



Zoning Board of Adjustment

Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

MEETING AGENDA – July 25, 2024

The Hudson Zoning Board of Adjustment will hold a meeting on Thursday, July 25, 2024, at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH. Please enter by the ramp entrance at right side.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ATTENDANCE
- IV. SEATING OF ALTERNATES

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

- 1. <u>Case 144-005 (07-25-24)</u>: Rowdy Smith, 19 Robinson Rd., Hudson, NH requests a <u>Variance</u> to allow a continued existing unpermitted multi-family use in the R-2 zoning district where multi-family dwellings are not permitted. [Map 144, Lot 005, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]
- Case 126-024-002 (07-25-24): Todd Hirst, 9 B David Dr., Hudson, NH requests a Home
 Occupation Special Exception to allow the accessory use of a home office for two (2) businesses
 including storage of tools/equipment and parking of four (4) business vehicles. [Map 126, Lot
 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24,
 Home Occupations and HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory
 Uses]
- VI. REQUEST FOR REHEARING: None

VII. REVIEW OF MINUTES:

06/27/2024 edited draft-Meeting Minutes 07/11/2024 draft-Meeting Minutes

VIII. OTHER BUSINESS:

IX. ADJOURNMENT:

Chris Sullivan, Zoning Administrator

Posted: Town Hall, Town Website, Library, Post Office - July 12, 2024

su do ku

© Puzzles by Pappocom

| | | | 2 | 8 | 7 | | | |
|---|---|---|---|---|---|---|---|---|
| | 7 | | 3 | | 5 | | 2 | |
| 5 | | | | | | | | 3 |
| | | 5 | | | | 4 | | |
| 1 | 3 | | | 4 | | | 7 | 8 |
| | | 9 | | | | 3 | | |
| 6 | | | | | | | | 1 |
| | 1 | | 4 | | 2 | | 9 | |
| | | | 5 | 6 | 1 | | | |

Fill in the puzzle so that every row, every column and every 3x3 grid contains the digits 1 through 9. That means that no number is repeated in any row, column or grid. Shown at right is the answer to yesterday's puzzle.

| 2 | 4 | 6 | 5 | 3 | 8 | 7 | 1 | 9 |
|---|---|---|---|---|---|---|---|---|
| 3 | 5 | 1 | 7 | 2 | 9 | 8 | 6 | 4 |
| 8 | 9 | 7 | 4 | 1 | 6 | 3 | 2 | 5 |
| 1 | 2 | 3 | 6 | 4 | 7 | 5 | 9 | 8 |
| 4 | 8 | 5 | 2 | 9 | 1 | 6 | 3 | 7 |
| 7 | 6 | 9 | 3 | 8 | 5 | 2 | 4 | 1 |
| 6 | 3 | 8 | 1 | 5 | 4 | 9 | 7 | 2 |
| 9 | 1 | 2 | 8 | 7 | 3 | 4 | 5 | 6 |
| 5 | 7 | 4 | 9 | 6 | 2 | 1 | 8 | 3 |

Legal Notice

Town of Merrimack Public Hearing

Residents of Merrimack are ereby advised that the Town council will hold a public hearing authorize the acceptance of a onation of three (3) 40' shipping ontainers and two (2) 20' ship ing containers with an estimated alue of \$8,500.00 from Saint-Fobain Performance Plastics to he Town of Merrimack, pursuant o RSA 31:95-e and Charter Article -15. The public hearing will be leld on **Thursday**, **July 25**, 1024 at 7:00 PM in the Matthew Baboosic Lake Road in Merrimack. JL - July 17)

Going Online? See more public notices at www.unionleader.com

Legal Notice

TOWN OF LONDONDERRY **LEGAL NOTICE**

Londonderry Planning loard will hold a special meeting n Thursday, July 18, 2024 at :30 p.m. in the Moose Hill Town council Chambers to consider the

ollowing:
1. Public hearing solely to etermine completeness of a coninued application for formal reiew of a lot line adjustment to djust the lot line between two arcels. 37 Stonehenge Road (Map 2, Lot 124-13) and 41 Stone-enge Road (Map 12, Lot 123). oned AR-1 (Agricultural Residenial). Thomas J. Censabella and hawna Denn (Owners) and Promsed Land Survey, LLC (Applicant). JL - July 17)

Legal Notice

INVITATION TO BID

Sealed Bids will be received at he Town Hall Offices, Office of the 'own Clerk, 12 School Street, Iudson, NH, until 10:00 AM, ocal time, August 2, 2024, for he following **EXISTING SURPLUS**

FORD RANGER FOR SALE HUDSON, NEW HAMPSHIRE

The existing vehicle is surplus thudson Land Use Division and elow is a list of it the specs:

- Make: Ford • Model: Ranger
- Year: 2005
- Mileage: 81,909 VIN: 1FTZR15E15PB04681
- Regular Cab with Cap Engine Displacement (L): 4.0Drive Type: 4WD/4-Wheel
-)rive/4x4 • Cylinders: 6
- Primary Fuel Type: Gasoline
- Transmission Style: Auto-
- · Airbags: Driver and Passen-All questions with regard to

he Invitation to Bid should be ddressed (in writing only) to the ttention of: Mr. Elvis Dhima, P.E.

Town Engineer 12 School Street Hudson, NH 03051

INTERESTED TIES CAN INSPECT THE VEHI-CLE JULY 26, 2024 FROM AM TO 11:00 AM, AT HUDSON TOWN HALL.
THIS IS A VEHICLE SUR-

edhima@hudsonnh.gov

PLUS SALE BID. The deadline for all questions shall be at 10:00 a.m. on **JULY** 30, 2024.

The bids will be evaluated based on offer amount AND with a

minimum bid amount of \$500. All qualified bidders will receive consideration without regard to race, color, religion, creed, age, sex, or national origin. The Town of Hudson is an equal opportunity

The OWNER reserves the right waive any informalities, negotiate with any bidder and to reject any or all bids. No bidder may withdraw his bid within 90 days after the actual date of the opening thereof.

All the bid package informa-tion will be available on the town (UL - July 17)

Legal Notice

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

PUBLIC HEARING AND COMMENT PERIOD

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

Kennebec Lumber Company Springfield 2377 Route 4A Springfield, NH 03284 For the Following Device: One Wood-Fired Boiler

The application and draft permit are on file with the Director, New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095, (603) 271-1370. The application and draft permit are available through the NHDES OneStop online database (DES Interest ID: 3301990150). Please contact us at the above address and phone number if you would like to review the application or draft permit but cannot access it through OneStop. Additional information may also be obtained by contacting **Seth Aumann** at the above address and phone number. Requests for a public hearing and/or written comments filed with the Director in accordance with Env-A 621.06, and received no later than August 16, 2024, shall be considered by the Director in making a final decision.

Craig A. Wright Director Air Resources Division (UL - July 17)

TOWN OF HUDSON **ZONING BOARD OF ADJUSTMENT Notice of Public Meeting & Hearings** THURSDAY, JULY 25, 2024

The Hudson Zoning Board of Adjustment will hold a public meeting on Thursday, July 25, 2024 at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH (please enter by ramp entrance at right side). PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. Case 144-005 (07-25-24): Rowdy Smith, 19 Robinson Rd., Hudson, NH requests a Variance to allow a continued existing unpermitted multifamily use in the R-2 zoning district where multi-family dwellings are not permitted. [Map 144, Lot 005, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal

2. Case 126-024-002 (07-25-24): Todd Hirst, 9 B David Dr., Hudson, NH requests a <u>Home Occupation Special Exception</u> to allow the accessory use of a home office for two (2) businesses including storage of tools/ equipment and parking of four (4) business vehicles. [Map 126, Lot 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations and HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses]

Chris Sullivan, Zoning Administrator

WONDERWORD.

By DAVID **OUELLET**

HOW TO PLAY: All the words listed below appear in the puzzle — horizontally, vertically, diagonally and even backward. Find them, circle each letter of the word and strike it off the list. The leftover letters spell the

| JOI | 3 PE | RKS | | | | | | | | | Solu | tion: | 9 le | tters |
|-----|------|------------|---|----------------------------|------------|-----------|---|---|---|---|------|-------|------|-------|
| С | S | Т | | F | Е | Ν | Е | В | | G | Υ | Е | С | С |
| 0 | Α | \bigcirc | | ${\color{red} \mathbb{M}}$ | \bigcirc | Ν | Ε | G | Α | R | Ε | ٧ | 0 | С |
| F | L | R | R | F | 0 | 0 | D | М | Α | Υ | Α | М | Ν | Н |
| F | L | U | Ε | 0 | 0 | S | Ε | L | 0 | С | Р | Ε | ٧ | |
| Ε | 0 | Ε | Ν | Ε | Р | R | Α | L | Α | Α | S | G | Ε | L |
| Ε | W | D | Α | С | R | S | Р | Τ | Ν | | Υ | В | Ν | D |
| С | Α | Ε | С | ٧ | Н | М | 1 | Υ | Α | М | 0 | U | Τ | С |
| Ν | Ν | Τ | С | U | Ε | 0 | С | R | S | Ν | S | S | | Α |
| Ε | С | R | Ε | R | Ν | Α | Ε | K | U | Α | Н | | 0 | R |
| - [| Ε | 0 | S | Ν | R | ${\sf W}$ | С | S | С | Ε | Α | Ν | Ν | Ε |
| R | Τ | Р | S | Ε | Α | Α | Р | R | 0 | G | R | Ε | S | S |
| Ε | Е | Р | S | R | Ν | R | Ε | М | 0 | Τ | Ε | S | K | Τ |
| Ρ | Α | U | D | S | Α | D | ٧ | 1 | S | 0 | R | S | | 0 |
| Χ | М | S | Р | | Τ | S | М | Ε | D | | С | Α | L | С |
| Ε | S | Р | R | 0 | F | Е | S | S | I | 0 | Ν | Α | L | K |

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Access, Advisor, Allowance, Awards, Benefits, Bonus, Business, Career, Child Care, Coffee, Company Car, Conventions, Coverage, Employee, Experience, Food, Game, Gyms, Leave, Lunch, Medical, Professional, Profit, Progress, Raise, Remote, Résumé, Rewards, Salary, Share, Skill, Snacks, Sports, Stock, Supported, Teams, Time, Tips, Vacation Yesterday's Answer: Enchanting

Cryptoquip

The cryptoquip is a simple substitution cipher in which each letter used stands for another. If you think the X equals 0, it will equal 0 throughout the puzzle. Single letters, short words and words using an apostrophe can give you clues to locating vowels. Solution is accomplished by trial and error.

KCYA B TYFVBRA QZIAP LBJY V C Y RAXYTV EJZBVX ZAKBVYF'X XIFEBTY, RV LRPCV UY B UIZQBAV UZQ BAV.

Yesterday's Cryptoquip: TRENDY DANCE CLUB THAT HAS A BIG BALL EMITTING INDIGO-COLORED LIGHT BEAMS: BLUE-RAY DISCO.

Today's Cryptoquip Clue: U equals B

Bridge

Steve Becker

The question the defenders must resolve on each deal is whether to adopt an active or passive defense. Every deal has its own characteristics, and even though general rules are frequently helpful, the most reliable guide usually is plain common sense.

Assume you're East and partner leads à diamond against South's four-heart contract. When you play the ace, declarer produces the king, obviously a singleton.

If you decide to defend passively, you return a diamond at trick two. Declarer ruffs, leads a trump to dummy's ace,

South dealer. North-South vulnerable. **NORTH ♠** K Q 6 **♥**A ♦ 9753 **♣**J9543 WEST **EAST** ♠ A 10 8 2 **♦** J 5 4 **♥**973 **♥**852 ♦ J 8 6 2 ♣Q82 **♣**10 7 **SOUTH ♦**973

♦ A Q 10 4 **♥** K Q J 10 6 4 ♦ K **♣**A K 6 The bidding: South West North East 1 **Y** 2 💠 Pass Pass Pass 3 NT Pass

Opening lead — two of diamonds.

a club to his ace and continues with two more rounds of trump. He then plays the king and another club.

West wins with the queen, but whatever he returns, the only other trick your side can score is the ace of spades. So, South makes the contract, losing only a spade, a diamond and a club.

This is a predictable outcome if you play a diamond at trick two. South must have very good clubs on the bidding, so you can't expect West to take more than one club trick. Therefore, your only realistic hope is to score two spade

To that end, your best shot is to lead a low spade from the A-10-8-2 at trick two, hoping to develop two spade tricks for yourself when and if West gains the lead with a club. This is clearly a time for active defense, even though it presupposes that your partner has the jack of spades. This assumption is not far-fetched, and it is unlikely to do any harm if you're wrong.

In the actual case, your low spade lead at trick two is eminently successful. After partner takes the queen of clubs, his spade return allows you to score the A-10, and the contract goes down one.

Tomorrow: Steppingstone to success.

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Crossword

Eugene Sheffer

1 Gator's

2 "Nope!"

3 Actress

Spelling

kin

23 — corn (picnic

food)

25 Engrave

26 Texter's

"carpe

diem"

28 Satchels

Mahal

city

layer 31 Old radio

part

35 Worship-

ful ones

38 Evolution

expert

expanse

40 Briny

42 Slangy

45 Luke's

gas

comedy

revue

gold

Harrison

denial

mentor

47 Promises

30 Paint

27 Gush

29 Taj

41 "Paradise DOWN

Lost"

figure

43 Drifting

44 Shaft of

ACROSS

1 Snip

4 Bullets

WWII

alliance

follower

8 Post-

12 Pi

13 Fly

high

solo

16 How

20 Artist

Yoko 21 Earring

site

24 Follows

28 Scenic

7/17

orders

route,

often

32 Halt

33 Past

37 Alum

39 USO

34 Andrea

score-

boards

perfor-

mance

15 Couple's

pronoun

Godiva

traveled,

with "on" **18** Main

light 4 Simp-46 Poe's bird son's 50 Equine singing performer partner 55 World 5 Cattle call 14 La Scala Cup 6 Spoil cheer 7 Approxi-56 Sushi mately wrapper 8 Bigwigs **57** Woodland 9 Altar in the sky arazer 58 One of 10 Spasm the five **11** Sturdy W's tree 59 King of 17 Rock's the jungle Brian **60** Wood 19 Antlered choppers animal 61 Fall from 22 Rude

Solution time: 23 mins.

grace

LOGO TRAY BIIRDBATHS E O N S T O K E N P A B L O S E R B E R A S F I L M G O E R 36 Cavs, on L E V I S O D UNBIASEDSKIF OASES R A D S T E E N Y H U R T BEERBELLY Yesterday's answer 7-17

48 K thru 12 49 Inert

dude

A A H **50** NBC 51 — polloi 52 Acapulco 53 Actor 54 "Get it?"

