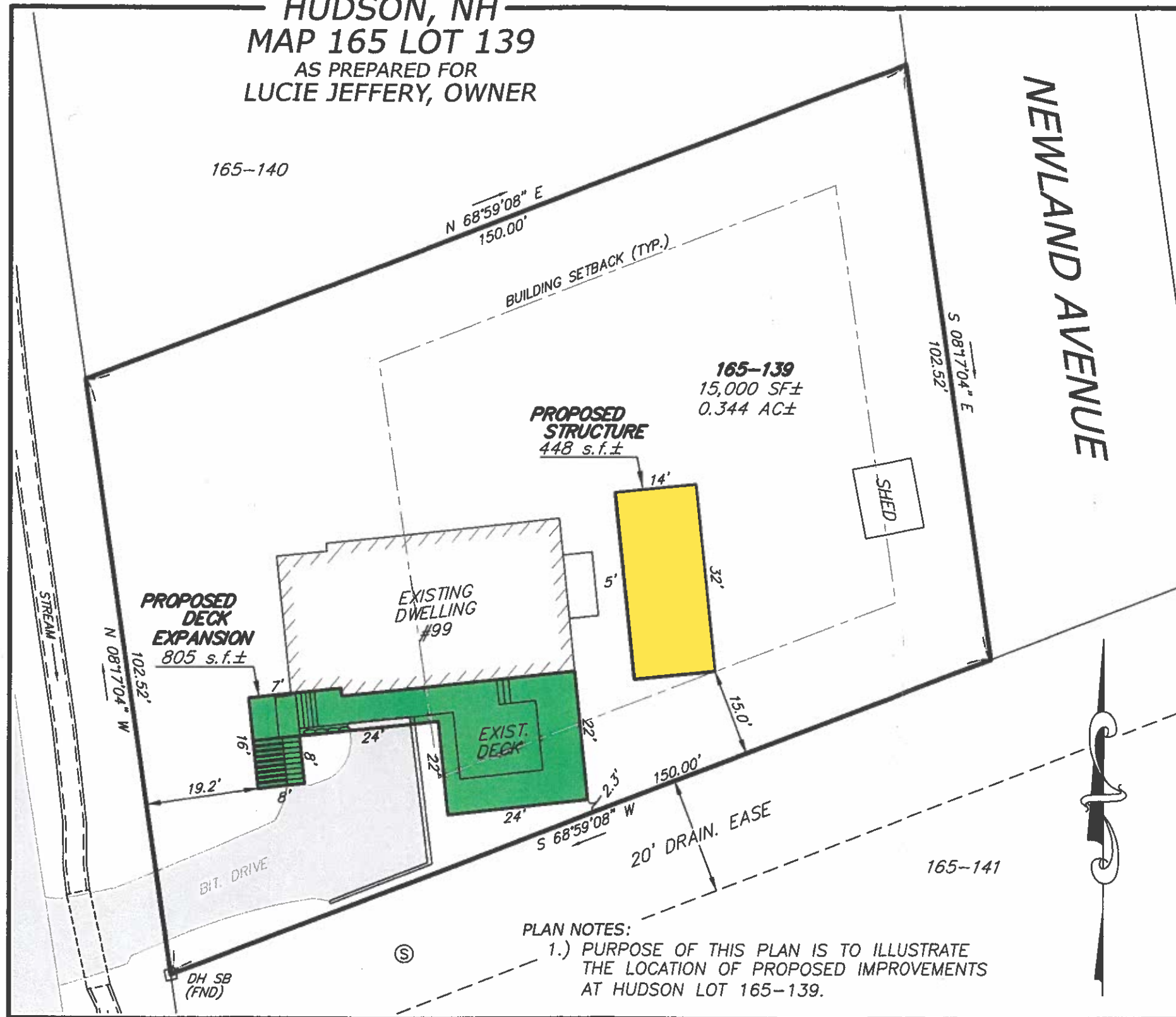
Legend

----- Easement_Lines

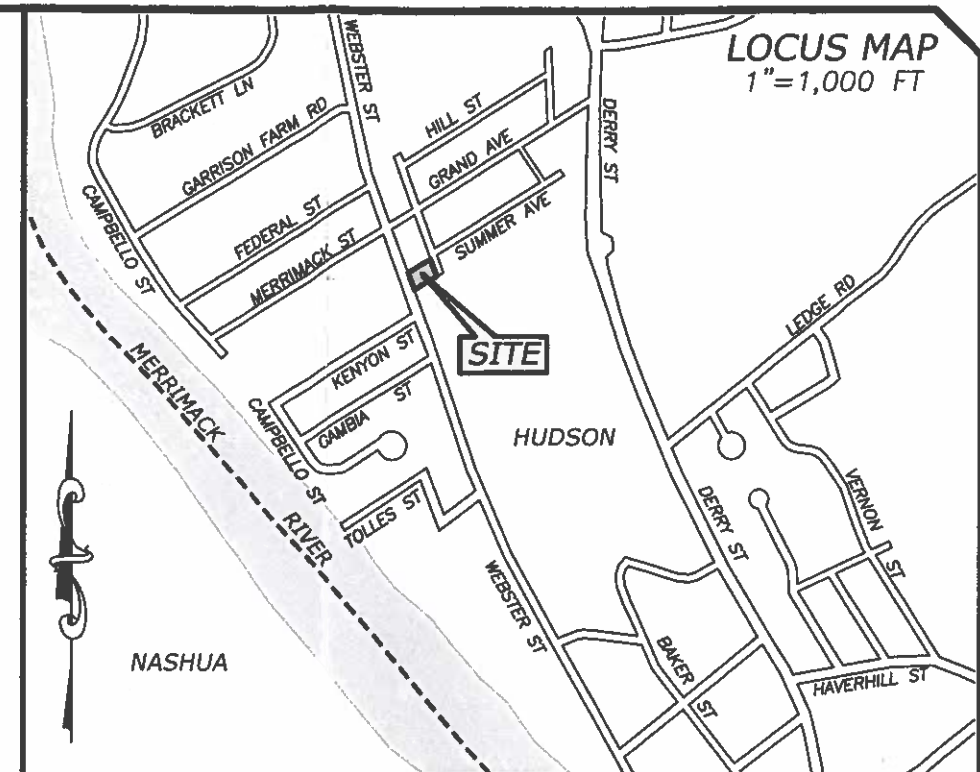
▭ Parcels



**PLAN OF LAND
99 WEBSTER STREET
HUDSON, NH
MAP 165 LOT 139**
AS PREPARED FOR
LUCIE JEFFERY, OWNER



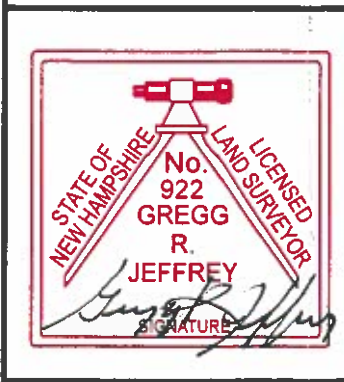
PLAN NOTES:
1.) PURPOSE OF THIS PLAN IS TO ILLUSTRATE THE LOCATION OF PROPOSED IMPROVEMENTS AT HUDSON LOT 165-139.



REV. 2		BY:
REV. 1		BY:

ZONING DISTRICT: B
REQUIRED SETBACKS:
FRONT - 50 FEET
SIDE - 15 FEET
REAR - 15 FEET

DEED REF: BK. 9531 PG. 1210
PLAN REF.: HCRD PL. 510
PLAN SCALE: 1"=20'
DATE: JAN 2023
JOB REF.: 023-001-JEFF



I HEREBY CERTIFY:
THAT THIS PLAN IS THE RESULT OF AN INSTRUMENT SURVEY AND THAT ALL MEASUREMENTS HEREON ARE TO BE CONSIDERED TRUE AND ACCURATE.

JEFFREY LAND SURVEY LLC

1 BURGESS DRIVE, LITCHFIELD, NH 03052
(603) 424-4089



Printed
4/21/2023
3:22PM
Created
4/21/2023
3:16 PM

Transaction Receipt

Receipt# 726,573
tgoodwyn

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

	<u>Description</u>	<u>Current Invoice</u>	<u>Payment</u>	<u>Balance Due</u>
1.00	Zoning Application 99 Webster Street Map/Lot 165-139-000 (Zone-B) Use Variance	0.00	185.0000	0.00
			Total:	185.00

Remitter	Pay Type	Reference	Tendered	Change	Net Paid
Lucie Jeffery	CHECK	CHECK # 0117	185.00	0.00	185.00
			Total Due:		185.00
			Total Tendered:		185.00
			Total Change:		0.00
			Net Paid:		185.00

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

**Variance
(Dimensional)**

On **05/11/2023**, the Zoning Board of Adjustment heard **Case 165-139b** (deferred from **04-27-23**), being a case brought by **Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH** requests a **Variance to allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required.** [Map 165, Lot 139-000, Zoned Business (B); 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)

REMINDER:

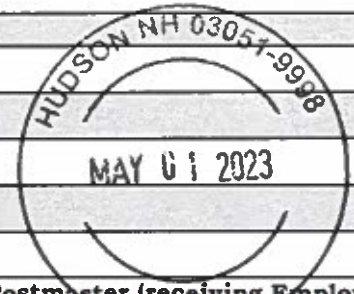
Please bring the following case application previously mailed in your 04/27/2023 ZBA Meeting Packet:

Case 165-139: 99 Webster St.

**Variance (Dimensional) Application
(Deferred to 05-11-2023)**

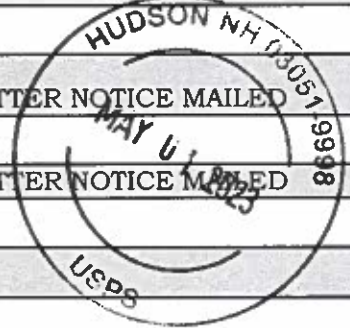
USPS-Verified Mail

SENDER:		US POSTAL SERVICE - CERTIFIED MAIL	Case# 165-139 VARIANCE (USE & DIM.) 99 Webster Street Map 165/Lot 139-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	7022 2410 0001 2971 7450	JEFFERY, KEVIN & LUCIE 99 WEBSTER ST., HUDSON, NH 03051	APPLICANT NOTICE MAILED
2	7022 2410 0001 2971 7467	FITZGERALD, DON & LISA 100 WEBSTER STREET, HUDSON, NH 03051	ABUTTER NOTICE MAILED
3	7022 2410 0001 2971 7474	LAVOIE, DEBRA AND GARY 4 MAYWOOD STREET, HUDSON, NH 03051	ABUTTER NOTICE MAILED
4	7022 2410 0001 2971 7481	NANTEL, KELLY & NORMAN 16 SUMMER AVE., HUDSON, NH 03051	ABUTTER NOTICE MAILED
5	7022 2410 0001 2971 7498	FARLAND, DANIEL & PATRICIA 34 GRAND AVE., HUDSON, NH 03051	ABUTTER NOTICE MAILED
6	7022 2410 0001 2971 7504	ABBOTT FARM CONDOMINIUMS; C/O GREAT NORTH PROPERTY MGMT; ATTN: TRACEY MADDEN 636 DANIEL WEBSTER HWY., MERRIMACK, NH 03054	ABUTTER NOTICE MAILED
7		TOWN OF HUDSON 12 SCHOOL STREET, HUDSON, NH-03051	N/C for Notice- RE: 1 Kenyon St., Hudson, NH 03051 Variance application received.
8			
9			
10			
11			
Total Number of pieces listed by sender 6		Total number of pieces rec'vd at Post Office 6	Postmaster (receiving Employee) <i>Paula Spagnoli</i>



USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 165-139 VARIANCE (USE & DIM.) 99 Webster Street Map 165/Lot 139-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	Mailed First Class	THORN, PAUL & DONNA	ABUTTER NOTICE MAILED
		12 GROUSE LANE, LITCHFIELD, NH 03052	
2	Mailed First Class	GALLOWAY, ALEXANDER	ABUTTER NOTICE MAILED
		3 KENYON ST., HUDSON, NH 03051	
3	Mailed First Class	PICHE, JAY	ABUTTER NOTICE MAILED
		2 MERRIMACK STREET, HUDSON, NH 03051	
4	Mailed First Class	IVES, AARON	ABUTTER NOTICE MAILED
		6 MERRIMACK STREET, HUDSON, NH 03051	
5	Mailed First Class	LAVOIE, DEBRA & GARY	ABUTTER NOTICE MAILED
		4 MAYWOOD STREET, HUDSON, NH 03051	
6	Mailed First Class	TURCOTTE, RAYMOND & DONNA, TRUSTEES; TURCOTTE FAMILY REV TRUST	ABUTTER NOTICE MAILED
		11 SUMMER AVE., HUDSON, NH 03051	
7	Mailed First Class	LAURETTE, CHARLES.; ST. LOUIS, DONNA	ABUTTER NOTICE MAILED
		14 SUMMER AVE., HUDSON, NH 03051	
8	Mailed First Class	LEVESQUE, ESTHER, LIFE ESTATE	ABUTTER NOTICE MAILED
		7 NEWLAND AVE., HUDSON, NH 03051	
9			
	Total # of pieces listed by sender 8	Total # of pieces rec'vd at Post Office 8	Postmaster (receiving Employee) <i>Paula Angelli</i>





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

April 28, 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, **05/11/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

NEW & DEFERRED HEARING:

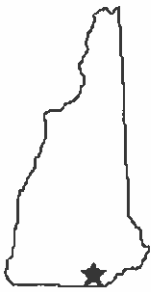
Case 165-139 (05-11-23): Kevin A. & Lucie Y. Jeffery, 99 Webster St., Hudson, NH [Map 165, Lot 139-000, Zoned Business (B)] requests two (2) Variances as follows:

- a. **(New): To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]**
- b. **(Deferred from 04-27-23): To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [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

Kara Roy, Selectmen Liaison

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

April 28, 2023

ABUTTER 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, **05/11/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

NEW & DEFERRED HEARING:

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

- a. **(New): To allow a proposed 805 sq. ft. deck on an existing non-conforming use (residential) within the Business District. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-29, Extension or enlargement of nonconforming uses and HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]**
- b. **(Deferred from 04-27-23): To allow the proposed deck expansion to encroach 12.7 feet into the side yard setback leaving 2.3 feet where 15 feet is required and 30.8 feet into the front yard setback leaving 19.2 feet where 50 feet is required. [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: bbuttrick@hudsonnh.gov. 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



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 11, 2023 *BB 5-1-23*

Case 198-147 (05-11-23): Roderick Lefort, Manager, DBA Proscapes, LLC, 126 Talent Rd., Litchfield, NH requests a Variance to allow the operation of a landscaping business on the lot with a proposed development as shown on a ZBA Exhibit Plan dated 3/16/2023 by Licensed Land Surveyor, Paul Delaney. 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.]

Address: 100 Lowell Rd

Zoning district: Business (B)

Property description:

Our records indicate this parcel is an existing conforming lot area with 34,978 sqft of area where 30,000 sqft is required and existing non-conforming frontage of 70 ft. on Lowell Road where 90 ft is required and 101.20 ft. on County Rd where 90 ft is required. Currently a vacant lot.

Summary:

Applicant wishes to occupy/use parcel as a landscaping business/contractors yard, a use not permitted in the Business District.

Land Use History:

Building Permit (demolition) #2010-00362 issued 7/23/2010: "*Demolition of existing dwelling*".

In-House comments:

Fire Dept/Inspectional Services: none

Town Engineer: none.

Town Planner: none.

Attachments:

"A" Building Permit (demolition) #2010-00362 issued 7/23/2010: "*Demolition of existing dwelling*"

"B" Variance criteria section from "The Zoning Board of Adjustment in NH" handbook.



Town of Hudson, NH
DEMOLITION PERMIT
 Community Development Department
 12 School Street
 Hudson, NH 03051
 603-886-6005

Permit Number
 2010-00362
 Date of Issue
 7/23/2010
 Expiration Date
 7/23/2011

Owner: CRAVEN, RONALD D., TR. CRAVEN, NANCY J., TR.

Applicant: Ronald Mead

Location of Work: 100 LOWELL RD
 (No. and Street) (Unit or Building)

Description of Work: Demolition of existing dwelling.

ZONING DATA: District: B Map/Lot: 198-147-000

CONTRACTOR: Ronald Mead 234-9000

REMARKS:

- ALL UTILITY SERVICES TO THE BUILDING MUST BE TERMINATED AND PHYSICALLY REMOVED.
- THIS MUST BE VERIFIED BY THE BUILDING DEPARTMENT PRIOR TO ANY BUILDING DEMOLITION TAKING PLACE.
- BY ACCEPTANCE OF THIS PERMIT IT IS STATED AS FACT THAT NO INSURANCE COVERAGE FOR DAMAGE LOSS AS A RESULT OF THIS DEMOLITION IS IN EFFECT.
- THE FOUNDATION OR BASEMENT MUST BE RETURNED TO A LEVEL EQUAL TO THE SURROUNDING GROUNDS SURFACE AS PART OF THE REMOVAL.
- A FINAL INSPECTION BY THE BUILDING INSPECTOR IS REQUIRED AFTER DEMOLITION IS COMPLETE.
- **Building Permit Issuance Conditions are as follows:**
 - THIS PERMIT CONVEYS NO RIGHT TO OCCUPY ANY STREET, ALLEY OR SIDEWALK OR ANY PART THEREOF, EITHER TEMPORARILY OR PERMANENTLY.
 - THE ISSUANCE OF THIS PERMIT DOES NOT RELEASE THE APPLICANT FROM THE CONDITIONS OF ANY APPLICABLE SUBDIVISION AND OR SITE PLAN APPROVAL REQUIREMENTS.
 - APPROVED PLANS MUST BE RETAINED ON JOB AND THIS CARD KEPT POSTED UNTIL FINAL INSPECTION HAS BEEN MADE.
 - NO BUILDING SHALL BE OCCUPIED OR USED UNTIL A FINAL INSPECTION IS PERFORMED.
 - WHEN APPLICABLE, SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.
 - WORK MUST BE STARTED WITHIN 6 MONTHS FROM THE DATE OF PERMIT ISSUANCE.
 - ALL CONSTRUCTION MUST CONFORM TO ALL APPLICABLE STATE OF NEW HAMPSHIRE AND HUDSON TOWN CODES.