Horoscope

Eugenia Last

IF BORN ON THIS DATE: Stop change. Mingle with people who improve your life. Change begins with you. Please don't take the easiest path; it won't satisfy your soul. Clovest in yourself and your future. Your numbers are 6, 11, 21, 27, 33, 38, 41.

Birthdate of: Luke Bryan, 48; Carey Hart, 49; David Hasselhoff, 72; Donald Sutherland, 89.

ARIES

(March 21-April 19) Reclaiming a lifestyle you miss is

OK. Set your sights on what makes you happy. Enough procrastination; do your part to bring about positive change.

TAURUS (April 20-May 20)

Find out what's at stake and stick to investing in improvements that are uplifting, functional and add value to your life and surroundings. **GEMINI**

(May 21-June 20)

Discuss your intentions with someone you trust to offer sound advice, and keep what you share a secret. A change of scenery will

CANCER (June 21-July 22)

bring about better choices.

Use your connections, imagination and drive to bring about

ANS: FAMILY CAN BE SPELLED 26 TIMES.

dreaming; do whatever it takes to can offer insight or connections to a better future. LE0

(July 23-Aug. 22)

Network, mix business with pleasure and fact-check information you receive before you change what or how you get things done.

VIRGO

(Aug. 23-Sept. 22) Discover what's new and pos-

sible. Listen, take notes and adjust your agenda to fit the demands necessary to reach your target. LIBRA

(Sept. 23-Oct. 22) Don't put yourself in a vulnerable

position by being too open with someone who can damage your reputation. It's best not to reveal your true feelings. **SCORPIO**

(Oct. 23-Nov. 21)

Handle money matters carefully. Avoid risky joint ventures if you want to lower stress. Take better care of yourself mentally, physically and financially. **SAGITTARIUS**

(Nov. 22-Dec. 21)

Take one step at a time. Listen, but don't believe everything you hear. Too much of anything will end up dragging you down. Maintain balance and equality, and you'll discover a simpler lifestyle.

CAPRICORN (Dec. 22-Jan. 19)

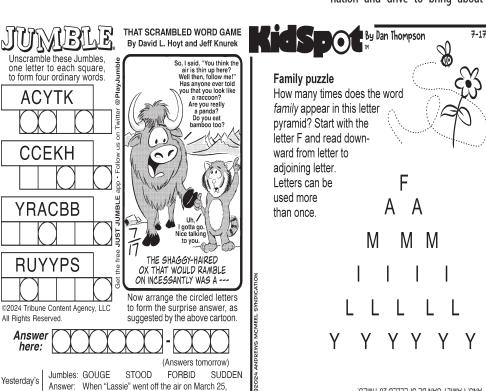
Monitor what's happening and who's doing what, and you'll avoid getting roped into something timeconsuming that leads you in a direction you don't care to go.

AQUARIUS (Jan. 20-Feb. 18)

Sit tight. Look inward and make self-adjustments that improve your living conditions and surroundings. A new look or healthier routine will offer the boost you need to achieve personal satisfaction and happiness.

PISCES (Feb. 19-March 20)

Stick to the facts Don't lure others into your plans when you can change what you don't like, and keep moving forward without explaining your actions. Keep life simple and honest.



1973, some viewers said - DOGGONE IT



Land Use Division

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

Zoning Administrator Staff Report Meeting Date: July 25, 2024

Case 144-005 (07-25-24): Rowdy Smith, 19 Robinson Rd., Hudson, NH requests a Variance to allow a continued existing unpermitted multi-family use in the R-2 zoning district where multi-family dwellings are not permitted. [Map 144, Lot 005, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

Address: 19 Robinson Rd. Map 144, Lot 005-000

Zoning district: Residential Two (R-2)

The Zoning Board previously denied the variance to allow a multifamily residence on June 25, 2015. If the Zoning Board cannot reach the merits of the new application "without first finding either that a material change of circumstances affecting the merits of the application had occurred or that the second application was for a use that materially differed in nature and degree from the use previously applied for and denied by the board." *In re Chichester Commons, LLC, 175 N.H. 412, (2022).*

Property Description:

According to the town records the property is a lot of records in the Residential Two zoning district. Only single-family residences and duplexes(two-family) are permitted in this zone, multifamily is not permitted in the (R-2) zoning district. The property is 252,212 sq. ft. The lot also has a wetland area at the entrance. The lot also has a large utility easement at the rear of it.

Time Line of Events:

In 1983 there were permits pulled to construct a duplex at this property. As mentioned this was allowed use in this zone. In early 2015, the Code Enforcement Officer was notified that the owner had added a 3rd and a 4th unit to the property. The units were added without building permits or a variance from the Zoning Board of Adjustment and, approval from the Planning Board to have a multifamily on the lot.

On May 28, 2015, the owner applied for a variance they needed to keep the multifamily use. On June 25, 2015, the applicant presented the arguments to the Zoning Board of Adjustment. After lengthy testimony and deliberation, the Zoning Board did not grant the variance. In July a notice of the decision was sent to the property owner that the variance was not granted..

On September 30, 2015, Dave Hebert sent the notes to allow the Inspectional Service to inspect the residence to confirm the # of units where in this structure. On October 2, 2015, the owner of 19 Robinson delivered a letter to Dave Hebert. The letter stated that after the Town's decision to designate the structure as a duplex, the property does not operate as a 4 family and that 2 families were sent to vacant the residence, thus returning the property to a two-family.



On March 5, 2024, the Zoning Department received a Zoning Determination to add more Multifamily units to the property. No plans were provided showing what the owner wanted to add to the property. After some research on the property, I noticed that the property was denied a variance to have the existing multifamily remain. As was mentioned above In October of 2015 the former owner of the residence said in her letter that the multifamily was returned to its original use as a duplex. On March 6, 2024, I sent a Zoning Determination that let the owner Rowdy Smith know that the multifamily residences are not permitted in the (R-2) zoning district and they needed to remove the 2 units to bring the property bring the property into compliance.

In-House comments:

Town Engineer:

1. Applicant shall provide septic system information supporting the proposed use.

Inspectional Services/Fire Dept.:

1. Multi-family dwellings are required to have building sprinkler systems and, building fire alarm systems. Inspectional Services shall be allowed to perform an inspection of the entire structure to assess what needs to be added for compliance with the State Adopted Fire Code.

Associate Town Planner:

1. The applicant shall apply to, and receive site plan approval from the Planning Board per §334-

History/Attachments:

AERIAL / PHOTOS

A: Aerials (2024)

Plans:

B: Existing Condition Plan (5-19-15)

C: Floor Plan

D: Building Elevations

BUILDING PERMITS

E: BP# 97-84: Construct a 60X26' Duplex (8-25-83)

F: DP# 16.36.20-3 Construct a driveway 20' wide X250' long (11-23-83)

G: BP#2007-00112 Septic Inspection (5-8-07)

H: Approval # CA200788183 SepticApproval For Construction (6-19-07

I: BP#2007-00112 Septic Inspection (9-4-07)

ZONING ADMINISTRATOR/CODE ENFORCEMENT AND OTHER CORRESPONDENCE

J: Notice that the proposed Waste Disposal system was disapproved (6-12-07)

K: Violation Notice (3-6-15)

L: Letter to a land surveyor informing him of the violation and ZBA process (5-21-15)

M: Zoning Board of Adjustment Application (5-28-15)

N: Blow up of the Hard Ship Question from the application (5-28-15)

O:Agenda case #2- Case # 244-005 (6-25-15)

P: Hudson Zoning Board of Adjustment Meeting Minutes (June 25, 2015)

Q: Notice of Decision (Denied Variance) (7-13-15)

R: Letter Second Notice (9-30-15)

S: Letter From Lias M. Harrington (10-2-15)

T: Code Enforcement Violation Detail (2 Units were removed) (10-13-15)

U: Zoning Determination #24-020 (3-6-24)

DEPARTMENTAL COMMENT SHEETS V: Engineering - Request for review (7-1-24)

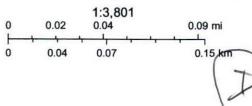
W: Inspectional Services/Fire Dept. Request for review (7-1-24)

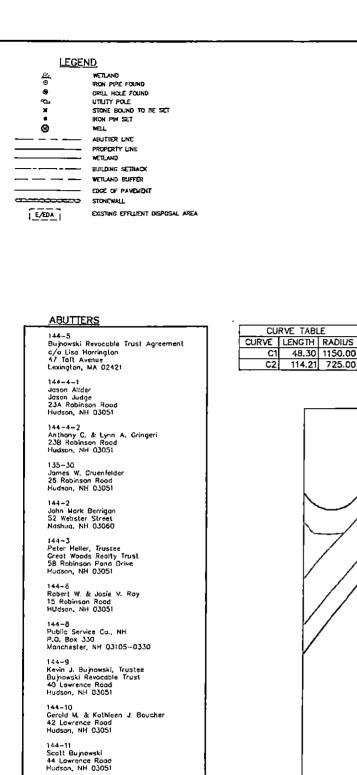
X: Planning Department - Request for review (7-5-24)

Case#144-005 19 Robinson Rd.



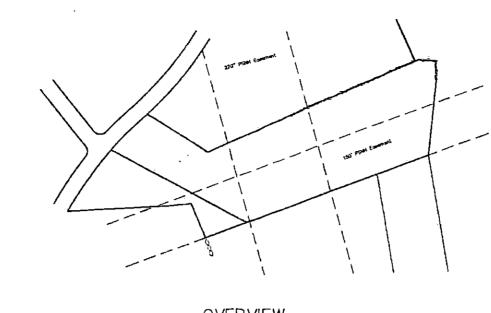
6/24/2024



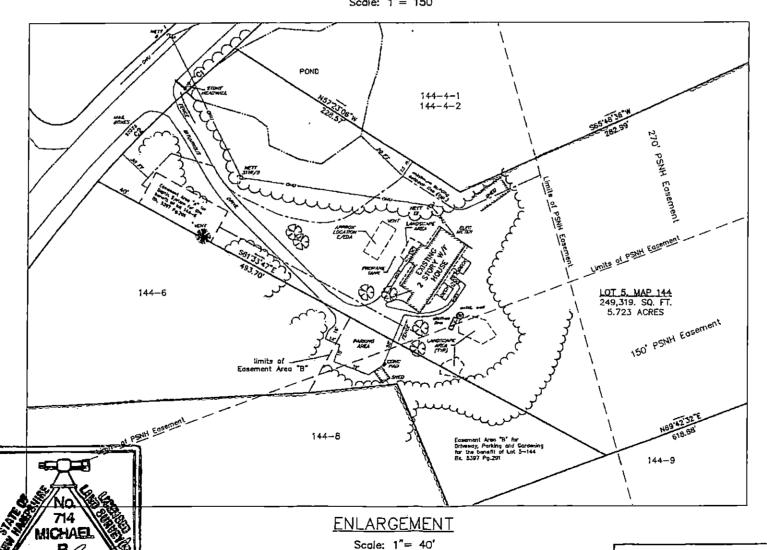


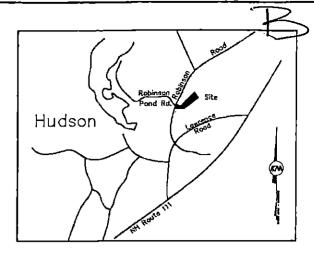
CURVE TABLE

C1 48.30 1150.00 C2 114.21 725.00



OVERVIEW Scale: 1"= 150'





NOTES

(KXA)

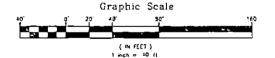
CERTIFICATION

- 1, THE PURPOSE OF THIS PLAN IS AS TO SHOW EXISTING CONDITIONS FOR ASSESSORS MAP 144 LOT 5 IN SUPPORT OF AN APPLICATION TO THE TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT AND NO OTHER PURPOSE.
- 2. THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE CROUND IN APRIL OF 2015.
- 3. NO NEW LOTS ARE CREATED BY THIS PLAN.
- 4. OWNER OF RECORD:
 BUJNOSSI REVOCABLE TRUST ACREEMENT
 C/O USA HARRINGTON
 47 TAFT AVENUE
 LEDINGTON, USA 02421
 HCKD BK.6952 PG. 1892
 HCKD PLAN 195842
- 5. 1 FOOT = 0.3038 METERS, 1 ACRE = 0.4047 HECTARES.
- S. PARCEL LIES WITHIN THE R-Z ZONE.

REFERENCE PLANS

- 1. CONSOLIDATION & SUBDIVISION PLAN, ROBINSON ROAD, HUDSON, NEW MAMPSHIRE PHITLIS BULNOWSKI, & WALTER BULNOWSKI, SCALE; 1" = 50", DATED: JUNE 1983, BY: MAYNARO & PAGUETTE, HORD PLAN #15842.
- 2. Subdivision Plan Tax account no. 6030, Walter F. & Phyllis Bulnowski Lawrence Road & Robinson Road, Hidson, N.H. Scale: 1° = 50°. Dated: Decomber 1977. 9Y. Maurice G. Paquette. Hord Plan \$10800.
- L EASEMENT PLAN OF LAND IN HUDSON, N.H. FOR PHYLLIS BUJNOWSKI.

 SCALE: 1" = 50'. DATED: OCTOBER 21, 1992. BY: STEVEN 1 PATRICK
 HCRD PLAN (26128.



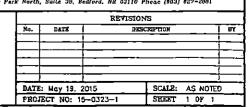
EXISTING CONDITIONS PLAN

BUJNOWSKI REVOCABLE TRUST AGREEMENT

MAP 144 LOT 5 19 ROBINSON ROAD HUDSON, NEW HAMPSHIRE

OWNER OF RECORD: BUJNOWSKI REVOCABLE TRUST AGREEMENT C/O LISA HARRINGTON 47 TAFT AVENUE LEXINGTON, MA 02421 HCRD BK.6952 PG.1892, PLAN #15842

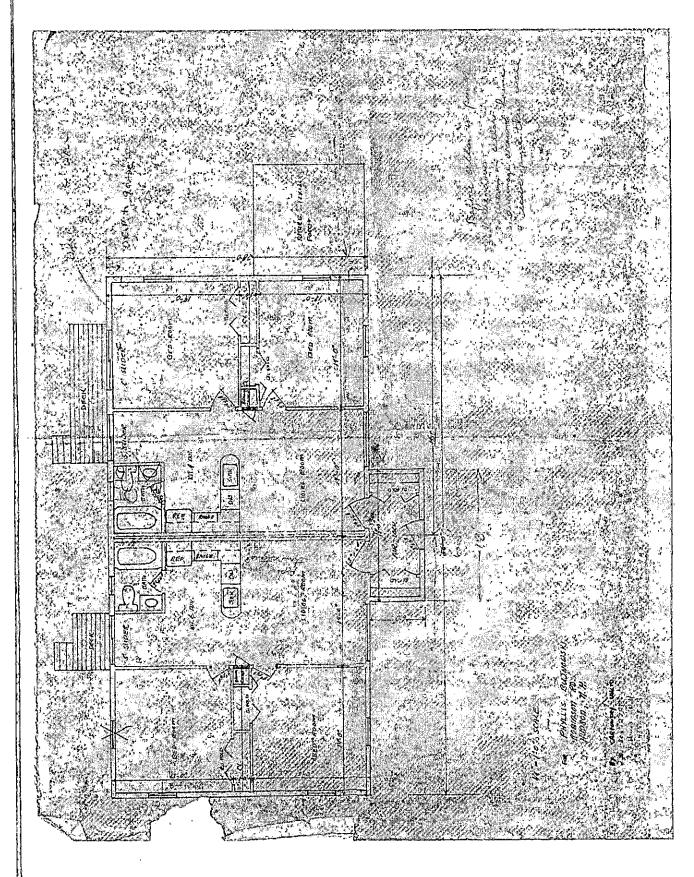
KEACH-NORDSTROM ASSOCIATES, INC. Civil Engineering Land Surveying Landscape Architecture 10 Commerce Park North, Suite 38, Bedford, NB 03110 Phone (603) 627-2881

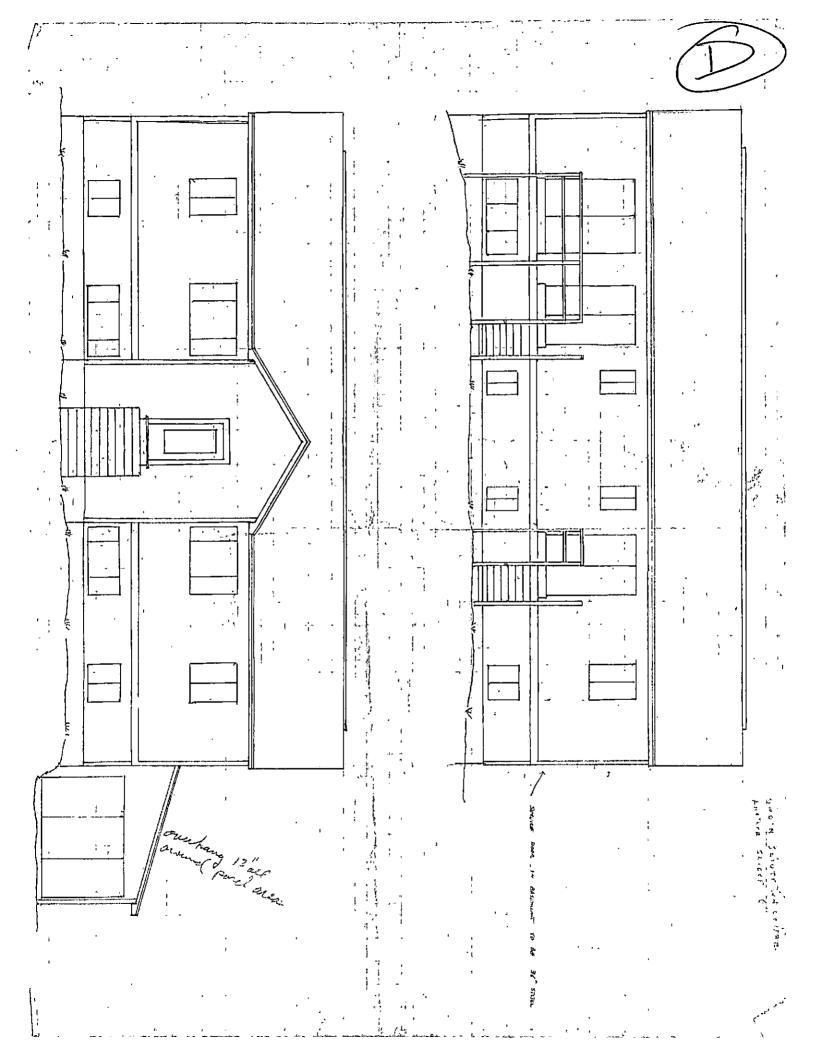




144-12 Gilles & Jocqueline Champagne 164 Greely Street Hudson, NH 03051







ROOF TRUSSES I'M ON CONTER W/RIDGE VENT REOF SHEATH ING 1/5" CDX F-TWOOD "W/H" CLIES 24" ON CONTER WALLS ARE 276 W 1/2 SHEATHING WINDOWS TO BE CHOSEN BY OWNER (After & 36 W.X 48 4) FLOORS TO BE 3/4" THE PLYWOOD FLAND, TRUSSES, TO BE DIED IN ON COMME 5.) ALL DEEKS TO BE PROMINE THOMED SILL TO BE PT EXT W/ THE SEAL STOTAL TO SE CEDER CLASSIFICATES WELCONOR BURGS TO FRONT DOCK TO BE 7 LINE STEEL DOCK L'APACINIANT "DOORS TO BE . 9.) 3/3 SVATROCK BETWEEN THE UNIES FLARE TO PARK OF MORE SEPERATURE TOUSED 279 WALLS UTHERD W/2" HE WALL DEMONT 10.) THEOLOTE W/FIGURES BUTS SI IN EXTERNAL WALLS 12' IN COTHING 3 BUTHUREN WHITE & MEANS BANKEDOM 6" In FLOOR - ele-wheat · door on Attheon reverse bothten best ty parch on tenents flimenat sleding door warran -1 10" SURLEY'S for range on MOTE: BLOCK FOR & SHORE 45° HISH . IN FRANCISCO WALL ufferous.





Rosidontial

Commercial

ndustriol

Gerage

TOWN OF HUDSON, N. H.

Application for a Permit To Build

Yes

Subdivision

Plossing Bd. Approved Sab Div.

Septic Construction Permit No.

Water Pollution Appreval Sab Div. He.

Date Cup 25 1983 Permit Number Hew Alter A##H=x

| No. of Units | Hacksonia agent 1 agent |
|----------------------------------|--|
| | Bd. of Adl. Variance Granted if Nec. |
| Name of Owner Phyllis | Bujnourske Address 17 Robinson Rd Tel 883341 |
| Land Purchased From | Address |
| Location | Property Tax No. |
| Name of General Contractor | Property Tax No. 36. Lat 20-3 |
| Name of Heating Contr | Name of Electrical Contractor |
| Type of Heat | Name of Plumbing Contractor |
| Name of Fireplace Mason | Name of Masonry Contractor |
| Material of Building | Style of Roof Ravel Roof Covering A FRAIT |
| | 26 Living Floor Area No. of Stories |
| Size of Garage NON | C Water // Sewer SECT. |
| | Width Height Footings No |
| Fireplace MI h C. No. of Flues_ | MONC Size Chimney Material AVONC |
| Brief Description of Repair, Alt | er or Other |
| 1) olive 60,000 op | |
| 10.460,00 | IF NECESSARY, AN APPLICATION FOR A DRIVEWAY PERMIT MUST BE FILED |
| Mary 120, Duy | WITH THE CIVIL ENGINEER. |
| 400 | |

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

OVER

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

| wner's Signature | | ** |
|------------------------|--|----|
| Contractor's Signature | I de la companya del companya de la companya del companya de la co | |
| ddress | | |

Town of Hudson

Permit No. 16. 36. 20-3

Application for Driveway Permit

| Name of Applicant Phyllis Buynning Fee Receipt No. 8100 |
|---|
| Address 19 Robinson Rdl Tel. 883-3408 |
| Name of Owner (if other than above) Same |
| Address Tel. |
| Drive Location |
| Length of Drive (from ROW to end) 250° Grade 181 |
| Width of Drive: at edge of roadway: |
| at typical cross section: |
| Angle of center line intersection with Roadway |
| When exiting, sight distance Left (900 6 (400 ins) Right 000 0 |
| Distance to nearest intersection when exiting Left 1600 + Right 1000 + |
| Existing Roadway Drainage (check one) |
| Roadside Swale Curb & Catch Basins Other |
| Description: |
| Proposed Drainage: |
| |
| The owners, by the filing of this application as indicated above, hereby give permission for the members of the Hudson Planning Board, the Conservation Commission the Town Engineer, the Civil Engineer, the Road Agent and such agents or employees of the Town or other persons as the Planning Board or the Office of the Town Engineer may authorize, to enter upon the property which is the subject of this application at all reasonable times for the purpose of such examinations surveys, tests and inspections as may be appropriate to enable the Office of the Town Engineer to process this application. We hereby waive and release any claim or right we may now or hereafter possess against any of the above individuals as a result of any examinations, surveys, test and inspections conducted on my property in connection with this application . |
| Owner(s) Signature(s) Date |
| Inspected by On: 12-9-83 Deans In Bosset Sayst 4,1994 Approved by On: |

Special conditions Growth must be controlled to maintain adequate sight distance left (when exitting).

Run: 5/08/07 8:12AM

Building Permit Inspection Status Town of Hudson, NH Page: jkennedy

Permit

2007-00112

SEPTIC

Description:

Owner:

BUJNOWSKI, PHYLLIS M., TR BUJNOWSKI REV TRUST

Street:

ROBINSON RD

Map\Lot:

144-005-000

Inspection Description: SEPTIC INSPECTION

Zone:

Scheduled Date: 5/08/2007

Inspection Code:

SEPTIC

Date of Inspection:

Inspector:

BO

Inspection Notes: AFTERNOON PLEASE TEST PIT

Must church & Stednesons must church & days

Inspection Status: In Process

Inspector:

Date: 5607

APPROVAL FOR CONSTRUC

| ─ 7. | | 7 L | | 7 1 1 | | . 4 | | | | | |
|-------------|--------------|------|------------|-------|---------|-----|--------|---|--|-----|----|
| ? | CA2007088183 | N.H. | . DEPARTME | | NVIRONN | | IVICES | • | | CA2 | 20 |

SUBSURFACE SYSTEMS BUREAU P.O. BOX 95, 29 HAZEN DRIVE, CONCORD, NH 03302-0095

07088183 APPROVAL NO.

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

OWNER:

PHYLLIS BUSNOWSKI

19 ROBINSON RD

HUDSON NH 03051-

COPY SENT TO:

BILL OLEKSAK

TOWN OF HUDSON

12 SCHOOL ST

HUDSON NH 03051

BY APPLICANT: PERMIT NO.

00700

M J GRAINGER ENG INC

220 DERRY RD **HUDSON NH 03051** Map No./Lot No.:

Subd. Appyl. No.:

Subd. Name:

County:

Registry Book No.:

Registry Page No.:

Probate Docket No.:

(If Applicable)

Type of System:

BR

6952

1892

1050 GPD

1447005

5+ACRES

HILLSBOROUGH

HUDSON

Town/City Location:

19 ROBINSON ROAD

Street Location:

Substitute waste disposal systems must be operated and maintained in a manner so as to prevent nuisance or health hazard due to system failure.

(RSA 485-A:37)

it is unlawful to discharge any hazardous chemicals or substances into subsurface Waste disposal systems. included are paints, thinners, gasoline and chlorinated hydrocarbon solvents such as TCE, sometimes used to clean failed septic systems and auto parts. (Env-Ws

1503.04)

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

1. THIS APPROVAL IS VALID FOR 90 DAYS FROM DATE OF SAID APPROVAL, PER ENV-WS 1003.19.

2. APPROVAL FOR TWO 2 BEDROOM UNITS AT 300GPD/UNIT AND TWO 1 BEDROOM UNITS AT 225GPD/UNIT.

06/19/2007

Approved this date: _____

Date amended: _____

By: N.H. Department of Environmental Services Staff

Amended by: __

(OVER)

200702901

REVISED 8/01



Run: 9/04/07 2:23PM

Building Permit Inspection Status Town of Hudson, NH

Page: sflorenza

Permit

2007-00112

SEPTIC

Description: Approval for construction #CA2007088183

Owner:

BUJNOWSKI, PHYLLIS M., TR BUJNOWSKI REV TRUST

Street:

19

ROBINSON RD

Unit:

Map\Lot:

144-005-000

Inspection Description: SEPTIC INSPECTION

Zone:

Scheduled Date: 9/05/2007

Inspection Code:

SEPTIC

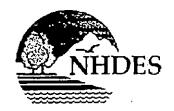
Date of Inspection: Inspector:

ВО

Inspection Notes: Keven Bujnowski

cell #370-0105 Late Morning Bed Bottom

Inspection Status: in Process



The State of New Hampshire Department of Environmental Services



June 12, 2007

MICHAEL J GRAINGER 4 WATTS RD LONDONDERRY NH 03053

RE: WN: 200702901, Phyllis Busnowski, Map/Lot: 144/005, Hudson

Dear Designer:

A review of the information you provided for this proposed disposal system has been completed. We regret to inform you that this plan is disapproved at this time. However, if the following items are addressed, we will reconsider the application:

Please clarify the number of bedrooms for each unit and provide the total sewage load. 2-18-2

Please provide the town stamp on the revised prints. O.L.

Please clarify the design intent and high side grade as they don't appear to match. 120-22 out the please address lot loading. Please 30,181 Please address lot loading. Please 30,181 Please 183,236 of Selection 183, 236 of Selection 183, 236

If you have any questions, please respond to me at the address below.

Sincerely,

Eric J. Thomas

Subsurface Systems Bureau

Water Division

cc: Designer File # 00700





FIRE DEPARTMENT

INSPECTIONAL SERVICES DIVISION

12 SCHOOL STREET, HUDSON, NEW HAMPSHIRE 03051

Emergency

911

Buelness

Fax

603-886-6005 603-594-1142

Robert M. Buxton Chief of Department

March 6th, 2015

Phyllis M. Bujnowski 19 Robinson Rd Hudson, NH 03051

Re:

19 Robinson Rd. Hudson (Map 144/Lot 005)

Ms. Bujnowski:

It has been brought to the attention of this office that there is a third AND a forth unit at the aforementioned property. Our records indicate that this home was originally authorized ONLY as a duplex. We have no record of a certificate of occupancy, building permits or approvals from the Zoning Board of Adjustment for a 3rd and/or 4th unit ever being added at this residence.

Because of this, two options are available to you. First, two (2) of the four (4) units would have to be removed, so that the property will be returned to the original authorized usage OR a Usage Variance application can be submitted to the towns Zoning Board of Adjustment for review.