Permit Holder: Ronald Mead (Taking Responsibility for the Work)	
Company/Affiliation: Contractor	Job Site Phone Number:
Constr Cost: \$0	Permit Fee: \$50.00
Check No.:	Cash: \$0.00
The Permit Card Shall be Posted and Visible From the Street During Construction	
THIS BUILDING PERMIT AUTHORIZES ALL CODE OFFICIALS, BUILDING INSPECTOR AND ASSESSOR OR THEIR AGENTS TO CONDUCT INSPECTIONS FROM TIME TO TIME DURING AND UPON COMPLETION OF THE WORK FOR WHICH THIS PERMIT IS ISSUED.	
<i>William A. Olsch</i> Code Official	<i>Ronald Mead</i> Permit Holder
	7/23/2010 Date

A

The local ordinance cannot limit or increase the powers of the board to grant variances beyond statutory authority; this power must be exercised within specific bounds.

The Five Variance Criteria

1. The variance will not be contrary to the public interest.

In the case of *Gray v. Seidel*, 143 N.H. 327 [February 8, 1999] the New Hampshire Supreme Court reaffirmed the variance standard in RSA 674:33, I(b) [1996], which states that the board has the power to “[a]uthorize... [a] variance from the terms of the zoning ordinance as will not be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.” [emphasis added] The court clarified that RSA 674:33, I(b) should not be read to imply an applicant must meet any burden higher than required by statute (i.e., there must be a demonstrated public benefit if the variance were to be granted) but merely must show that there will be no harm (i.e., “will not be contrary”) to the public interest if granted.

COMMENT: Proving a Negative

“The applicant still has the burden of persuasion on all five variance criteria, but my advice to ZBA members is not to be procedural sticklers when it comes to the “public interest” criterion. If an applicant makes even a conclusory statement like: “As you can see, there’s no adverse effect on the public interest,” that should be enough, unless abutters or board members themselves identify some specific adverse effect on the public interest, in which case the applicant will have the burden of overcoming it. To put it another way, if the applicant satisfies the other four criteria, a denial based solely on the “public interest” criterion is, in my view, unlikely to be upheld in Court unless your decision identifies some specific way in which the proposed variance is contrary to that interest.”

1999 Municipal Law Update: The Courts; H. Bernard Waugh, Jr., Esq., Chief Legal Counsel, NHMA, October 1999.

For the variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public? See *Chester Rod and Gun Club, Inc. v. Town of Chester*, 152 N.H. 577 (2005).

2. The spirit of the ordinance is observed.

The power to zone is delegated to municipalities by the state. This limits the purposes for which zoning restrictions can be made to those listed in the state enabling legislation, RSA 674:16-20. In general, the provisions must promote the “health, safety, or general welfare of the community.” They do this by lessening congestion in the streets; securing safety from fires, panic and other dangers; and providing for adequate light and air. In deciding whether or not a variance will violate the spirit and intent of the ordinance, the board of adjustment must determine the legal purpose the ordinance serves and the reason it was enacted. This may include a review of the master plan upon which the ordinance was based.

For instance, a zoning ordinance might control building heights specifically to protect adjoining property from the loss of light and air that could be caused by high buildings. The owner of a piece of property surrounded on three sides by water might be allowed a height variance without violating the spirit and intent if the ordinance clearly states that this is the sole purpose for the building height

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limitation. On the other hand, if a landowner requested a variance for a proposed building that would shut out light and air from neighboring property, the granting of the variance might be improper.

As another example, consider the question of frontage requirements. Most zoning ordinances specify a minimum frontage for building lots to prevent overcrowding of the land. If a lot had ample width at the building line but narrowed to below minimum requirements where it fronted the public street, a variance might be considered without violating the spirit and intent of the ordinance, because to do so would not result in overcrowding. There are many other variations of lot shapes and sizes that might qualify for a variance; the principles remain the same. The courts have emphasized in numerous decisions that the characteristics of the particular parcel of land determine whether or not a hardship exists.

However, when the ordinance contains a restriction against a particular use of the land, the board of adjustment would violate the spirit and intent of the ordinance by allowing that use. If an ordinance prohibits industrial and commercial uses in a residential neighborhood, granting permission for such activities would be of doubtful legality. Again, the board cannot change the ordinance.

In *Maureen Bacon v. Town of Enfield*, 150 N.H. 468 (2004), the ZBA denied a variance for a small propane boiler shed attached to the outside of a lakefront house because (1) it did not satisfy the *Simplex* “hardship” standard; (2) it would violate the spirit of the ordinance; and (3) it would not be in the public interest. The supreme court noted that there were three grounds for the superior court’s decision and explained, “In order to affirm the trial court’s decision, we need only find that the court did not err in its review concerning at least one of these factors.”

Focusing on the “spirit of the ordinance” factor, the court concluded, “While a single addition to house a propane boiler might not greatly affect the shorefront congestion or the overall value of the lake as a natural resource, the cumulative impact of many such projects might well be significant. For this reason, uses that contribute to shorefront congestion and over development could be inconsistent with the spirit of the ordinance.”

In *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 NH 102 (2007), the supreme court stated that “[t]he requirement that the variance not be contrary to the public interest is related to the requirement that the variance be consistent with the spirit of the ordinance. . . . [T]o be contrary to the public interest... the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives. One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality... Another approach to [determine] whether granting the variance would violate basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare.” (Internal citations and quotations omitted.)

In *Perreault v. New Hampton*, 171 NH 183 (2018), the “cumulative effect” or “cumulative impact” theory was again in play, in context of a denial of a side setback variance needed for a permanent shed. In part, the superior court found that the ZBA was reasonable in considering the cumulative effect that these types of variances may have on the area. Such theory has never been officially adopted by the supreme court; however, because it was not objected to in *Perreault*, the Court determined, without deciding, that it was a proper consideration in context of a variance.

Through that lens, the Court concluded that the superior court’s decision was not unlawful or unreasonable. It found that preventing overcrowding is a legitimate purpose of zoning and found no error in the superior court’s conclusion that the ZBA was not unlawful in focusing on the

neighborhood's aesthetics and the desire to avoid the appearance of overcrowding. The Court also upheld the lower court's determination that the existence of other outbuildings in the area did not require the ZBA to grant the variance at issue. In doing so, the Court cited the ZBA's findings that distinguished the existing structures from the proposed shed. This included the fact that some were allowed by variance granted under a prior legal standard; some were on land that was distinguishable from the applicant's property; and the majority were either pre-existing, nonconforming structures (i.e., existed prior to the enactment of the setback requirement) or were not actually in a setback.

3. Substantial justice is done.

It is not possible to set up rules that can measure or determine justice. Board members must determine each case individually. Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by granting a variance that meets the other four qualifications. A board of adjustment cannot alleviate an injustice by granting an illegal variance.

Any loss to the individual which is not outweighed by a gain to the general public is an injustice. Also, the court will examine whether the proposed development is consistent with the area's present use. *Malachy Glen Associates v. Town of Chichester* 155 N.H. 102 (2007).²

4. The values of surrounding properties are not diminished.

Perhaps Attorney Timothy Bates says it best in an OEP training video, Zoning and the ZBA:

“Whether the project made possible by the grant of a variance will decrease the value of surrounding properties is one of those issues that will depend on the facts of each application. While objections to the variance by abutters may be taken as some indication that property values might be decreased, such objections do not require the zoning board of adjustment to find that values would decrease. Very often, there will be conflicting evidence and dueling experts on this point, and on many others in a controversial application. It is the job of the ZBA to sift through the conflicting testimony and other evidence and to make a finding as to whether a decrease in property value will occur.”

“The ZBA members may also draw upon their own knowledge of the area involved in reaching a decision on this and other issues. Because of this, the ZBA does not have to accept the conclusions of experts on the question of value, or on any other point, since one of the functions of the board is to decide how much weight, or credibility, to give testimony or opinions of witnesses, including expert witnesses. Keep in mind that the burden is on the applicant to convince the ZBA that it is more likely than not that the project will not decrease values.”³

Also, in *Nestor v. Town of Meredith Zoning Board of Adjustment*, 138 N.H. 632 (1994), the court stated that the resolution of conflicts is a function of the zoning board of adjustment.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

The term “hardship” has caused more problems for boards of adjustment than anything else connected with zoning, possibly because the term is so general and has so many applications outside

² NHMA Law Lecture #1 - Procedural Basics for Planning and Zoning Boards, Fall 2012; Attorney Steven Whitley, Mitchell Municipal Group, P.A. and Attorney Paul G. Sanderson; New Hampshire Local Government Center, page 32.