Please contact the Community Development Department at 603-886-6005 at your earliest convenience regarding this matter.

Regards,

Kevin Desmond

Zoning Administrator/Code Enforcement Officer Town of Hudson NH - Inspectional Services Division 12 School Street Hudson, NH 03051

603-886-6005 Main Number 603-594-1142 Fax kdesmond@hudsonnh.gov

CC: Zoning Board of Adjustment H.F.D. Chief Robert Buxton



FIRE DEPARTMENT

INSPECTIONAL SERVICES DIVISION



Emergency Business

603-886-6005 603-594-1142 Robert M. Buxton Chief of Department

Michael Dahlberg, LLS

10 Commerce Park North (Ste 3B)

Bedford, NH 03053-3220

May 21st, 2015

Re:

Fax

19 Robinson Rd, Hudson (Map 144/Lot 005) (for Bujnowski Trust)

Mr. Dahlberg:

Several Months ago, it had been brought to the attention of this office that there is a third AND a forth unit at the aforementioned property. Our records indicate that this home was originally authorized ONLY as a duplex. We have no record of a certificate of occupancy, building permits or approvals from the Zoning Board of Adjustment for a 3rd and/or 4th unit ever being added at this residence. The plans on record in the town database show this particular structure as being built approximately 1983 as a duplex, with no changes being conducted, applied for or approved since

On March 6th, 2015 I had informed members of the Bujnowski family (copy included) that, because of this, two options are available to them. First, two (2) of the four (4) units would have to be removed, so that the property is returned to the original authorized usage or, second, an application for Usage Variance could be submitted to the towns Zoning Board of Adjustment for review/approval to allow the third and/or 4th unit to remain.

Your request for Zoning Determination and/or Planning Information leads me to believe that you are choosing to submit an application for a usage variance to reflect the change from a two (2) family to a three (3) family residence. I have included an application for this purpose.

Please contact the Community Development Department at 603-886-6005 at your earliest convenience regarding this matter.

Your client has 30 days to appeal this decision.

Regards,

Kevin Desmond

Zoning Administrator/Code Enforcement Officer Town of Hudson NH - Inspectional Services Division 12 School Street Hudson, NH 03051

603-886-6005 Main Number 603-594-1142 Fax kdesmond@hudsonnh.gov

CC: Zoning Board of Adjustment H.F.D. Deputy Fire Chief John O'Brien File

M

APPLICATION FOR A VARIANCE

MAY 28 2015

HUDSON FIRE DEPT

| | INSPECTIONAL SERVICES DIVISION |
|--|--|
| To: Zoning Board of Adjustment Town of Hudson | Entries in this box are to be filled out by Community Development Office personnel Case No |
| Name of Applicant Lisa Harri | motor, Ttee Map: 144 Lot: 5 |
| Telephone Number (Home) 617.3 | 12.1167 (Work) |
| Mailing Address 47 Toft | Ave Lexington, MA 02421 |
| | orable Trust |
| Location of Property 19 Poblins (Street A | on Rd. Hudson NH |
| JR. | 5.27.15 |
| Signature of Property-Owner(s) | Date |
| application is not acceptable unles Additional information may be su is inadequate. If you are not the p documentation signed by the prop | the Application Form(s) as appropriate. This is all required statements have been made. pplied on a separate sheet if space provided roperty owner, you must provide written erty owner(s) to confirm that the property k on his/her/their behalf or that you have rariance. |
| Items in this box are to be filled out | by Community Development Office personnel |
| COST: Application fee is \$100.00, p | olus \$3.56 for each abutter. |
| Abutters x \$3.56 + \$1 | 00.00 application fee |
| Amount due: \$ | Amount received: \$ |
| Date received: 5.28.15 | Receipt No.:370, 544 |

Zoning District: R-2

Engineering _____ Fire Department _____ Health Officer

By determination of the Zoning Administrator or Building Inspector, the following

Received by:

Departmental review is required:



- The plot plan shall include all proposed buildings, structures, or additions, marked as "PROPOSED," together with all applicable dimensions and encroachments.
- The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.
- The plot plan shall indicate all parking spaces and lanes, with I. dimensions.

For a Wetland Special Exception, a letter or a copy of the relevant decision from the Hudson Conservation Commission shall be attached to the application for existing single-family and duplex residential uses. All other Wetland Special Exceptions (multifamily, commercial, or industrial uses) must have letters both from the Conservation Commission and from the Planning Board.

The applicant should sign and date this form to show his/her awareness of these requirements.

5.27.2015

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

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

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

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

See RSA Chapter 677 for more detail on rehearing and appeal procedures.





ZONING BOARD OF ADJUSTMENT

ABUTTER NOTIFICATION





Hudson, New Hampshire 03051

603/886-6005



You are hereby notified of a hearing that will be presented before the Zoning Board of Adjustment for review and/or action on Thursday, June 25, 2015 starting at 7:30 P.M., Town Hall, 12 School Street, Hudson, NH

Case 144-005 (6-25-15): Lisa Harrington, 47 Taft Avenue, Lexington, MA, requests a Use Variance for the property located at 19 Robinson Road, Hudson to allow conversion of existing Duplex to a Multi-Family home. [Map 144, Lot 005, Zoned R-2; HZO Article V §334-21, Table of Permitted Principal Uses.]

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

Respectfully,

Kevin W. Desmond Zoning Administrator

NOTE: The above notice is being sent to all abutters listed on the application. You or a representative are expected to attend the hearing and make a presentation.



| SENDER: | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - CERTIFIED MAIL | (6/15/15) Case# 144-005 Variance 19 Robinson Rd Pg. 1 |
|---------|--|--|---|
| | ARTICLE NUMBER | Name of Addressee, Street, and post office address | |
| 7010 | 1670 0000 6912 5931 | Lisa Harrington C/O: Bujnowski Rev Trust | |
| | | 47 Taft Ave, Lexington MA 02421 | 1 (4: (4:4.5) |
| 7010 | 1670 0000 6912 5948 | James W. Gruenfelder | |
| | | 26 Robinson Road, Hudson NH 03051 | |
| 7010 | 1670 0000 6912 5955 | Gilles Champagne | |
| | | 164 Greeley Street, Hudson NH 03051 | |
| 7010 | 1670 0000 6915 5965 | Judith Bujnowski | |
| | | 44 Lawrence Road, Hudson NH 03051 | |
| 7010 | 1670 0000 6912 5979 | Gerald M. Boucher | |
| | | 42 Lawrence Road, Hudson NH 03051 | |
| 7010 | 1670 0000 6912 5986 | Kevin J. Bujnowksi TR | |
| | | 40 Lawrence Road, Hudson NH 03051 | NH 0305 |
| 7010 | 1670 0000 6912 5993 | Public Service Co. of NH | (80 mm '90 |
| | | PO Box 330, Manchester NH 03105 | 13/ |
| 7010 | 1670 0000 6912 5726 | Robert W. Roy | JUN 10 2015 |
| | | 15 Robinson Road, Hudson NH 03051 | JUN 10 2015 |
| 2070 | 1670 0000 6912 5733 | Anthony C. Gringeri | |
| | | 23B Robinson Road, Hudson NH 03051 | |
| 7010 | 1670 0000 6912 5740 | Jason Allder | 115.75 |
| | | 23A Robinson Road, Hudson NH 03051 | |
| | Total Number of pieces listed by sender | Total number of pieces rec'd at Post Office | Postmaster, Per (recieving Employee) |

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| NDER: | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - CERTIFIED MAIL | Lisa Harrington Case 144-005 Letter to Deny Variance, 19 Robinson Road 7/14/15 |
|-------|--|--|--|
| | ARTICLE NUMBER | Name of Addressee, Street, and post office address | |
| 7015 | 0640 0004 9167 4530 | Lisa Harrington | |
| | | 47 Taft Avenue, Lexington MA 02421 | |
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| | Total Number of pieces listed by sender | Total number of pieces rec'd at Post Office | Postmaster, Per (recieving Employee) |



ALL DIRECT ABUTTERS

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

| MAP | LOT | NAME OF PROPERTY OWNER | MAILING ADDRESS |
|-----|-----|---|---|
| 144 | 4-1 | Joson Allder Joson Judge | 23 A Robinson Rd Hudson, NH 03051 |
| 144 | 4-2 | Anthony & Lynn Gringeri | 23 B Robinson Rd Hudson NH 03051 |
| 135 | 30 | James Gruenfelder | 26 Robinson Rd Hudson NH 03051 |
| 144 | 6 | Robert . Jose Roy | 15 Robinson Rd Hudson NH 03051 P.O. Box 330 |
| 144 | 8 | Public Service Co | Manchester NH 03105 |
| 144 | 9 | Keun Bujnauski, Ttre Bujnowski Rev Trust | 40 Laurence Rd |
| 144 | 10 | Gerold + Kathleen Bouche | Hudson NH 03051 |
| 144 | 11 | Scott Buynowski | 44 Lowrence Pd Hudson NH 03051 |
| 144 | 12 | Champagne | Hudson NA 03051 |
| | | . 3 | , |
| | | | |
| | | | |
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ALL NON-DIRECT ABUTTERS WITHIN 200 FEET

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

| LOT | NAME OF PROPERTY OWNER | MAILING ADDRESS | | | |
|-----|--|---|--|--|--|
| 2 | John Mark Berrigan | 52 Webster St. Nashua NH 63060 | | | |
| 3 | Peter Heller Trustee Great woods Realty Tru | Weshua, NH 03060 58 Robinson Rend Dr st Hudson NH 03051 | | | |
| | <u> </u> | | | | |
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| | 2 | 2 John Mark Berrigan Pater Heller Trustre | | | |

APPLICATION FOR A VARIANCE



| | no ming one | inge or use: | | | Hudson Zonii |
|---------|-------------|--------------|-------|--------|--------------|
| current | use | 0 > 0 | mult, | Family | |
| | | | | | |

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

FACTS SUPPORTING THIS REQUEST:

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

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

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

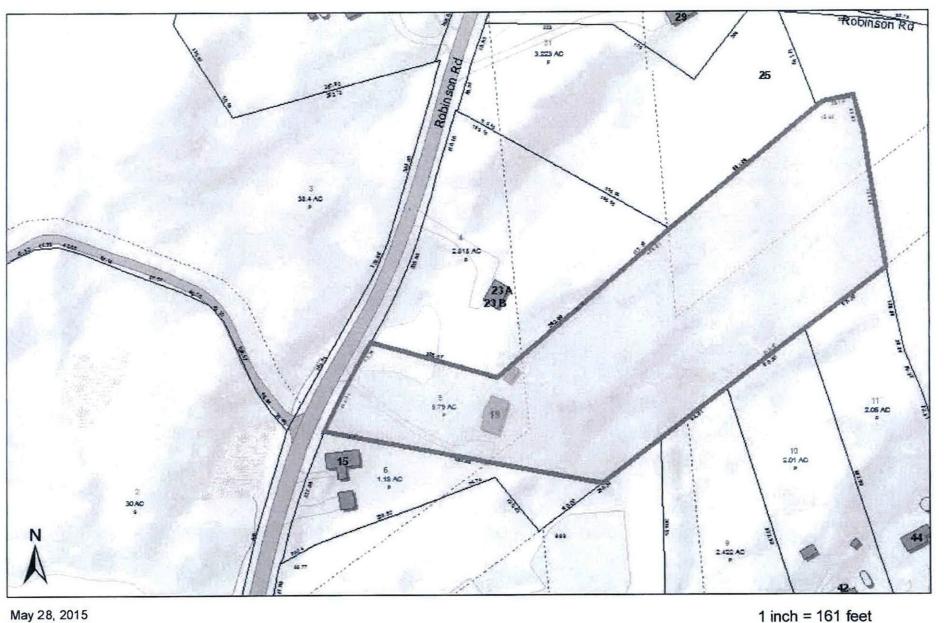
New Hampshire case law has established, on the basis of the preceding statute and/or its precedent versions, that all of the following requirements must be satisfied in order for a Zoning Board of Adjustment to grant a variance. You must demonstrate by your answers in the following blanks that you do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

| you | can provide additional testimony at the time of your nearing. |
|-----|--|
| 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.") There has not been not do be expected to the following the safety of welfare. The same been not the safety of th |
| | for off the road boaly unible from road. |
| 2. | The proposed use will observe the spirit of the ordinance, because: (Explain why you feel this to be true—keeping in mind that, as detailed above, the proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.") The proposed use 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 alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.") The proposed use will observe the spirit of the ordinance, because: 1983 |
| 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 property has built as family load in 1983 by the standard of the same time. We seek the load to the same time. We seek and the same time. We seek all the persent of the load screen decodes. |
| 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.) |

| 5. | Special conditions exist such that literal enforcement of the ordinance results in unnecessary |
|----|--|
| | hardship, because: (Explain why you believe this to be true—keeping in mind that you must establish that, |
| | because of the special conditions of the property in question, the restriction applied to the |
| | property by the ordinance does not serve the purpose of the restriction in a "fair and |
| | reasonable" way and also that you must establish that the special conditions of the property |
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Requests before the Zoning Board of Adjustment may require connection to the municipal sewer system. Please contact the Town Engineer's Office prior to submittal of this application to determine if connection is required or will be allowed, together with the procedure for such application.