³ Zoning and the ZBA, NH OSP video script (Timothy Bates, Esq.), pg. 3.

of zoning law. By its basic purpose, a zoning ordinance imposes some hardship on all property by setting lot size dimensions and allowable uses. The restrictions on one parcel are balanced by similar restrictions on other parcels in the same zone. When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed.

The fact that a variance may be granted in one town does not mean that in another town on an identical fact pattern, that a different decision might not be lawfully reached by a zoning board. Even in the same town, different results may be reached with just slightly different fact patterns. “This does not mean that either finding or decision is wrong per se, it merely demonstrates in a larger sense the home rule aspects of the law of zoning that are at the core of New Hampshire’s land use regulatory scheme.” *Nestor v. Town of Meredith Zoning Board of Adjustment*, 138 N.H. 632(1994). Moreover, evolution in the law on “hardship” creates further confusion on the issue.⁴

RSA 674:33, I(b)(1) Powers of Zoning Board of Adjustment

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

- (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property (referred to by some as the relationship test)

Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Is the full application of the ordinance to this particular property necessary to promote a valid public purpose? Once the purposes of the ordinance provision have been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to his property would not advance the purposes of the ordinance provision in any “fair and substantial” way.⁵

This test attempts to balance the public good resulting from the application of the ordinance against the potential harm to a private landowner. It goes to the question of whether it creates a necessary or “unnecessary” hardship.

And:

- (B) The proposed use is a reasonable one. (referred to by some as the reasonable use test)

The applicant must establish that, because of the special conditions of the property, the proposed use is reasonable.

RSA 674:33 does not require an investigation of how severely the zoning restriction interferes with the owner’s use of the land. It merely requires a determination that, owing to special conditions of the property, the proposed use is reasonable. This is necessarily a subjective judgment – as is almost

⁴ In 2001, the New Hampshire Supreme Court issued an opinion in *Simplex Technologies, Inc. v. Town of Newington & a*, which dramatically changed the then-existing standard for granting zoning variances. See Appendix E for background information on *Simplex*. In 2004, the New Hampshire Supreme Court further refined the law when it issued *Michael Boccia & a. v. City of Portsmouth & a*. For a detailed analysis of the evolution in variance case law, see “The Five Variance Criteria in the 21st Century” NHMA Law Lecture #2, Fall 2009 (available at <https://www.nh.gov/osi/resource-library/zoning/documents/the-five-variance-criteria-in-the-21st-century.pdf>).

⁵ This is comparable to the standard suggested in *St. Onge v. Concord*, 95 N.H. 306, 308 [1949]: “It may, therefore, be stated that ‘unnecessary’ as used in this connection, means ‘not required to give full effect to [the] purpose of the ordinance’.”

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everything having to do with variances – but presumably it includes an analysis of how the proposed use would affect neighboring properties and the municipality’s zoning goals generally. It clearly includes “whether the landowner’s proposed use would alter the essential character of the neighborhood.” *John R. Harrington & a. v. Town of Warner*, 152 N.H. 74, 81 (2005); see also *Farrar v. City of Keene*, 158 N.H. 684 (2009).

The second of the two parts of the hardship criteria in RSA 674:33, I(b)(5)(A)(ii) – “The proposed use is a reasonable one” – cannot be considered in isolation and must be read in conjunction with the introductory language in subparagraph A – “. . . owing to special conditions of the property that distinguish it from other properties in the area . . .” - so that the criterion as a whole is “. . . owing to special conditions of the property . . . the proposed use is a reasonable one.” In other words, the board needs to find that a use (or dimensional requirement) which otherwise must be considered unreasonable (because it violates the ordinance) is rendered reasonable by the special conditions of the property (or of its setting or environment, as *Simplex* says).

Board members should also be cognizant of the intent of Ch. Law 307 (2009) (the law that amended RSA 674:33) which was to eliminate the separate “use” and “area” variance standards of the *Boccia* decision and to deem that the unnecessary hardship standard is satisfied if the applicant meets the standards established in *Simplex* as those standards have been interpreted by subsequent decisions of the supreme court.

The Five Variance Criteria in the 21st Century, New Hampshire Municipal Association Law Lecture #2, Fall 2009.


In the context of sign variances, for example, the size of a building may constitute the “special conditions” that form the basis for “unnecessary hardship.” See *Harborside Associates, LP v. Parade Residence Hotel, LLC*, 162 N.H. 508 (2011).

“Use” and “Area” Variances and “Spot Zoning”

New Hampshire law has not distinguished between a “use” or “area” variance since RSA 674:33’s amendment in 2009. Since then, all variances require the existence of unnecessary hardship, whether it is for a use not allowed in a particular zone or a deviation from a dimensional requirement. If they have not already done so, municipalities should review their variance application forms and make necessary changes to reflect the elimination of the distinction between use and area variances. See the suggested form in Appendix C.

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

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



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

Granting Variances for the Disabled

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

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

EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

RSA 674:33-a Equitable Waiver of Dimensional Requirement

- I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:
- (a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
 - (b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
 - (c) 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
 - (d) 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.
- IV. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction,

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

On **05/11/2023**, the Zoning Board of Adjustment heard **Case 198-147**, being a case brought by **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.]

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)

**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 enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the 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.

Y
N

B. Alternatively, if the criteria above (5.A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Member Decision: _____

Signed: _____

Sitting member of the Hudson ZBA

Date

Print name: _____

Stipulations: _____

APPLICATION FOR A VARIANCE

APR 11 ENT'D 2023

TG

Zoning Department

To: Zoning Board of Adjustment
Town of Hudson

Entries in this box are to be filled out by
Land Use Division personnel
Case No. 198-147
Date Filed 4/11/2023

Name of Applicant RODERICK LEFORT Map: 198 Lot: 147 Zoning District: B

Telephone Number (Home) (603) 930-4897 (Work) (603) 635-4005

Mailing Address 126 TALENT ROAD, LITCHFIELD, NH 03052

Owner BRIAN CRAVEN TR, CRAVEN MEREY TRUSTS *the Nancy J. Craven Revocable Trust & the Ronald D. Craven Revocable Trust*

Location of Property 100 LOWELL ROAD
(Street Address)

B.H.C.

Signature of Applicant
Brian A. Lafort
Signature of Property-Owner(s)

Date 4/13/23
3-31-2023
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 Land Use Division personnel.

Date received: 4/11/23

COST:

Application fee (processing, advertising & recording) (non-refundable):	\$	<u>185.00</u>
<u>8</u> Abutter Notice:		
Direct Abutters x Certified postage rate	\$ <u>4.78</u> =	\$ <u>38.24</u>
<u>7</u> Indirect Abutters x First Class postage rate	\$ <u>0.63</u> =	\$ <u>4.41</u>
Total amount due:		\$ <u>227.65</u>
	Amt. received:	\$ <u>227.65</u>
	Receipt No.:	<u>725,140</u>

Received by: TSG *Check # 15936*

By determination of the Zoning Administrator, the following Departmental review is required:
 Engineering ___ Fire Dept. ___ Health Officer ___ Planner ___ Other ___

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 Initials		Staff Initials
<u>RL</u>	Please review the application with the Zoning Administrator or staff.	
<u>RL ✓</u>	The applicant must provide the original (with wet signatures) of the complete filled-out application form <u>and</u> all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples)	<u>TG</u>
<u>RL N/A</u>	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.	<u>TG</u>
<u>RL ✓</u>	If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.)	<u>TG</u>
<u>RL ✓</u>	Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) prepared by applicant, with the proper mailing addresses, must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained 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.)	<u>TG</u>
<u>RL ✓</u>	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	<u>TG</u>
<u>RL ✓</u>	Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office)	<u>TG</u>
<u>RL ✓</u>	A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.	<u>TG</u>
<u>RL N/A</u>	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.	<u>N/A</u>


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) 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. TG
- b) The plot plan shall be up-to date and dated, and shall be no more than three years old. TG
- c) The plot plan shall have the signature and the name of the preparer, with his/her/their seal. TG
- d) The plot plan shall include lot dimensions and bearings, with any bounding streets and with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property. TG
(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) 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) 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) The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments. TG
- h) The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance. TG
- i) 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)

4/2/23

Date



Signature of Property Owner(s)

3-31-2023

Date

Owner's Letter of Authorization

I, Brian H. Craven, Trustee of the Ronald D. Craven Revocable Trust, and Trustee of the Nancy J. Craven Revocable Trust, and the current owner of Tax Map 198 Lot 147, located at 100 Lowell Road in Hudson, New Hampshire, hereby authorize Roderick LeFort, Manager of DBA Proscapes, LLC, and their attorney or assigns, or any representative on their behalf to make applications for all required Federal, State, and Town permitting, variances, appearances, and approvals for the referenced property.