19 Robinson Rd



May 28, 2015

— Easement_Lines

— Parcels

1 inch = 161 feet

0 175 350 Feet

Total Card / Total Parcel RESIDENTIAL 1 of 1 000 144 005 APPRAISED: 290.200/ 290,200 Hudson CARD LOT SUB MAP 290,200/ 290,200 USE VALUE: 290.200/ 290,200 ASSESSED: IN PROCESS APPRAISAL SUMMARY PROPERTY LOCATION Direction/Street/City Land Size Building Value Yard Items Land Value Total Value Legal Description User Acct Alt No Use Code 290,200 131,200 ROBINSON RD, HUDSON 111 5.790 157,200 1,800 6342 19 GIS Ref OWNERSHIP Unit# Owner 1: BUJNOWSKI, PHYLLIS M., TR GIS Ref Owner 2: BUJNOWSKI REV TRUST 290,200 Entered Lot Size Total Card 5.790 157,200 1,800 131,200 Owner 3: 131,200 290,200 5.790 157,200 1.800 Total Land: 5.79 **Total Parcel** Insp Date Street 1: 19 ROBINSON ROAD Total Value per SQ unit /Card: 152.42 /Parcel: 152.42 Properties Inc. Source: Market Adi Cost Land Unit Type: AC 06/05/01 Street 2: **USER DEFINED** Parcel ID 144-005-000 Twn/City: HUDSON 15176! PREVIOUS ASSESSMENT Prior Id # 1: 0036 Own Occ: Yrd Items Land Size Land Value Total Value Asses'd Value Notes Date St/Prov: NH Cntry Bldg Value Tax Yr Use Cat Prior Id # 2: 0020 Type: 5.79 131,200 290,200 Year End Roll 5/8/2015 Postal: 03051 2015 111 JB 157,200 1800 PRINT Prior Id # 3: 0003 9/4/2014 290 200 290,200 Year End Roll FV 5.79 131,200 2014 111 157,200 1800 PREVIOUS OWNER Date Time Prior Id # 1: 290,200 290 200 Year End Roll 5/7/2014 5.79 131,200 2014 111 JB 157,200 1800 Owner 1: BUJNOWSKI, PHYLLIS M -12:26:43 05/28/15 Prior Id #2: 290,200 9/18/2013 290,200 Year End Roll 2013 111 FV 157,200 1800 5.79 131,200 Owner 2: -LAST REV 5/13/2013 Prior Id #3: 5.79 131,200 290,200 290,200 Year End Roll JB 157,200 1800 2013 111 Street 1: 19 ROBINSON ROAD Date 9/25/2012 Time Prior Id # 1: 2012 111 FV 157,200 1800 5.79 131.200 290,200 290,200 Year End Roll Twn/City: HUDSON 353.200 353,200 Year End Roll 5/10/2012 173,700 15:04:22 Prior Id # 2: 111 JB 177,900 1600 5.79 05/14/12 St/Prov: NH Cntry FV 1600 5.79 173,700 353,200 353,200 Year End Roll 9/7/2011 2011 111 177,900 Prior Id # 3: mikep Postal 03051 PAT ACCT. ASR Map: TAX DISTRICT 5176 SALES INFORMATION NARRATIVE DESCRIPTION Sale Price V Tst Verif Notes Fact Dist Legal Ref Date Sale Code Grantor Type This parcel contains 5.79 ACRES of land mainly classified as No No BUJNOWSKI, PHYL 6952-1892 6/5/2003 NON-MARKET Reval Dist: APTS 4-7 with a MULTI-CONVER Building built about 1983, Year having primarily VINYL Exterior and 1904 Square Feet, with 4 Units, 3 Baths, 1 3/4 Bath, 0 HalfBath, 14 Rooms, and 6 Bdrms. LandReason: BldReason OTHER ASSESSMENTS CivilDistrict: Descrip/No Amount Com. Int Ratio: ACTIVITY INFORMATION **BUILDING PERMITS** By Name Comment Date Number Descrip Amount C/O Last Visit Fed Code F. Descrip **PVA** PROPERTY FACTORS 5/7/2012 Field Review 9 Item Code Description % Item Code Description 3/1/2012 I&E Mailed ASST ASSESS Z R2 **RESD TWO** water PRIV WATER 11/17/2008 Measured 10 APPRAISER II PVA Sewer SEPTIC 7/11/2007 Other Change 9 0 2/16/2007 I&E Mailed ASST ASSESS n Electri 3/4/2002 I&E Mailed PATRIOT 0 Census: Exmpt 6/5/2001 Meas/Inspect 0 PATRIOT Flood Haz: C 2 AVITAR 8/6/1991 Inspected Topo 8 LEDGY D Street S Sign: LAND SECTION (First 7 lines only) Appraised Spec LT Base Unit Neigh Neigh LUC Depth / Fact Use Value Notes Infl 2 % Infl 3 Unit Type Land Type Neigh No of Units Description Value Class Land Code Influ Mod **PriceUnits** Price Fact Factor Value Code 127,600 4 units 0 105,000 1.22 RE PROPUS 35 EASEME -10 127,575 SITE ACRE SITE 111 APTS 4-7 1.0 3,593 3,600 WET/PL EASEME -90 0 6,000 0.13 RE 111 APTS 4-7 1.0 4.79 ACRES **EXCESS** Total: 131,200 Total: 131,168 Sol Credit Prime NB Desc RES AVG Total SF/SM: 252212 Parcel LUC: 111 APTS 4-7 Total AC/HA: 5.79000 Disclaimer: This Information is believed to be correct but is subject to change and is not warranteed. Database: AssessPro - Counter 2014 apro



FIRE DEPARTMENT

INSPECTIONAL SERVICES DIVISION

12 SCHOOL STREET, HUDSON, NEW HAMPSHIRE 03051

Emergency Business

603-886-6005

603-594-1142

Robert M. Buxton Chief of Department

March 6th, 2015

Phyllis M. Bujnowski 19 Robinson Rd Hudson, NH 03051

Re:

Fax

19 Robinson Rd, Hudson (Map 144/Lot 005)

Ms. Bujnowski:

It has been brought to the attention of this office that there is a third AND a forth unit at the aforementioned property. Our records indicate that this home was originally authorized ONLY as a duplex. We have no record of a certificate of occupancy, building permits or approvals from the Zoning Board of Adjustment for a 3rd and/or 4th unit ever being added at this residence.

Because of this, two options are available to you. First, two (2) of the four (4) units would have to be removed, so that the property will be returned to the original authorized usage OR a Usage Variance application can be submitted to the towns Zoning Board of Adjustment for review.

Please contact the Community Development Department at 603-886-6005 at your earliest convenience regarding this matter.

Regards,

Kevin Desmond

Zoning Administrator/Code Enforcement Officer Town of Hudson NH - Inspectional Services Division 12 School Street Hudson, NH 03051

603-886-6005 Main Number 603-594-1142 Fax kdesmond@hudsonnh.gov

CC: Zoning Board of Adjustment H.F.D. Chief Robert Buxton File









TOWN OF HUDSON ZONING BOARD OF ADJUSTMENT

Applicant: Lisa Harrington, Bujnowski Rev Trust

Case # 144-005

Address: 19 Robinson Road

Date: 06/25/15

Type of Appeal: Use Variance

| Sitting Memb | | Attendance | | | Members | | | Roll Ca | <u>ll</u> |
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HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 12-10-09)

On 6/25/15, the Zoning Board of Adjustment heard Case 144-005, being a case brought by Lisa Harrington, for a Use Variance to allow the property located at 19 Robinson Road, Hudson to allow conversion of existing Duplux to a Multi-Family home. [Map 144, Lot 005; Zoned R-2; HTC Section 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."
- 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."
- 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.
- Y N 5. Special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship, either because the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way <u>and also</u> because the special conditions of the property cause the proposed use to be reasonable, or, alternatively, there is no reasonable use that can be made of the property that would be permitted under the ordinance, because of the special conditions of the property.

Signed: Dance / DENY

Signed: Dance / DENY

Date

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 12-10-09)



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

5. Special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship, either because the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way and also because the special conditions of the property cause the proposed use to be reasonable, or, alternatively, there is no reasonable use that can be made of the property that would be permitted under the ordinance, because of the special conditions of the

Voted to grant this Variance, and Noted to grant openy.

Signed:

Sitting member of the Hudson ZBA

Date Reverse -

There is no hardship on the property I agree with other board members. However this is a situation that has Existed for over 30 years in this town. We had a faired septiz tank and life Safety issues and they were corrected by the applicant. With those gapprovements Several building inspectors and four Officials have been on this proporty and not one of these people ever looked to See that these units were illegal. That 13 bud government and this has denial has caused un neccessary hardshi to the property owners.

Normand & Martin nette June 25, 2015.

HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 12-10-09)



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TO DENY (SEE OVER)

Signed: Mayel Davis

Sitting member of the Hudson ZBA

6/25/15

Date

- applicant did not satisfy the hardship criteria has use of a lunge, defect free parcel as interded.
- of the public area is single family homes, att
- · question of public safety essue code beforcement essues on the property



HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 12-10-09)

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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.



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



5. Special conditions exist such that literal enforcement of the ordinance would result in unnecessary hardship, either because the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way <u>and also</u> because the special conditions of the property cause the proposed use to be reasonable, or, alternatively, there is no reasonable use that can be made of the property that would be permitted under the ordinance, because of the special conditions of the property.

Signed:

Sitting member of the Hudson ZBA

6-25-2015

Date

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HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 12-10-09)

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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 |
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| Signed: | 10-515 |
| Sittiv | ng member of the Hudson ZBA Date |
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Case# 144-005 - Hardship Answer for the June 25, 2015 ZBA Meeting



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

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

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TOWN OF HUDSON

ZONING BOARD OF ADJUSTMENT



MEETING AGENDA – June 25, 2015

12 School Street

Hudson, New Hampshire 03051

603/886-6005



The Hudson Zoning Board of Adjustment will hold a meeting on Thursday June 25, 2015, in the Community Development Paul Buxton Meeting Room in the basement of Hudson Town Hall (please enter by ramp entrance at right side). The public hearings for applications will begin at 7:30 PM, with the applications normally being heard in the order listed below.

SUITABLE ACCOMMODATIONS FOR THE SENSORY IMPAIRED WILL BE PROVIDED UPON ADEQUATE ADVANCE NOTICE BY CALLING 886-6008 OR TDD 886-6011.

The following items before the Board will be considered:

I. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

- 1. Alan and Theresa Boissonneault Living Trust, PO Box 2431, 1016 Yate Road, Oak Harbor, WA, requests a Use Variance for property to be designated as 13 Mark Street, to allow access to the proposed lot without the proper frontage; 120 feet required, zero feet proposed. [Map 217, Lot 005; Zoned R-2, HZO Article VII, Section 334-27, Table of Dimensional Requirements.] [Note, this request was originally denied on March 22, 2012, but has been remanded by the court for rehearing on the grounds that it was not clear why the Board denied the request. This is a matter before the Board. There will be no public input.]
- Case 144-005 (6-25-15): Lisa Harrington, 47 Taft Avenue, Lexington, MA, requests a Use Variance for the property located at 19 Robinson Road, Hudson to allow conversion of existing Duplex to a Multi-Family home. [Map 144, Lot 005, Zoned R-2; HZO Article V §334-21, Table of Permitted Principal Uses.]

II. REVIEW OF MINUTES

1. March 12, 2015

III. OTHER

Discussion of any Town/State Activity of Interest to the Board.

Kevin W. Desmond, Zoning Administrator

Posted: Town Hall, Library, and Post Office



TOWN OF HUDSON

Zoning Board of Adjustment

J. Bradford Seabury, Chairman

Marilyn McGrath, Selectmen Liaison

12 School Street ·

Hudson, New Hampshire 03051 Tel: (603) 886-6008 Fax: (603)594-1142

HUDSON ZONING BOARD OF ADJUSTMENT MEETING MINUTES June 25, 2015

I. CALL TO ORDER

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:30 pm on Thursday, June 25, 2015, in the Paul Buxton Meeting Room in the Town Hall basement. Chairman Seabury then requested Clerk Dearborn to call the roll. Those persons present along with various applicants, representatives and interested citizens, were as follows:

Members

Present: Normand Martin, J. Bradford Seabury, Maryellen Davis, Donna Shuman

Members

Jim Pacocha (excused), Mr. Pitre (Resigned) Absent:

Alternates

Charles Brackett, Maurice Nolin, Clerk Gerald Dearborn, Kevin Houle Present:

Alternates

Absent: None mentioned

Staff

Present: Dave Hebert, Town Liaison (Acting Code Enforcement Officer), Marilyn McGrath,

Selectman Liaison

Recorder: None present, later transcribed by Melissa Mack

II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Seabury seated Ms. Davis in place of Mr. Pitre. Ms. Shuman will step down from the 1st case and Kevin Houle will be seated in her place. Mr. Dearborn was also seated as a voting member in place of Mr. Pacocha.

Ms. McGrath advised that she will participate in the discussion but cannot be a voting member. She also noted that Ms. Davis is now a member in place of Mr. Pitre.

For the benefit of all attendees, Chairman Seabury noted that copies of the agenda for the meeting, as well as an outline of the rules and regulations governing hearings before the Zoning Board of Adjustment, were available at the door of the meeting room. He noted the outline includes the procedures that should be followed by anyone who wished to request a rehearing in the event the Board's final decision was not felt to be acceptable.

Chairman Seabury pointed out that the Board allowed re-hearings only if collectively convinced by a written request that the Board might have made an illogical or illegal decision or if there were positive indications of new evidence that for some reason was not available at the hearing.

The curfew for the meeting is 11 pm.

Chairman Seabury advised there is no smoking inside the building. Please turn off cell phones or put them on vibrate.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THIS BOARD

1. No Case #217-005 (6-25-15): Alan and Theresa Boissonneault Living Trust, PO Box 2431, 1016 Yate Road, Oak Harbor, WA, requests a Use Variance for property to be designated as 13 Mark Street, to allow access to the proposed lot without the proper frontage; 120' required, 0' proposed. [Map 217, Lot 005, Zoned R-2, HZO Article VII, Section 334-27, Table of Dimensional Requirements]. [Note, this request was originally denied on March 22, 2012, but has been remanded by the court for rehearing on the grounds that it was not clear why the Board denied the request. This is a matter before the Board. There will be no public input.]

Clerk Dearborn read aloud the posted notice, as recorded above.

Ms. McGrath: As a member of the Board of Selectman and as a Liaison, thought it was appropriate to get a legal opinion concerning the timeliness of the reconsideration of this case, whether there was a time constraint. Attorney Steve Buckley from Hage Hodes is representing the Town. On July 1st we will transition to Attorney Dave Lefevre. We received an opinion from the attorney at Hage Hodes that we could rehear the case, there is no timing issue. However, it can't go on indefinitely.

Chairman Seabury: This Board has already extended the period twice at the request of Attorney Prolman who was trying to work something out with the abutters to the property concerned. Not even sure it was legal for the Board to do that but were given no real input what to do when a judge remands a case.

Ms. McGrath: Mr. Malizia received an email from Attorney Lefevre which was confirmed by Chief Buxton that the recommendation from him would be to accept a withdrawal with prejudice. For the record, Mr. Lefevre is not officially the Town Attorney until July 1st.

Chairman Seabury: The Board has received a letter for Attorney Prolman dated June 25th reading "The Alan and Theresa Boissonneault Living Trust respectfully withdraws its Variance and Wetlands Special Exception applications with prejudice. The Board's March 22, 2012 decision stands subject to the Hillsboro County Superior Court's remand order dated February 21, 2013 and its April 25, 2013 order on the Town of Hudson's reconsideration motion."

Mr. Martin will support a motion to allow the withdrawal of the motion with prejudice but the remand for the court was for this Board. The Board was not clear on why it denied the Variance and that's what the judge wanted... to be clearer about why the application was denied, so that it can be documented for the future and be presented to the court. Suggests removing the subjection.