4/11/23

Brian H. Craven, Trustee

Date

Nancy J. Craven Revocable Trust



4/11/23

Brian H. Craven, Trustee

Date

Ronald D. Craven Revocable Trust

Applicant's Letter of Authorization

I, Roderick LeFort, duly authorized applicant for a use variance for Tax Map 198 Lot 147, located at 100 Lowell Road in Hudson, New Hampshire, hereby authorize Colin Carroll Esq., to make applications, and appearances on my behalf, for all required Federal, State, and Town permitting, variances, and approvals for the referenced property.



4/6/23

Roderick LeFort

Date

ZBA Application
Direct Abutters List
100 Lowell Road

MAP/LOT	OWNER	MAILING ADDRESS
198/146	Hudson, Town of	12 School Street Hudson, NH 03051
198/149	Hudson, Town of	12 School Street Hudson, NH 03051
198/148	Ronald F. Maynard Jerilyn D. Maynard	104 Lowell Road Hudson, NH 03051
198/13	Stratos Realty Trust, Steve Tsoulakos, Trustee	2651 San Luis Road Holiday, FL 34691-3315
198/20	94 Lowell Road, LLC Nicholas Katsoulis	88 Lowell Road Hudson, NH 03051
198/14	Colbea Enterprises, LLC	695 George Washington HWY, Lincoln RI, 02865
198/147*	Ronald D. Craven Revocable Trust, & Nancy J. Craven Revocable Trust Craven Brian H., Trustee	88 Speare Rd. Hudson, NH 03051

*Subject Parcel

ZBA Application

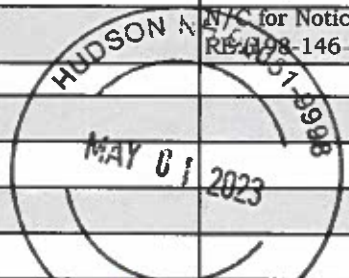
Abutters Within 200' of 100 Lowell Road

100 Lowell Road

Map/Lot	Owner	Mailing Address
198/16	Colbea Enterprises, LLC	695 George Washington HWY, Lincoln RI, 02865
198/15	Colbea Enterprises, LLC	695 George Washington HWY Lincoln RI, 02865
198/12	Colbea Enterprises, LLC	695 George Washington HWY Lincoln RI, 02865
198/3	Sojka, Anne L., Tr. Sojka Revocable Trust	11 Atwood Avenue Hudson, NH 03051
198/4	Dillon James Properties LLC	195R Central Street Hudson, NH 03051-4805
198/5	Sojka, Anne L., Tr, Sojka Revocable Trust	11 Atwood Avenue Hudson, NH 03051
198/ 130-001	Flores, Donald L.	7 Belknap Terrace Hudson NH 03051
198/ 130-002	Gauthier, Lisa M.	7 ½ Belknap Terrace Hudson, NH 03051
198/145	Quigley, Pamela J.	18 County Road Hudson, NH 03051
198/150	Teledyne Technologies Inc.	4736 Socialville Foster Rd. Mason, OH 45040-8265

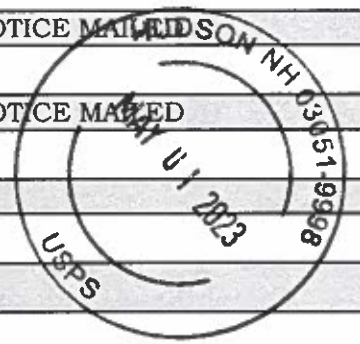
USPS-Verified Mail

SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - CERTIFIED MAIL	Case# 198-147 VARIANCE (USE) 100 LOWELL ROAD Map 198/Lot 147-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	7020 1810 0001 5291 2410	LEFORT, RODERICK 126 TALENT ROAD, LITCHFIELD, NH 03052	APPLICANT NOTICE MAILED
2	7020 1810 0001 5291 2427	COLIN P. CARROLL, ESQ., FENIGER & ULIASZ, LLP 45 BAY STREET, MANCHESTER, NH 03104	APPLICANT NOTICE MAILED
3	7020 1810 0001 5291 2434	GATE CITY SURVEY 1 TARA BOULEVARD, SUITE 200, NASHUA, NH 03062	APPLICANT NOTICE MAILED
4	7020 1810 0001 5291 2458	RONALD D. CRAVEN REVOCABLE TRUST; NANCY J. CRAVEN REVOCABLE TRUST; CRAVEN, BRIAN H., TR. 88 SPEARE RD., HUDSON, NH 03051	APPLICANT/(OWNER) NOTICE MAILED
5	7020 1810 0001 5291 2465	STRATOS REALTY TRUST; TSOULAKOS, STEVE, TRUSTEE 2651 SAN LUIS RD., HOLIDAY, FL, 34691-3115	ABUTTER NOTICE MAILED
6	7020 1810 0001 5291 2472	COLBEA ENTERPRISES, LLC 695 GEORGE WASHINGTON HWY, LINCOLN, RI 02865	ABUTTER NOTICE MAILED
7	7020 1810 0001 5291 2489	94 LOWELL ROAD LLC; KATSOULIS, NICHOLAS 88 LOWELL ROAD, HUDSON, NH 03051	ABUTTER NOTICE MAILED
8	7020 1810 0001 5291 2441	MAYNARD, RONALD F.; MAYNARD, JERILYN O. 104 LOWELL RD., HUDSON, NH 03051	ABUTTER NOTICE MAILED
9		TOWN OF HUDSON 12 SCHOOL ST., HUDSON, NH 03051	NYC for Notice-Application received in-house. RE: 198-146-000, 198-149-000
10			
11			
	Total Number of pieces listed by sender 8	Total number of pieces rec'vd at Post Office	Postmaster (receiving Employee) #SPS <i>Paula Angeli</i>



USPS-Verified Mail

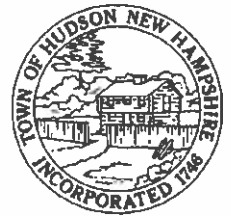
SENDER:	TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051	US POSTAL SERVICE - FIRST CLASS MAIL	Case# 198-147 VARIANCE (USE) 100 LOWELL ROAD Map 198/Lot 147-000 1 of 1
	ARTICLE NUMBER	Name of Addressee, Street, and post office address	05/11/2023 ZBA Meeting
1	Mailed First Class	COLBEA ENTERPRISES, LLC 695 GEORGE WASHINGTON HWY, LINCOLN, RI 02865	ABUTTER NOTICE MAILED
2	Mailed First Class	SOJKA, ANNE L., TR.; SOJKA REVOCABLE TRUST 11 ATWOOD AVENUE, HUDSON, NH 03051	ABUTTER NOTICE MAILED
3	Mailed First Class	DILLON -JAMES PROPERTIES LLC 195R CENTRAL STREET, HUDSON, NH 03051-4805	ABUTTER NOTICE MAILED
4	Mailed First Class	FLORES, DONALD L. 7 BELKNAP TERRACE, HUDSON, NH 03051	ABUTTER NOTICE MAILED
5	Mailed First Class	GAUTHIER, LISA M. 7 1/2 BELKNAP TERRACE, HUDSON, NH 03051	ABUTTER NOTICE MAILED
6	Mailed First Class	QUIGLEY, PAMELA J. 18 COUNTY ROAD, HUDSON, NH 03051	ABUTTER NOTICE MAILED
7	Mailed First Class	TELEDYNE TECHNOLOGIES INC. 4736 SOCIALVILLE FOSTER RD., MASON, OH, 45040-8265	ABUTTER NOTICE MAILED
8			
9			
	Total # of pieces listed by sender 7	Total # of pieces rec'vd at Post Office 7	Postmaster (receiving Employee) <i>Paula Angelli</i>





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

April 28, 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, **05/11/2023** starting at **7:00 P.M.**, Town Hall, 12 School Street, Hudson, NH, in the Community Development Paul Buxton Meeting Room.

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.]

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

Kara Roy, Selectmen Liaison

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

April 28, 2023

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Please be advised, this notice is for your information only. Your attendance is not required; however, you may attend this meeting 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: bbuttrick@hudsonnh.gov. 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 V (Permitted Uses) of HZO Section(s) 334-21. Table of Permitted Principal Uses in order to permit the following:

(SEE ATTACHMENT TO VARIANCE APPLICATION)

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:

I.(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:

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.

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

S77 ATTACHMENT

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.”)

SEE ATTACHMENT

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 ATTACHMENT

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 ATTACHMENT

ATTACHMENT TO VARIANCE APPLICATION

I. Introduction

Roderick LeFort (the ‘Applicant’) seeks a use variance for the undeveloped lot located on 100 Lowell Rd., Tax Map 198, Lot 147 (the ‘Property’). This request comes after Zoning Determination #23-014 concluded the proposed development is a Contractor’s yard, landscaper business (E-10). Currently, (E-10) is a non-permitted use under the Table of Permitted Uses for the current zone of the Property—Business (B) Zoning District. Town of Hudson Code § 334-21. This variance would allow for the operation of the landscaping business and includes the development of a metal building (20x 30) with a small office space and car jack for repairs, a privacy fence, a planting screen, and an asphalt parking lot.

The Applicant has entered into a purchase and sale agreement on the contingency he is granted relief from Town of Hudson zoning ordinance to develop the property for his landscaping business—Proscapes, LLC (the ‘business’). The Applicant is seeking to use the lot to park and repair his landscaping business vehicles. These vehicles include one twenty-foot enclosed trailer, one hydra seeder, one flat deck trailer, four company trucks (three of which are dump trucks), and employee personal vehicles. The applicant intends that his employees will park their personal vehicles on the property during business hours, his company vehicles will leave the property at approximately 6:45am, return to the property at approximately 6:00pm once a day from Monday to Friday, and park on the property overnight. Vehicle repairs on the property will be infrequent, limited to the aforementioned work vehicles, and will be outside the regular course of business. The office space on the property will not regularly be occupied nor will any other part of the property. Aside from these mentioned uses, the property will be idle for the vast majority of the time.

II. The Five Criteria

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

“[T]o be contrary to the public interest or injurious to the public rights of others, the variance must ‘unduly, and in a marked degree’ conflict with the ordinance such that it violates the ordinance’s *‘basic zoning objectives.’*” Chester Rod & Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 581 (N.H. 2005). The two main approaches to determine whether a variance violates basic zoning objectives are whether the variance would ‘alter the essential character of the locality’, and another is to

determine whether granting the variance would ‘threaten public health, safety, or welfare’. Neither approach shows this request violates the ordinance’s basic zoning objectives.

The first step in determining whether a variance will not be contrary to the public interest is to examine the applicable zoning ordinance. Chester Rod & Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 581 (N.H. 2005). The stated purpose of the Hudson Zoning Ordinance “is to promote the health, safety, and general welfare of the inhabitants as well as efficiency and economy in the process of development, by encouraging the most appropriate use of land throughout the Town[.]” Town of Hudson Code § 334-2. Specifically, Zoning District B “is established to provide for the development of general wholesale and retail commercial uses, services, offices uses, multifamily dwellings and customary uses and structures”. Town of Hudson Code § 334-18. Although the Table of Permitted Uses excludes this plan by dent of the type of services provided, its essential functioning is in line with the surrounding area, and fulfills the basic zoning objective of the development of retail and commercial services. §334-18.

Granting this variance would not alter the essential character of the locality. Within one quarter (1/4) mile there are car garages, parking lots, businesses, industrial buildings, and services. The essential character of the locality is diverse, and the proposed use is functionally similar to many surrounding car repairs services, storage, and retail which park vehicles overnight, including similar vehicles such as tow trucks, truck accessories, vans, and trailers. Additionally, the applicant proposes installing privacy fencing, leaving the preexisting tree line to the south, and placing a planting screen to the east—minimizing any audio or visual impact this property may have on the local character. Therefore, the Board should find this request would not alter the essential character of the community.

Granting this variance would not threaten the public health, safety, or welfare. Any usage of the town water would be minimal and infrequent, no families would live on the property so it will not affect public schools or services, and its proximity to route 3A would nullify any potential traffic impact to any surrounding residential neighborhoods. Further, all traffic coming in and out of the property will be limited to employees leaving for work in the morning before rush hour, and returning from work after rush hour. Any impact on the public rights is further mitigated because many days not all vehicles will be used or needed to be moved from the property, there will be no full-time staff on the property, nor will there be any non-employees on the property, so any traffic, noise, or sight impact would be uniquely low. Therefore, granting this variance cannot be said to threaten the public health, safety, or welfare.

- 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.”)**

With respect to the first and second criteria, New Hampshire Courts have recognized that the requirement that the variance not be contrary to the public interest is related to the requirement that the variance be consistent with the spirit of the ordinance.” Perrault v. Town of New Hampshire, 171 N.H. 183, 186 (N.H. 2018). This variance follows the spirit of the zoning ordinance because it promotes “efficiency and economy in the process of development” for a commercial/business use in the Business district.

Granting a variance for the property would not alter the essential character of the community nor have any impact on any public rights in the community. Current use of the abutting and surrounding properties includes the Teledyne Technologies industrial building, four separate auto body garage repair shops to the south, four restaurants, a hair salon, a Dunkin’ Donuts, a pharmacy, and a Credit Union to the north, office units to the west, and a baseball field to the northeast. The character of the community is already relatively multifaceted and diverse, including multiple car repair shops and an industrial building, so this variance will have a minimal impact on its ‘essential character’. Furthermore, the proposed use uniquely functions to minimize the traffic impact on the public and will be built to minimize noise and line of sight into the property. In short, the variance requested would have a ‘de minimis’ impact on its already diverse character and cannot be said to essentially alter its character, nor can it be said to injure the aforementioned public rights.

- 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.)**

Rejecting this variance would result in substantial loss to the applicant but present no realizable gains by the public. “Perhaps the only guiding rule [on this factor] is that any loss to that individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen Assoc. v. Town of Chichester, 920 A.2d 1192, 1199 (N.H. 2007). Here, should this variance be rejected, any loss felt by the Applicant is not outweighed by a gain to the public because it presents a uniquely catered plan which grows the tax base, and meets the challenges of development on this lot.

A rejection of this application would result in acute loss to the applicant. The applicant has already invested considerable time and effort in acquiring a survey, consulting with engineers and lawyers, and arranging for the purchase and sale of the property in the hopes of being granted relief from strict adherence of the Zoning Code. To not be granted relief here would result in significant time and financial loss.

Rejection here would not create any material gain to the public. The plan would not significantly impact local traffic, public services and infrastructure, the character of the community, nuisance, or pollution. Should this proposal be rejected, the lot will continue to be undeveloped for the foreseeable future. Rather, granting this variance would result in a more property taxes, and efficient development along a challenging area to develop along Route 3A. This proposed plan uniquely functions to have a minimal impact on the surrounding traffic or peripheral public rights and presents a rare opportunity to develop this parcel so rejection here cannot be said to benefit the public. Therefore, this Board should conclude that granting this variance, would both benefit the applicant and the public's interests in the efficient development of land in the town.

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

The proposed use would not diminish the surrounding property values. Generally, developing on undeveloped land positively impacts surrounding property values. This proposed plan uniquely develops to lot to positively impact surrounding property values. Many potential development proposals on this lot could diminish the surrounding property values because of traffic concerns, but this proposed plan uniquely works around this issue by limiting its traffic output. Furthermore, this proposed plan shows the property will be surrounded by a tree line on two sides, and a privacy fence—minimizing and negating any line of sight into the property from its direct abutters. Lastly, the unique aspects of the property limit the types of potential development that could occur, and this proposal uniquely curates the needs of the surrounding area for development.

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:

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...

“[W]hether the zoning restriction as applied interferes with a landowner’s reasonable use of the property...[is]... the critical inquiry for determining whether the unnecessary hardship has been established.” Farrar v. City of Keene, 158 N.H. 684, 689 (N.H. 2009). The Applicant need only show that strict adherence to the zoning ordinance, considering the special conditions of his property, would cause the applicant substantial hardship. Considering the unique aspects and limitations of development on this parcel, strict adherence to the zoning code would not serve its purpose in a ‘fair and reasonable way’.

Here, substantial hardship exists in developing this parcel. This parcel is especially difficult to develop because it is completely undeveloped, because the abutting baseball field and restaurant emits light and noise pollution onto the property after regular business hours, because it lies directly at an intersection, and because the surrounding businesses and borders with Route 3A create a notable flow of traffic and noise during regular business hours. Considering these factors, any reasonable development by the property owner here faces substantial hardship.

The available options to the applicant to reasonably develop this lot under the literal enforcement of the zoning ordinance are particularly limited. If we apply the zoning ordinance literally, almost all permitted uses would be unacceptable and even unreasonable for development on this lot. Of the thirty-three permitted uses of Zoning District B, thirty-one of them will materially and consistently increase traffic congestion in the surrounding area. Of the remaining two, ((A3) ‘multi-family dwelling’, and (B1) ‘use of land for the primary purposed of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in the area’) A3 would not be reasonable considering the current noise and light pollution emanating on the property, and B1 would not be reasonable because of the parcel’s spatial limitations. Strict application of the zoning ordinance to the conditions of this lot is highly prohibitive to development.

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

This proposed plan has been specifically curated to meet those challenges of development. Here, the applicant is not required to show he cannot develop at all without requiring an ordinance; rather, considering the conditions of the property, his proposed use is a reasonable one. This plan is conscientious of the public rights, the surrounding area, and is reasonable in light of those circumstances.