Chairman Seabury advised that his understanding of why that subjection is in the letter is because Attorney Lefevre recommended it to Attorney Prolman. Attorney Lefevre is going to be the Town's Attorney for the foreseeable future and the Board generally can't go wrong following its attorney's advice. Chairman Seabury advised he doesn't understand why a remand would be in effect after a withdrawal either but is willing to take the case up again should it be necessary.

Mr. Brackett asked if the Board is concerned that, if the case were to move forward, they would not be able to get the original Board members that sat on the case. Suggests making a list of the reasons now as to why the original request was denied so that it can be documented for future and presented to the court.

Ms. McGrath suggests that it would be ok for the Board to wait until Attorney Lefevre is officially the Town Attorney on July 1, 2015.

Mr. Martin agrees with the recommendation because to make a fair decision about the case we should be following the advice of the Town Attorney.

Mr. Brackett asked if the Board could meet with Attorney Lefevre to discuss the case.

Mr. Martin advised that no one appealed the judge's decision to remand the case back to the Zoning Board. In the courts eyes, the case is closed.

Mr. Martin made a motion to allow the Variance and Wetlands Special Exception applications to be withdrawn with prejudice. However, the motion was withdrawn.

Mr. Martin made a motion to defer the decision to the July 23rd meeting.

Mr. Dearborn seconded the motion. He would like to get a legal opinion even though it may be contrary to the Board's thinking.

VOTE: Chairman Seabury asked Clerk Dearborn to poll the Board on the motion to defer the request and to record the members' votes, which were as follows:

Mr. Houle To defer Mr. Martin To defer Mr. Dearborn To defer Ms. Davis To defer Mr. Seabury To defer

Chairman Seabury declared that there having been five votes to zero, the motion is deferred.

Mr. Martin made a motion to have the Town Attorney come in for a client-attorney session at 7 pm on Thursday, July 23rd.

Ms. Davis seconded the motion.

VOTE: Chairman Seabury asked Clerk Dearborn to poll the Board on the motion to request an attorneyclient session and to record the members' votes, which were as follows:



Mr. Houle To approve Mr. Martin To approve Mr. Dearborn To approve Ms. Davis To approve Mr. Seabury To approve

Chairman Seabury declared that there having been five votes to zero, the motion is approved.

Attorney Prolman approached the podium to thank the Board for their support during this case.

2. <u>Case 144-005 (6-25-2015)</u>: Lisa Harrington, 47 Taft Avenue, Lexington, MA requests a Use Variance for the property located at 19 Robinson Road, Hudson to allow conversion of existing duplex to a multi-family home. [Map 144, Lot 005, Zone R-2; HZO Article V §334-21, Table of Permitted Principal Uses.]

Clerk Dearborn read aloud the posted notice, as recorded above.

Chairman Seabury notes that Mr. Houle has returned to his seat as an alternate and Ms. Shuman has returned to her seat as a voting member. Mr. Dearborn is resuming his role as a non-voting alternate and Mr. Nolin is seated for Mr. Pacocha.

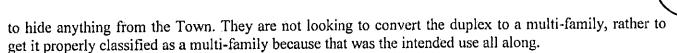
Ms. Shuman noted that she works for a company that may have an interest in the property and therefore may present a conflict of interest for Ms. Shuman. Furthermore, Ms. Shuman asked if this required that she step down from the case. Chairman Seabury polled the Board and audience to ensure no one had a problem with this and no one did.

Chairman Seabury asked Mr. Hebert to explain why the matter was before the Board.

Mr. Hebert explained that the applicant wants the Variance to allow access to the lot without the minimum required frontage. It's in an R2 zone. The Table for Permitted Use is for residential, we allow single and two family dwellings. The original building permit was issued August 26, 1983 for a 60 x 26 duplex. The four units are constructed at this point. The original septic system was approved in October 1983 for a 4-bedroom duplex. The septic system failed April 14, 1992 and a new one was approved October 8, 2007 for (2) 2-bedroom units and (2) 1-bedroom units. No building permits were applied for or issued for the additional two units. On October 5, 2009 the Fire Department performed an inspection on the multi-family dwelling containing four units and found numerous safety violations. No re-inspections were ever performed. They do have sufficient frontage.

Ms. McGrath questioned if the dwelling complies with the Zoning Ordinance and Mr. Hebert confirmed it does not. At this moment they are in violation of the code even if they were not cited.

Lisa Harrington approached the podium. 47 Taft Avenue, Lexington, MA, daughter of the late Phyllis Bujnowski who owned the property; also the trustee and executor. There was confusion going back 30 years ago to when the house was built. As far as she knows the house was built from the ground up to be a multi-family. There are three separate electric meters which requires approval from the Town. The building plans and inspection shows clearly a sunroom which acts as the entrance to the 3rd apartment. Her mother built the house for herself with the intent of getting rental income; was not intentionally trying



Chairman Seabury advised that the Board will hear the application as if the dwelling were not there yet, even though it is already there. What is being requested is for permission to put in multi-family housing so the Board is ignoring the fact that there already exists multi-family housing.

Lisa Harrington advised that granting the requested Variance will not be contrary to public interest. There has not been nor do they expect in the future any threat to public safety or welfare. In the 30 years it's been occupied as a multi-family, there have been no issues with the abutters or the town. The property has the appearance of a duplex thus fits in with the neighborhood. It's situated on 5+ acres and sits far back off the road. The proposed use will observe the spirit of the Ordinance. The property has been operated as a multi-family since its existence, built by her mother in 1983, including 3 separate entrances, 3 electric meters. There have been no issues with neighbors or the Town. The property fits in nicely with the surrounding neighborhood and characteristics. Substantial justice would be done if the Variance were granted. The property was built on family land in 1983 by her mother as a 3-family. We seek only to ratify what has existed for decades. Doing so creates no adverse impact as is consistent with the experience of the last several decades. The proposed use will not diminish the values of surrounding properties and there will be no ill effect on the welfare or the public. The property maintains the integrity of the neighborhood. As per the original intent of the owner, the children of the deceased wish to keep the property in the family. The family is not able to afford the property without the income generated by the tenants. If the property is not allowed to be kept as a multi-family they would be forced to sell in the open market. In addition, the tenants would be forced to move.

Chairman Seabury clarified that hardship, as looked at by the Zoning Board, pertains not to the financial situation of the owners of the property but at the nature of the property itself. There has to be a hardship of the property that makes it different compared to other similarly located properties in the area that it behooves the Board to allow the Variance for your property, which it would not do for your neighbors.

Kevin Bujnowski approached the podium. He is the son of the deceased owner and an abutter to the home. Wondering how the confusion started in the first place. There are three electric meters at the dwelling and Town permission is required for that. The missing pieces seem to be on the side of the Town. There is no documentation about his mother's apartment. It was there and had to have been inspected. There is a permit to put an electric meter in for her apartment. Somewhere along the line it was inspected. It's been running for 30 years. They want to leave it that way; they don't want to change anything. They want to keep operating is exactly the way it is. The family is willing to have a fire inspection done on the home if that is requested.

Chairman Seabury advised that there is a law being broken because multi-family housing is not allowed on that property.

Mr. Bujnowski recognizes that but somehow when the house was built it fell through the cracks.

Ms. Bujnowski advised that the Assessor has always had the house marked as a 4-unit dwelling so it's confusing why one department has it down as a multi-family but another does not.

Chairman Seabury advised this is common.

Ms. Davis advised that she had the tax records in front of her and the dwelling is listed as a 1900 sq. ft. home. The other units must be below ground.



Mr. Bujnowski advised that the leach bed failed (date unknown). A contractor was brought in. They went to the Town and were told they could not replace the leach bed as it existed; it needed to be upgraded to a multi-family. A leach bed design was done and sent to the Town and to the State and the leach bed was updated accordingly.

Kathy Bujnowski approached the podium. She is the daughter-in-law of the deceased owner. She is restating that the house has been taxed as a multi-family dwelling and they are not asking to change the house. The mother was a very honest woman and would never have done anything to hide the fact that this is a multi-family house. If the house is reverted back to a duplex, it would have to be sold because no one in the family can afford it without the tenant income.

Mr. Nolin noted that the Bujnowski's stated there are three meters and is wondering about the electric meter for the 4th unit.

Mr. Bujnowski admitted that the 4th unit was made without permission but can easily be eliminated if needed. He acknowledges it should not be there. It was done so that an Uncle could live with the mother.

Ms. Davis commented that there are structural deficiencies on the property itself and they impact the Variance application. The way the structure is designed now could be a public safety concern. In addition, none of the testimony has addressed the criteria for getting a Variance. The Board has yet to hear what the hardship is that makes this request unique to allow for the Variance to be granted.

Ms. Bujnowski advised that the structural deficiencies were related to carbon monoxide and fire extinguishers and that these had been addressed. The carbon monoxide detectors were hardwired and extinguishers are in all the apartments. Regarding the hardship on the property Ms. Bujnowski asked for an example of what a hardship would be.

Ms. Davis gave an example of a hardship (if someone wanted to build an addition but the property dropped off so they needed a Variance because they had to build in the setback). In the case of this home, the land is designed and zoned for a duplex. There is nothing that is restricting you from using your property the way it is intended (which is as a duplex).

Ms. Bujnowski is unable to come up with a hardship under these circumstances.

Mr. Martin commented that 30 years is a long time. The Fire Department has been there, the Assessor's Office has been there, a new, larger septic system was approved by the Town, and yet it wasn't caught until recently that there is a multi-family dwelling on that property. It's likely because the property can't be seen from the street. From the outside it looks like a single family property. This is bad government because they are allowing this to go on without approvals. Now the Board is stuck because there is no hardship to allow this. However, bad government for 30 years never saw this even though they were in the building and nothing was ever said that we know of. Therefore, he feels obligated to approve this use because of all the Town Officials that have been in that building.

Ms. Davis makes a motion to deny.

Ms. Shuman seconds the motion.



Ms. Davis speaks to her motion. She agrees with Mr. Martin that this has been going on for 30 years, although she has nothing to document that. We do know that as of 2007 at least it's a multi-family. There is a disconnect because a previous code enforcement officer never associated what was allowed on the property vs. what is actually there. Regardless of the previous history and how long it's been going on, it's not ok for the Board to approve something just because it's been there. It doesn't meet the requirements of the Variance. There is no hardship on the property and there is question as to whether it would devalue surrounding properties. People live in R2 and R1 neighborhoods because they assume single family dwellings or at most a duplex. They did not buy into a neighborhood that is authorized to have multi-family dwellings.

Ms. Shuman speaks to her second. She agrees with Ms. Davis that the hardship issue has not been satisfied.

VOTE: Chairman Seabury asked Clerk Dearborn to poll the Board on the motion to deny the request for the variance and to record the members' votes, which were as follows:

Ms. Davis To deny
Ms. Shuman To deny
Mr. Martin Not to deny
Mr. Nolin Not to deny
Mr. Seabury To deny

Chairman Seabury declared that, there having been three votes to two, the motion to deny is approved and the Variance will not be granted.

Chairman Seabury reminded the applicants that they have 30 days to appeal in writing.

IV. APPROVAL OF MEETING MINUTES

Chairman Seabury commented that the agenda says to review the minutes from 3/12; however, those were already approved by the Board and submitted to Mr. Desmond.

Ms. McGrath commented that she asked that the minutes for the Boissonneault case be provided to the Board.

V. CLOSING DISCUSSIONS

Mr. Brackett asked how the Town will ensure that the multi-dwelling in Case 2 is turned back into a duplex. We should take positive action so that this doesn't go on for another 30 years.

Chairman Seabury thinks that now they have come before the Board, the Code Assessment Office has something to hang their hat on.

Mr. Brackett reiterated that they should take positive action to ensure that the applications conform.

Ms. Davis commented that Code Enforcement will send a letter to start the process.



Per Chairman Seabury, the Board wishes to get some satisfactory report from the Town that something is being done to ensure that this property either reverts to its legal status or that other avenues are being pursued.

Ms. McGrath expects that would happen regardless. However, the Board also needs to honor the 30 day appeal period. Can't run out tomorrow and inspect it tomorrow.

Ms. Davis raises another topic for discussion. This town has a lot of smart people and we should be able to get some sort of a report from the tax records (maybe Mr. Michaud?) of any properties listed as multifamily and the associated zoning code. The tax map has the dwelling in Case 2 as a 4-family in R2. We should be able to pull up all the properties that have that.

Ms. McGrath believes that Mr. Michaud, the Assessor, has been identifying the properties that don't meet code. She will talk to him about pulling such a report.

Ms. Davis advised that the applicant in Case 2 is a developer in Town and he knows that people in Town are setting up apartments without permits. For those properties that have been inspected for assessing purposes, they may have knowledge of this.

Ms. McGrath advised that there are some property owners who do not allow the Assessor to go inside. If there are units being utilized in those houses, the Assessing Department may not know about it.

Rob Buxton, Fire Chief in Hudson, approaches the podium. He agrees with Ms. Davis and knows that Mr. Michaud works diligently to communicate with them if he finds something that is not appropriate with the tax map. He thinks one of the key points to look at tonight is that we are talking about a home built in 1983 and what the communication tree was that took place. His department routinely hears from Assessing on a lot of items that are sent to Code Enforcement and that is how a lot of the information came about at this meeting tonight. Communication between departments is a priority and is getting better.

Mr. Deaborn commented that he agrees with Mr. Martin about this having gone on for 30 years and now they are forced to punish the applicants for it. It's unfortunate, but it's a case where someone dropped the ball.

Mr. Brackett commented that we don't know who did what. The applicants built a 4th unit when they were only approved for 2 so it's on the burden of the applicant to prove the hardship.

Ms. Davis reminded that Board they are there to make decisions about land use only.

Ms. McGrath commented that code enforcement has been a problem for over 30 years. She doesn't know how to rectify it other than to keep on top of it, which she has tried to do and has pushed for. She wasn't in a position (is now, though) to ensure that code enforcement is a top priority. Fairness is a hallmark of good code enforcements. It's good for the Town and the residents because everyone knows they are being treated fairly and equally. She believes when that pattern becomes consistent that code enforcement will be reduced. The Zoning Board is obligated to deny a request if it does not meet the criteria.

Ms. Davis commented that if the Board feels there should be multi-family housing in certain sections of the Town then we need to change the zoning map and that is done via a ballot vote.

Ms. McGrath advised that the Planning Board, in conjunction with members of the Zoning Board and other staff, will be doing a re-write of some if not all sections of the Zoning Ordinance. It will not all be done this year, rather in sections so that it's easier to make the changes and present them to the voters. That said, the voters also can petition to have a zoning change. When that is done, they get a hearing before the Planning Board and they make a decision whether to recommend or not recommend and then it goes on the ballot along with the recommendation of the Planning Board.