The Applicant considers this proposed use as respecting the overarching goals of public rights and the ordinance. The proposal before the board requests development of a small metal shed, a parking lot, a sign, the planting of a tree line, and a privacy fence for the purposes of storing landscaping vehicles. The parcel in question makes good use of its direct access to route 3A, there would be no significant change to traffic or noise in the area, the proposed plan would not burden public services, the property would not be affected by the noise and light pollution of the baseball field or surrounding high volume trafficked businesses, the surrounding area has many developments aesthetically and functionally similar, and the proposed plan would not alter the composition of the neighborhood in any substantial way. This proposed use is reasonable because it takes into the consideration the Table of the Permitted Uses, meets the functional goals of the ordinance, does not harm the public rights, and promotes efficiency in development while being mindful of the public welfare.



TOWN OF HUDSON

Land Use Division



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

Zoning Determination #23-014

February 3, 2023

Roderick LeFort
126 Talent Road
Litchfield, NH 03052

Re: 100 Lowell Road Map 198 Lot 147-000
District: Business (B)

Dear Mr. LeFort,

Your request, if you can build a building for a Landscaping business on this parcel?

Zoning Review:

Our records indicate this parcel is an existing lot of record with 34,978 sqft of area and with approximate frontage of 40 ft. on Lowell Road and 131.20 ft. on Country Rd.

Determination:

The proposed use requested is a *Contractor's yard, landscaper business* (E-10) in the Table of Permitted Principal Uses §334-21 and is not permitted and would need a Variance from the Zoning Board of Adjustment for such use. Please find the link to the Zoning Board of Adjustment forms here: <https://www.hudsonnh.gov/zoning/page/zoning-applications-forms> any questions please contact me.

There would also need to be a Site Plan Review from the Planning Board, contact Brian Groth—Town Planner bgroth@hudsonnh.gov (603) 886-6008 for application details.

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.

Property Location: 100 LOWELL RD
 Vision ID: 6433 Account #: 3854

Parcel ID: 198/147/000/
 Bldg #: 1

Card Address:
 Card #: 1 of 1

LUC: 3900
 Print Date: 4/10/2023 1:47:23 PM

CURRENT OWNER		ASSESSING NEIGHBORHOOD			PREVIOUS ASSESSMENTS (HISTORY)								
		Nbhd	Nbhd Name		Year	Code	Assessed	Year	Code	Assessed Val	Year	Code	Assessed
CRAVEN, BRIAN H., TR. CRAVEN REVOCABLE TRUSTS 88 SPEARE RD.		ML1	Comm-Lowell St Map 10 Area		2022	3900	348,700	2022	3900	259,200	2021	3900	259,200
		TOPO		UTILITIES									
		Abv St		Town Water									
				Town Sewer									
HUDSON NH 03051					Total		348,700	Total		259,200	Total		259,200

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	SALE NOTES	APPRAISED VALUE SUMMARY				
CRAVEN, BRIAN H., TR. TESTAGROSSA, DENNIS TESTAGROSSA, DENNIS		8034 1233	11-08-2008	U	V	227,500	49	Grantor: TESTAGROSSA, DENNIS.	Appraised Bldg. Value (Card)				0
		7761 2867	10-30-2006	U	V	269,000	25	Grantor: CRAVEN, RONALD D., TR.	Appraised Xf (B) Value (Bldg)				0
		6079 1293	03-15-1999	U	V		38	Grantor: CRAVEN, RONALD/NANCY	Appraised Ob (B) Value (Bldg)				0
									Appraised Land Value (Bldg)				348,700
									Special Land Value				0
									Total Appraised Parcel Value				348,700
									Valuation Method				C
									Total Appraised Parcel Value				348,700

SUPPLEMENTAL DATA			CURRENT ASSESSMENT									
Parcel ID	Zoning	Flood Hazard	Neigh/Abut1	Neigh/Abut2	Neigh/Abut3	GIS ID	Descrpt	Code	Appraised	Assessed		
198-147-000	BD:BD	C				198-147-000	LAND	3900	348,700	348,700		
PREV 0046-0121-0000		Assoc Pid#						Total:	348,700	348,700	Total Appraised Parcel Value 348,700	

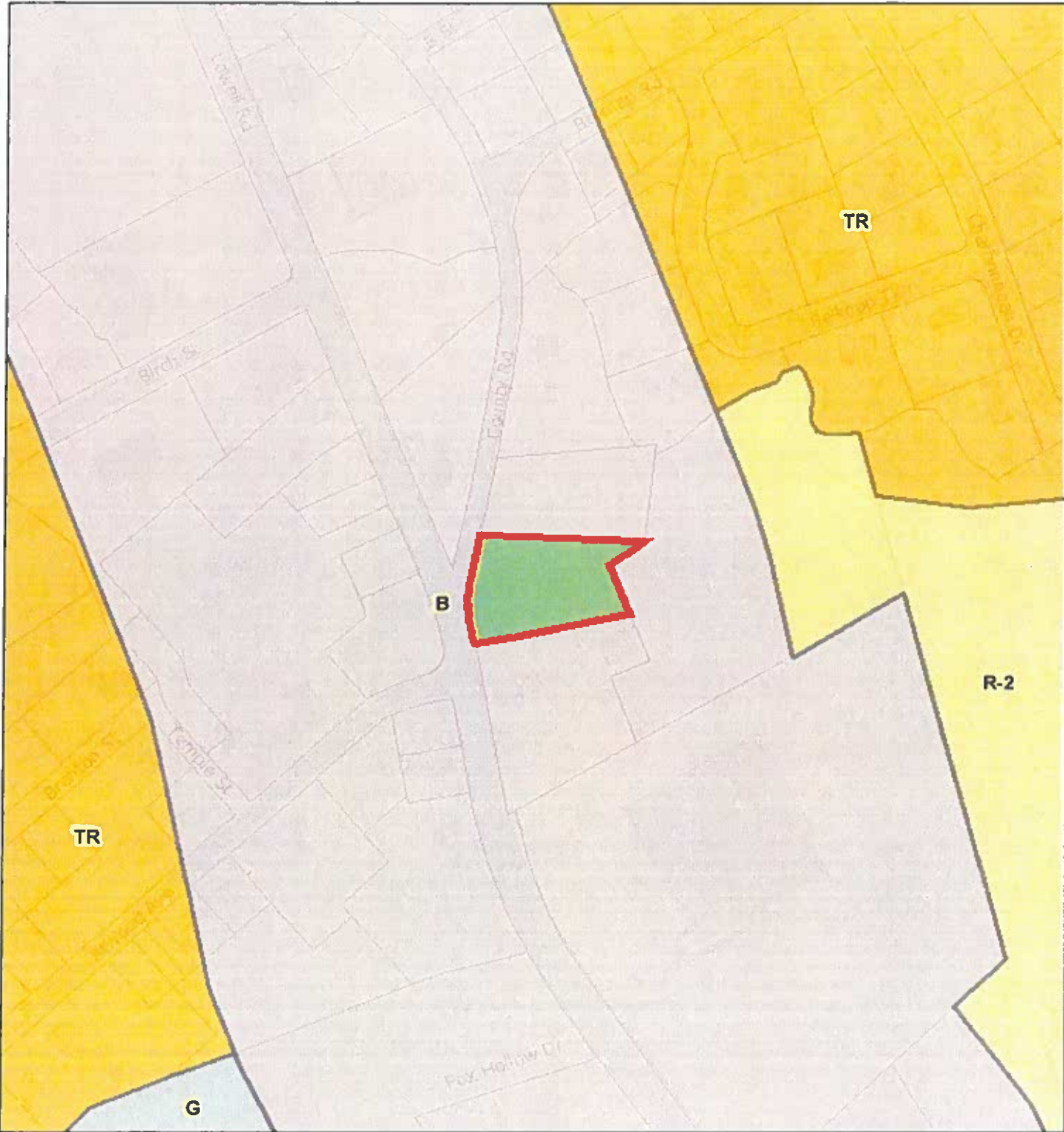
NOTES		VISIT / CHANGE HISTORY			
		Date	Id	Cd	Purpost/Result
bldg demo'd in 2010/ON MARKET 2017 for \$ 239,000/2020 - august on market for \$299,000 remax innovative		06-15-2017	09	45	Field Review
		03-01-2012	01	80	Income And Expense Request Maite
		03-28-2011	14	15	Permit Visit
		10-15-2008	08	14	Inspected
		08-25-2007	06	02	Measured
		08-07-2006	07	71	Acreage Adjustment From New Map
		05-24-2001	00	14	Inspected
		03-28-2001	00	02	Measured

BUILDING PERMIT RECORD									
Permit Id	Issue Date	Permit C	Description	Amount	Status	Applicant	SQ ft	Comments	
2010-00362	07-23-2010	DM	Demolition		C			Visit Notes: Demo Of Existing Bldg;	