Ms. Shuman asked when the Board selection will review the Zoning Ordinances. Mr. Seabury advised it will be in July.

VI. ADJOURNMENT

Mr. Martin makes another motion to adjourn.

Ms. Shuman seconds the motion.

VOTE: All seated members voted in favor. The motion passed unanimously.

Chairman Seabury declared the meeting to be adjourned at 9:00 PM.

Date: June 25, 2015

Normand Martin, Acting Chairman

Doc # 5038581 Aug 28, 2015 3:18 PM Book 8785 Page 0507 Page 1 of 1 Register of Deeds, Hillsborough County Gamela O Coughlin

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

FEES: SURCHARGE: CASH:

Town of Hudson

Zoning Board of Adjustment

Decision to Deny a Variance

On 6/25/15, the members of the Hudson Zoning Board of Adjustment, as part of its regular public meeting for that date, heard Case 144-005, pertaining to a request by Lisa Harrington, 47 Taft Avenue, Lexington, MA, for a Use Variance for the property located at 19 Robinson Road, Hudson to allow conversion of the existing Duplex to a Multi-Family home. [Map 144, Lot 005; Zoned R-2, HZO Article V §334-21, Table of Permitted Principal Uses.]

Following review of the testimony and deliberation, the members of this Zoning Board voted to deny the requested variance, feeling there was no evidence of hardship.

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

Signed:

Mudson Zoning Board of Adjustment

Signed:

Zoning Administrater

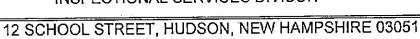
Date: 07-13-15



TOWN OF HUDSON

FIRE DEPARTMENT

INSPECTIONAL SERVICES DIVISON



Emergency Business Fax 911 603-886-6005 603-594-1142 Robert M. Buxton Chief of Department

September 30, 2015

SECOND NOTICE

Certified Mail 7010 1670 0000 6912 1285

Lisa Harrington 47 Taft Avenue Lexington, MA, 02421

Re: 19 Robinson Road, Hudson, NH (Map 144/ Lot 005)

Dear Ms. Harrington,

This letter is a follow up from the June 25, 2015 ZBA meeting, decision to deny a variance for a multifamily home. I would like to set up an inspection of the property with you to confirm the number of dwellings. Please contact me at your earliest convenience.

Please feel free to contact me at (603) 886-6005 or Dhebert@hudsonnh.gov.

Regards,

David Hebert Acting Zoning Administrator / Code Enforcement Officer

cc: File



Lisa M. Harrington 47 Taft Avenue Lexington, MA 02421

Server ve

OUT - 9 201"

HUDSON FIRE DEP!

October 2, 2015

Mr. David Hebert Town of Hudson, Fire Dept 12 School St. Hudson, NH 03051

Dear Mr. Hebert,

I'm writing in response to your letter regarding 19 Robinson Road and its continued usage as a 4 family after the towns decision that it is designated a duplex. Said property does not continue to be operated as a 4-family. Two tenants received a letter to vacate the residence and have left. Two families remain.

Sincerely,

Lisa Harrington

Run: 6/06/24 9:53AM

Code Enforcement Violation Detail Town of Hudson, NH



csullivan ReportViolationDetail

Number:

V2015-00040

Type:

Health

Status: Closed

Permit Number:

Business License:

Reported: 3/10/2015 Issued: 3/02/2015 Resolved: 8/06/2015

Description: (3-2-15 Reviewing old files and came across this. Property ONLY approved for Duplex. Contains 4 units. Did drive-by and saw 4 mailboxes.) (3-4-15 Received call from banking rep, inquiring about status of home -duplex or authorized quad- to which I said "there are 4 units, 2 are illegal, I am investigating -KWD) (3-6-15 Mailed Notice of violation to Phyllis Bujnowski, instructing to "either close 2 of the 4 units or apply to ZBA for review" KWD) (3-6-15 Phyliss' daughter came into office asking for information, because they are attempting to re-finance since her mother's passing, but bank has instructed her to eleviate issue of illegal units. She told me that "it's been 4 units since the house was built in the 30's" I told her that, it has four units, only 2 are legal.-

KWD)

8/6/15 Per Deputy O'Brien - CLOSED

Site Information:

BUJNOWSKI, PHYLLIS M., TR BUJNOWSKI REV TRUST Name:

Map Lot: 144-005-000

Street:

19 ROBINSON RD

Owner Information: -

Name:

BUJNOWSKI, PHYLLIS M., TR BUJNOWSKI REV TRUST

Street:

19 ROBINSON ROAD

Activities:

| Date Entered E | ntered By | Type | Due Date | Status | | |
|----------------------------|-----------------|---|-------------------|--------|--|--|
| | | Notice Sent - Auto Activity | 11 | С | | |
| Auto Activ | ity Notice Cr | eate Notice of violation 3-6-15 | | | | |
| Document | t Location \\h | d-munismart01\mss\live\data\cedocs\Notice of Violation. | .pdf | | | |
| | | Initial entry Violation - Auto Activity | 11 | С | | |
| Initial Entry of Violation | | | | | | |
| | brien | Miscellanious Information | 7/15/2015 | С | | |
| | | samples. C-2 delivered them to Pennichuk Lab | | | | |
| for Robins | | | | | | |
| 10/13/2015 h | cheyne | Misc. actions/information received | 10/13/2015 | C | | |
| 10/13/15 (| oer e-mail fro | m Inspector Hebert letter rec'd from Lisa Harrington on | 10/9/15 notifying | } | | |
| him that th | nis location is | now a 2 family and does not continue to be operated as | a 4-family. Two | - 1 | | |

tenants rec'd a letter to vacate the residence and have left, two families remain. Copy of letter

Reported By Information:

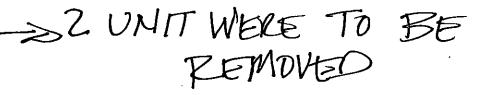
filed in CEDocs file.

Name

Title

Phone

Email









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



Zoning Determination #24-020

March 6, 2024

Rowdy Smith 19 Robinson Rd Hudson, NH 03051 First Class Mail

Re:

19 Robinson Road Map 144 Lot 005-000

District: Residential Two (R-2)

Dear Mr. Smith,

You have submitted a request for an administrative decision regarding the number of multi-family units which may be constructed on the above-referenced property (No Plans were provided).

Zoning Review / Determination:

Multi-family use of the property is not permitted. Per the Hudson Zoning Ordinance, Multifamily Structures are not permitted in the Residential Two Zoning District (R-2) in which the property is located according to §334-21 (A-3) <u>Table of Permitted Principal Use</u>. Only single-family and two-family residential structures are allowed in the R-2 Zoning District.

I must further inform you that after reviewing the history of this property, we found a letter dated 3-6-15 from the Hudson Inspectional Services that stated that two (2) of the units were considered illegal and would have to be removed if a variance was not granted by the Zoning Board. On 6-25-15 the owner asked for a variance to keep the existing multifamily and this variance was denied. On 10-13-15 the Code Enforcement Officer received a letter from the owner and it said the structure was switched back to a 2 Family.

After looking at this information, the existing 4 family structure is in violation of the Hudson Zoning Ordinance. Two of the units must to be vacated and the

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



structure restored to a two-family residence. In order to be compliant, the independent living facilities have to be removed from two (2) of the units such that there only two (2) dwelling units remaining.

If you would like to redevelop your property for multi-family use, it will be necessary for you to obtain a variance from the Zoning Board of Adjustment. However, I do need to alert you to the fact that since the multifamily conversion was previously denied by the Zoning Board of Adjustment you will have to demonstrate a material change of circumstances affecting the merits of the application, or that your new proposal materially differs in nature and degree from the prior application that was denied.

Please contact me when the two (2) units have been vacated and we can then inspect that unit for compliance by Monday, May 6, 2024.

Sincerely,

Chris Sullivan

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

csullivan@hudsonnh.gov

Att: Inspection Service Letter (March 6, 2015)

Town of Hudson Zoning Board of Adjustment denial letter (7-13-2015)

Letter from Lisa Harrington (October 2, 2015)

cc:

Public Folder

File

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



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

REQUEST FOR REVIEW/COMMENTS:

Case: 144-005 (07-25-24) (VARIANCE)

Property Location: 19 Robinson Road

| For Town Use | | | | | | | |
|---|--|--|--|--|--|--|--|
| Plan Routing Date: 06/28/2024 Reply requested by: 07/05/2024 ZBA Hearing Date: 07/25/2024 | | | | | | | |
| I have no comments I have comments (see below) | | | | | | | |
| EZD Name: Elvis Dhima, P.E. Date: 07/01/2024 | | | | | | | |
| (Initials) | | | | | | | |
| DEDT. Town Engineer Fire/Health Department Associate Town Planner | | | | | | | |
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| Applicant shall provide septic system information supporting the proposed use. | | | | | | | |
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ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW TOWN OF HUDSON, NEW HAMPSHIRE

REQUEST FOR REVIEW/COMMENTS:

Case: 144-005 (07-25-24) (VARIANCE)

Property Location: 19 Robinson Road

| For Town Use | | | | | |
|---|--|--|--|--|--|
| Plan Routing Date: 06/28/2024 Reply requested by: 07/05/2024 ZBA Hearing Date: 07/25/2024 | | | | | |
| I have no comments I have comments (see below) | | | | | |
| DRH Name:David Hebert Date: 07/01/2024 | | | | | |
| (Initials) | | | | | |
| DEPT. Town Engineer Fire/Health Department Associate Town Planner | | | | | |
| | | | | | |
| Multi-family dwellings are required to have building sprinkler systems and building fire alarm systems. Inspectional Services shall be allowed to perform an inspection of the entire structure to assess what needs to be added for compliance with the State Adopted Fire Code. | | | | | |
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ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW TOWN OF HUDSON, NEW HAMPSHIRE

REQUEST FOR REVIEW/COMMENTS:

Case: 144-005 (07-25-24) (VARIANCE)

Property Location: 19 Robinson Road

| For Town Use | | | | | | |
|---|--|--|--|--|--|--|
| Plan Routing Date: 06/28/2024 Reply requested by: 07/05/2024 ZBA Hearing Date: 07/25/2024 | | | | | | |
| I have no comments I have comments (see below) | | | | | | |
| BWG Name:Benjamin Witham-Gradert Date: 07/05/2024 | | | | | | |
| (| | | | | | |
| DEPT. Town Engineer Fire/Health Department Associate Town Planner | | | | | | |
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| The applicant shall apply to, and receive site plan approval from the Planning Board per §334-16.1. | | | | | | |
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HUDSON ZONING BOARD OF ADJUSTMENT Variance Decision Work Sheet (Rev 4-17-23)

On **07/25/2024**, the Zoning Board of Adjustment heard **Case 144-005**, being a case brought by **Rowdy Smith, 19 Robinson Rd., Hudson, NH requesting a <u>Variance</u> to allow a continued existing unpermitted multi-family use in the R-2 zoning district where multi-family dwellings are not permitted. [Map 144, Lot 005, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]**

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

| Y N 2. The proposed use will observe the spirit of the ordinance, since the proposed use do not conflict with the explicit or implicit purpose of the ordinance and does not alter the proposed in the proposed of the proposed use do not conflict with the explicit or implicit purpose of the ordinance and does not alter the proposed use the propo |
|--|
| 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, otherwise injure "public rights." |
| |
| Y N Substantial justice would be done to the property-owner by granting the variance, at the benefits to the property owner are not outweighed by harm to the general public or other individuals. |
| |
| \mathbf{Y} \mathbf{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 enforceme would result in an unnecessary hardship. "Unne to special conditions of the property that disting area: (1) No fair and substantial relationship exist be the ordinance provision and the specific approperty; and | cessary hardship" means that, owing guish it from other properties in the tween the general public purposes of |
|---------------|--|-----------|--|--|
| | | | (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. | | | |
| | | | | |
| Signed: | | | nember of the Hudson ZBA | Date |
| Print nar | ne: | | | _ |
| Stipulati | ons: _ | | | |
| | | | | |
| | _ | | | |

GOTTESMAN & HOLLIS

PROFESSIONAL ASSOCIATION

Attorneys at Law
39 East Pearl Street • Nashua, New Hampshire 03060-3407

David M. Gottesman Morgan A. Hollis Paul M. DeCarolis Andrew C. Bauer, Jr. Elizabeth M. Hartigan



Direct Dial: 603-318-0449

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JUN 1 1 2024

LAND USE DIVISION ZONING DEPT.

June 11, 2024

Via Hand-Delivery Only

Gary M. Daddario, Chairman Hudson Zoning Board of Adjustment 12 School St., Hudson, New Hampshire 03051

Re:

19 Robinson Road, Hudson, NH

Our File: 24-114

Dear Mr. Chairman:

Please be advised that I represent Rowdy Smith, the owner of 19 Robinson Road, Hudson NH and the applicant of the attached Variance Application. In preparation for the within variance application, it has come to my attention that this property has a history with the Zoning Board. On June 25, 2015, the former owners of the property presented for a variance to allow multifamily housing where single and duplex houses are permitted. My client is also requesting a variance to allow multi-family housing where single and duplex houses are permitted.

As a previous variance was requested and denied, as a threshold matter for my client's application, the Board must determine whether a material change of circumstances has occurred and whether full consideration is required (a full hearing). During full consideration the application with the additional information may be evaluated for satisfaction of the variance criteria as submitted or modified from the prior hearing.

The New Hampshire Supreme Court has held that a material difference turns upon the identified deficiencies in the initial application and whether the recognition of such deficiencies carry with them an implication to reapply at a future date, and it has stated that a subsequent application may be considered when a previous denial identifies a lack of information as the deficiency in the initial application and the reapplication provides the information missing. I have attached the relevant NH Supreme Court cases with highlights.

There were two (2) key issues with the 2015 application. First there was a question as to whether allowing additional units would diminish values of surrounding property as no evidence

one way or another was presented, and second, and most importantly, despite the Board's inquiry of the applicant, unfortunately no hardship argument was presented.

The attached application includes a letter from an appraiser regarding the board's concern as to whether the use will diminish values of surrounding properties and presents a hardship argument. In my opinion this application is modified so as to meaningfully resolve the board's initial concerns and meets the standard set forth by the New Hampshire Supreme Court for bring "materially different" from the 2015 application, and the application may be heard by the Board.

If necessary, I am happy to discuss this matter with your counsel prior to the scheduled meeting on June 27, 2024 or with the Board in advance of the scheduled hearing on the application.

If you have any questions, please do not hesitate to contact me.