LAND LINE VALUATION SECTION															
B #	LandUse Code	Description	Land Type	Land Units	Unit Price	Acrege Disc.	Size Adj.	Site Index	Cond.	Nbhd.	Nbhd Adj.	Land Adjustment		Notes	Land Value
1	3900	VAC COMMERCIAL LA	Site	0.803 AC	260,000		1.14	E	1.00	ML1	2.60	Frontage	0.70	0.80	348,700
Total Card Land Units:				0.803 AC	Parcel Total Land Area:				0.803 AC	Total Land Value:				348,700	








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

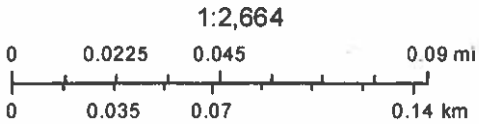
100 Lowell Rd- Zoning Map

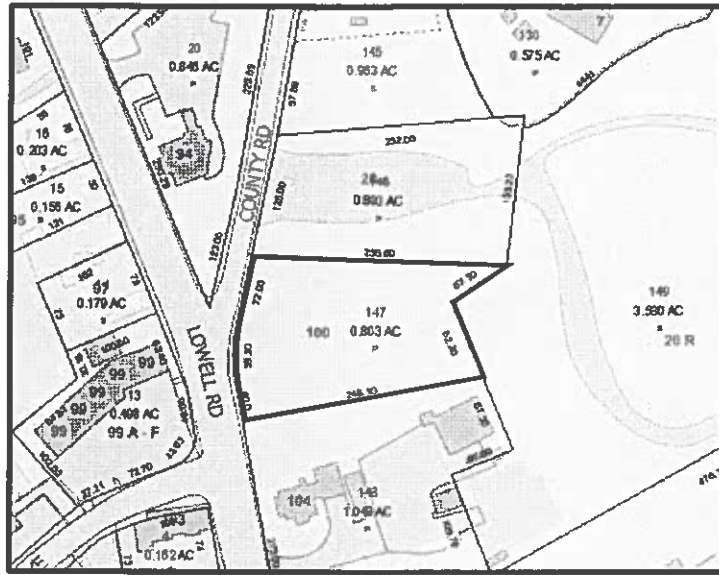


April 4, 2023

Legend

-  Zoning Outlines
-  TR - Town Residential
-  Zoning
-  Parcels
-  B - Business
-  G - General
-  R-2 - Residential 2





GIS MAP SECTION

198-146
HUDSON, TOWN OF
12 SCHOOL STREET
HUDSON, NH 03051
3180/0021
CURRENT USE: PARKING
FOR BASEBALL FIELD

198-149
HUDSON, TOWN OF
12 SCHOOL STREET
HUDSON, NH 03051
2260/0476
CURRENT USE: BASEBALL FIELD

198-147
35,000 s.f.
0.80 Ac.

PROPOSED
ASPHALT
PARKING LOT

PROPOSED
20' X 30'
METAL
BUILDING

PROPOSED
SIGN

PROPOSED
ENTRANCE / EXIT

198-148
RONALD F. MAYNARD
104 LOWELL RD.
HUDSON, NH 03051
5224/0692
CURRENT USE: SINGLE
FAMILY RESIDENTIAL

198-13
CENTAUR OFFICE CONDOMINIUM
STRATOS REALTY TRUST,
STEVE TSOUKAKOS, TRUSTEE
2651 SAN LUIS RD.
HOLIDAY, FL 34691-3115
6573/1098
CURRENT USE: PRIVATE
SCHOOL

198-14
COLBEA ENTERPRISES, LLC
2050 PLAINFIELD PIKE
CRANSTON, RI 02921
7287/2159
CURRENT USE: VACANT

198-20
94 LOWELL ROAD LLC
88 LOWELL RD.
HUDSON, NH 03051
7287/2159
CURRENT USE:
RESTAURANT

NOTES:

- SUBJECT PREMISES
100 LOWELL ROAD
HUDSON, NH
TAX MAP 198 LOT 147
- RECORD OWNER
CRAVEN IRREV TRUSTS,
CRAVEN, BRIAN H., TRUSTEE
88 SPEARE ROAD
HUDSON, NH 03051

HILLSBOROUGH COUNTY REGISTRY OF DEEDS REFERENCES:
DEED BOOK: 8034 PG. 1233
PLAN NUMBER: 4281

- ZONING (B) - BUSINESS
(with town sewer and water)
MIN LOT AREA: 30,000 EXISTING 35,000 S.F.
MIN FRONTAGE 150' EXISTING 170.72'
MIN OPEN SPACE 35% PROPOSED 58%
PRINCIPAL BUILDING SETBACKS
FRONT: 50' SIDE: 15' REAR: 15'

4. THE PURPOSE OF THIS PLAN IS TO DEPICT A PROPOSED COMMERCIAL BUILDING WITH ASSOCIATED PARKING TO ACCOMPANY A USE VARIANCE APPLICATION. APPLICANT IS SEEKING A VARIANCE FROM SECTION 334-21, PERMITTED USES, TO PERMIT A LANDSCAPING COMPANY TO OPERATE ON THE PREMISES.

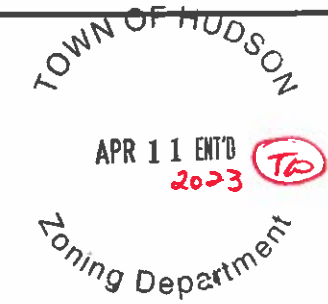
5. BOUNDARY SHOWN IS FROM H.C.R.D. PLAN NO. 4281.

6. THE PROPOSED LAYOUT OF THIS SITE IS CONCEPTUAL IN NATURE AND IS SUBJECT TO MINOR CHANGES OR ALTERATIONS WITHIN THE CONFINES OF THE SITE PLAN REGULATIONS OF THE TOWN OF HUDSON PRIOR TO SUBMISSION FOR SITE PLAN REVIEW.

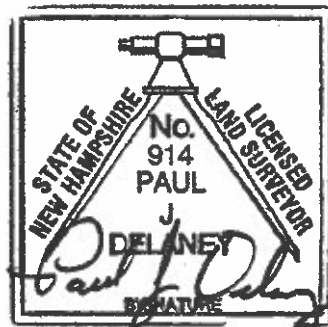
7. SITE IMPROVEMENTS WILL BE SUBJECT TO THE HUDSON SITE PLAN REVIEW PROCESS. PROPOSED BUILDING TO BE SERVICED BY MUNICIPAL WATER AND SEWER. PROPOSED SIGNAGE SHALL COMPLY WITH SIGN REGULATIONS. PROPOSED DRIVEWAY LOCATION IS SUBJECT TO THE SITE PLAN REVIEW PROCESS AS WELL AS STATE PERMITTING.

8. THE SUBJECT PARCEL DOES NOT LIE WITHIN A FLOOD HAZARD AREA ACCORDING TO THE FEMA "FIRM" - FLOOD INSURANCE RATE MAP, TOWN OF HUDSON, COUNTY OF HILLSBOROUGH, NH MAP NO. 33011C0518D, EFFECTIVE DATE OF 9/25/09.

9. THERE ARE NO WETLANDS WITHIN 75 FEET OF SITE.



I CERTIFY THAT THIS PLAN WAS PREPARED BY THIS OFFICE UNDER MY DIRECT SUPERVISION DURING MARCH, 2023 AND MEETS THE REQUIREMENTS SET FORTH IN THE VARIANCE APPLICATION.



1 inch = 50 ft.

ZBA Exhibit Plan
Tax Map 198 Lot 147
100 Lowell Road
Hudson, NH

prepared for
Roderick Lefort
126 Talent Road
Litchfield, NH

www.gatecitysurvey.com

Gate City Survey

Land Surveying & Civil Engineering

1 Tara Boulevard - Suite 200 - Nashua, NH 03062 Tel. 603-882-4655
Project 23399 Scale: 1" = 50' Date: 3/16/2023 SHEET: 1 OF 1

Printed
4/11/2023
11:10AM
Created
4/11/2023
11:06 AM

Transaction Receipt

Receipt# 725,140
tgoodwyn

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

	Description	Current Invoice	Payment	Balance Due
1.00	Zoning Application- ZBA Mtg. TBD 100 Lowell Rd. Map/Lot 198-147-000 (Zone-B) Variance Application	0.00	227.6500	0.00
			Total:	227.65

Remitter	Pay Type	Reference	Tendered	Change	Net Paid
Feniger & Uliasz, LLP	CHECK	CHECK # 15936	227.65	0.00	227.65
			Total Due:		227.65
			Total Tendered:		227.65
			Total Change:		0.00
			Net Paid:		227.65

FENIGER & ULIASZ, LLP

Town of Hudson

File# 291523 - Zoning Variance Fee

4/10/2023

15936

227.65

Eastern Operating 54 File# 291523 - Zoning Variance Fee - LeFort, Ro

227.65