Yours truly,

GOTTESMAN & HOLLIS P.A.

Isl Elizabeth M. Hartigan

Elizabeth M. Hartigan

Enclosures

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by email at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: https://www.courts.nh.gov/our-courts/supreme-court

THE SUPREME COURT OF NEW HAMPSHIRE

Hillsborough-northern judicial district No. 2021-0214

TRANSFARMATIONS, INC.

V.

TOWN OF AMHERST

Argued: March 15, 2022 Opinion Issued: November 30, 2022

<u>Donahue, Tucker & Ciandella, PLLC</u>, of Exeter (<u>Brendan Avery O'Donnell</u> and <u>John J. Ratigan</u> on the brief, and <u>Brendan Avery O'Donnell</u> orally), for the plaintiff.

<u>Cronin, Bisson, & Zalinsky, PC</u>, of Manchester (<u>Christopher B. Drescher</u> on the brief and orally), for the defendant.

Cronin, Bisson, & Zalinsky, PC, of Manchester (Daniel D. Muller, Jr.), for the intervenors, filed no brief.

HICKS, J. The plaintiff, TransFarmations, Inc. (TransFarmations), appeals a decision of the Superior Court (Anderson, J.) upholding decisions of

the planning board for the defendant, the Town of Amherst (Town), denying TransFarmations' two successive applications for a conditional use permit (CUP). We reverse and remand.

The following facts were recited in the trial court's order or relate the contents of documents in the record. In May 2019, TransFarmations requested a "Conceptual Meeting" with the Town's planning board (Board) concerning its proposed development of an approximately 130-acre property known as the Jacobson Farm. TransFarmations called the proposed development the "Jacobson Farm Agrihood" and explained that "[t]he intention is to have about 75% of the site preserved as open space with farming and forests as central features." It further stated that the "development will be designed to meet many of the desired attributes the Town . . . has articulated in [its] Master Plan and [Integrated] Innovative . . . Housing Ordinance (IIHO)," including workforce housing and over-55 housing.

According to the Town Planner's staff report, the IIHO became part of the Town's zoning ordinance in 2015.¹ The staff report further explains that in meeting minutes discussing the IIHO's intent, "it was noted that [the IIHO] provides one integrated ordinance with incentives for affordable housing, senior housing and [planned residential developments]. The ordinance is based upon what density you are eligible for by right in the underlying zoning district and provides bonuses for the innovative uses and proposed amenities." (Quotation omitted.)

TransFarmations subsequently submitted a CUP application under the IIHO for a planned residential development containing 64 residential units. A public hearing on the application was held on December 4, 2019, at which TransFarmations' representative, Ken Clinton, asserted that the application met the CUP criteria contained in Section 3.18(C) of the Town's zoning ordinance, including subsection (C)(1)(c). That provision requires the applicant to establish that "there will be no significant adverse impacts resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and the Town." Clinton explained:

[T]he project will be controlled by regulatory authority. It will feature state approved septic designs, water brought in from Pennichuck Water, lower farm pollutants due to best management practices (where there are none currently), and low and net zero objectives. Everything on site will be well-engineered and designed and based on town and state regulations. For the upcoming traffic study, a consultant is being considered to work jointly with this

¹ The IIHO has since been repealed.

proposal and another current proposed development in town, in order to get joint data that can be extrapolated to show how each affect traffic singularly and together.

The Board then heard comments from members of the public, several of whom mentioned concerns about traffic. The Board discussed whether to table the application to a future date, with member Hart stating that he had "concerns regarding [section 3.18(C)(1)(c)] due to the traffic study not yet being complete." Ultimately, the Board voted, four to two, to deny the application.

The Board members voting to deny the application gave the following reasons. Member Coogan "stated that he doesn't understand the project and how there is a benefit to the town to deserve the requested [density] bonuses." Member Rosenblatt stated that he did not "believe the applicant sustained the burden of proof in this case," specifically by failing to satisfy section 3.18(C)(1)(b), which requires the proposal to meet "the purposes of the ordinance under which the application is proposed," and by failing to satisfy section 3.18(C)(1)(c) "with regard to lack of adverse impact." Member Harris stated that he "side[d] with" Rosenblatt, and Hart voted to deny the application "based on his previous explanation." In addition, non-voting, alternate member Houpis voiced concerns about "the pitch of the proposed road, increased drainage, runoff, grazing, traffic volume, financial viability, and a lack of Amherst-specific data." After the vote was taken, member Dell Orfano, who had not voted due to his position as Board chair, stated that "the applicant can reapply for a CUP with more information."

The Board issued its decision on December 5. The reason given for denial was that "[t]he applicant did not meet the[] burden of proof for Section 3.18 C.1.c. that there would be no significant adverse impact resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and the Town of Amherst." TransFarmations appealed the denial to the superior court. See RSA 677:15 (2016).

TransFarmations submitted a revised CUP application under the IIHO on December 13, 2019. A public hearing on the application was noticed for July 7, 2020 with the following explicit qualification:

This hearing will be limited in scope to only the issue of whether the application and plan submitted in the . . . [case] is sufficiently different from the first application in the same matter to avoid preclusion of the Planning Board's review under the Fisher v. Dover and CBDA Development, LLC[] v. Town of Thornton holdings.

(Bolding omitted.) See Fisher v. City of Dover, 120 N.H. 187 (1980); CBDA Dev., LLC v. Town of Thornton, 168 N.H. 715 (2016). Prior to the public

hearing, TransFarmations' attorney asserted in a letter to the Board that there were "multiple material changes" in the revised application as compared to the previous application that the Board had denied. In addition, TransFarmations submitted a 43-page traffic study containing an additional 278 pages of appendices.

At the public hearing, several members of the public voiced continued concern about traffic, among other things. Board member Stoughton opined that the two applications were not materially different with respect to density and that the Board's concerns about traffic and safety had not been sufficiently addressed. Board member Coogan expressed his belief that the applications were not materially different because it appeared that relatively the same number of residents would occupy the units. Board member Dokmo noted that TransFarmations had not addressed "the total number of bedrooms proposed or the amount of the site proposed to be disturbed." Board member Brew also did not find the applications to be sufficiently different, stating that he did not "see that the concerns voiced the last time were addressed in this application, even with the additional supplied data." Board member Houpis failed to see "relevant substantive changes and material differences" in the revised application "address[ing] the issues that caused the first application to be rejected."

Following its discussion, the Board voted, again splitting four to two, that the revised application did not materially differ from the first. Notice of that decision issued on July 27, and TransFarmations appealed the decision to the superior court. The trial court consolidated the two appeals.

TransFarmations challenged the December 2019 decision on the ground that it violated RSA 676:4, I(h), which provides: "In case of disapproval of any application submitted to the planning board, the ground for such disapproval shall be adequately stated upon the records of the planning board." RSA 676:4, I(h) (2016). The trial court "recognize[d] that the Board's minutes are not quite as clear as one might hope," but concluded that when the "entire record of the Board's minutes . . . [is] read in conjunction with the Board's notice of denial, . . . the Board adequately stated its ground for disapproval upon the record."

In its challenge to the July 2020 decision, TransFarmations argued both that the decision failed to adequately state the ground for denial and that the Board acted unreasonably because the second CUP application was materially different from the first. The trial court concluded that the Board adequately provided the reason for the July 20 decision on the record because "the Board members discussed, in detail, their reasons for concluding that no material differences [between the first and second applications] existed." The court also concluded that "the Board acted reasonably and lawfully in reaching [that]

decision." Accordingly, the court affirmed both of the Board's decisions. TransFarmations unsuccessfully moved for reconsideration, and this appeal followed.

The trial court's review of a planning board's decision is governed by RSA 677:15. Girard v. Town of Plymouth, 172 N.H. 576, 581 (2019); RSA 677:15. That statute provides that the trial court "may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that [the board's] decision is unreasonable." RSA 677:15, V. The trial court's review is limited. Girard, 172 N.H. at 581. It "must treat the factual findings of the planning board as prima facie lawful and reasonable and cannot set aside its decision absent unreasonableness or an identified error of law." Id. "The appealing party bears the burden of persuading the trial court that, by the balance of probabilities, the board's decision was unreasonable." Id. "The trial court determines not whether it agrees with the planning board's findings, but whether there is evidence upon which its findings could have reasonably been based." Id.

This court's review is similarly limited. <u>Id</u>. "We will reverse a trial court's decision on appeal only if it is not supported by the evidence or is legally erroneous." <u>Id</u>. "We review the trial court's decision to determine whether a reasonable person could have reached the same decision as the trial court based upon the evidence before it." <u>Id</u>. at 582.

TransFarmations argues that the trial court erred on a number of grounds in affirming both the December 2019 and July 2020 decisions. At oral argument, however, its counsel indicated that if this court reversed the trial court's affirmance of either decision, TransFarmations would proceed on the corresponding CUP application, which would effectively render the other CUP application moot. Accordingly, because we agree with TransFarmations that the trial court erred in affirming the Board's decision that the second CUP application did not materially differ from the first, we need not address its remaining arguments.

"It is well settled that a [planning] board, having rejected one [land use] application, may not review subsequent applications absent a 'material change of circumstances affecting the merits of the application." Brandt Dev. Co. of N.H. v. City of Somersworth, 162 N.H. 553, 556 (2011) (quoting Fisher, 120 N.H. at 191); see CBDA Dev., LLC, 168 N.H. at 723. In the seminal case of Fisher v. City of Dover, we held, with respect to a variance application to a zoning board of adjustment:

When a material change of circumstances affecting the merits of the application has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan.

<u>Fisher</u>, 120 N.H. at 188, 190. Subsequently, in <u>CBDA Development</u>, <u>LLC</u>, we held "that the subsequent application doctrine set forth in <u>Fisher</u> [also] applies in the planning board context." <u>CBDA Dev., LLC</u>, 168 N.H. at 723.

"The determination of whether changed circumstances exist is a question of fact which necessitates a consideration of the circumstances which existed at the time of the prior denial," <u>Fisher</u>, 120 N.H. at 190-91 (quotation omitted), and "[t]his determination must be made, in the first instance, by the Board," <u>CBDA Dev., LLC</u>, 168 N.H. at 724. "[A]n applicant before a planning board bears the burden of demonstrating that a subsequent application materially differs in nature and degree from its predecessor." <u>Id</u>. (quotation omitted).

TransFarmations contends that the trial court erred in affirming the Board's decision not to accept the second application because TransFarmations submitted that application "at the Board's invitation and with the information the Board requested." It contends that Dell Orfano, the Board's chair, "expressly invited a revised application with more information, i.e., a completed traffic study." Our post-Fisher cases recognize that "[e]vidence of an invitation to submit a modified application to meet an agency's concerns . . . acts as additional evidence that a subsequent application so modified is materially different." Appeal of Allen, 170 N.H. 754, 762 (2018). As we explained in Hill-Grant Living Trust v. Kearsarge Lighting Precinct, 159 N.H. 529 (2009), "it is logical to presume that if the [board] invites submission of a subsequent application modified to meet its concerns, it would find an application so modified to be materially different from its predecessor, thus satisfying Fisher." Hill-Grant Living Trust, 159 N.H. at 536.

The Town disagrees with TransFarmations' characterization of Dell Orfano's statement. It contends that Dell Orfano's statement "was not a direct invitation," but rather, "is standard after any kind of a denial advising the Applicant of their rights and was not a 'Board Invitation." Even assuming, as the Town contends, that the meaning of Dell Orfano's statement depends to any extent upon whether such a statement from a planning board chair "is standard after any kind of a denial," here the Town cites nothing to support its assertion that such statements are, in fact, standard. Moreover, an express invitation is not required. As we said in CBDA Development, LLC, "Fisher does not preclude consideration of a subsequent application — explicitly or

implicitly invited by a . . . board — which has been modified to address the board's concerns about the initial application." <u>CBDA Dev., LLC</u>, 168 N.H. at 724. Therefore, we reject the Town's argument.

Nevertheless, the Town argues that Dell Orfano's statement neither "mention[s] any requirement for a traffic study" nor "contains . . . [any] directive to . . . provide a traffic study." Again, we disagree with the Town's characterization of the statement. Dell Orfano invited TransFarmations to "reapply . . . with more information." (Emphasis added). The only "information" mentioned by any voting Board member as missing from the first application was a traffic study. Accordingly, we agree with TransFarmations that the Board "expressly invited a revised application with more information, i.e., a completed traffic study."

The Town contends, however, that even with the completed traffic study, "the Board need not [have] move[d] forward" with the revised application, because "the traffic report confirmed [the Board's] fears relative to traffic and safety." In other words, the Town's argument defends the trial court's findings that "the Board considered the traffic study but did not agree with the expert's conclusion that the project would not have an adverse impact on traffic in the neighborhood" and that "a reasonable person could have concluded that the traffic study did not address or alleviate the Board's previously articulated concerns about traffic." In turn, it defends the court's finding "that Petitioner's failure to resolve the Board's concerns about traffic is enough, on its own, to justify the Board's conclusion that the revised application was not materially different."

The Town relies upon our statement in <u>CBDA Development</u>, <u>LLC</u> that "before accepting a subsequent application under the <u>Fisher</u> doctrine, a board must be satisfied that the subsequent application has been modified so as to meaningfully resolve the board's initial concerns." <u>Id</u>. at 725. However, CBDA's subsequent application was not significantly modified to address one of the "two basic reasons" that the board noted for its denial. <u>Id</u>. at 718 (quotation omitted). Specifically, CBDA's subsequent campground application still allowed an overwhelming majority of the campsites to be occupied "with a greater amount of permanency than what is intended in the Thornton Campground Regulation and State statutes." <u>Id</u>. at 725-26 (quotation omitted).

In the instant case, the trial court found that "the Board's denial of TransFarmations' first application was due, in large part, to concerns about traffic." Nevertheless, the articulated reason for the denial was that "[t]he applicant did not meet the[] burden of proof for Section 3.18 C.1.c. that there would be no significant adverse impact resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and the Town of Amherst." In reviewing the initial application, a Board member identified the incomplete traffic study as an impediment to the Board's review.

The Board chair's express statement invited TransFarmations to reapply with "more information," which, as we conclude above, meant supplying a completed traffic study. Although unresolved "concerns" about traffic may have led the Board to decide that TransFarmations had not met its burden of proof with respect to Section 3.18(C)(1)(c), neither the Board's December 2019 decision nor its invitation to reapply identified any deficiency in the original application other than the lack of a completed traffic study. In other words, the Board did not find that, in fact, the project would have a significant adverse impact on traffic, but rather, that it required more information to understand the actual effect of the proposed use on traffic before determining whether modifications would be required to resolve its "concerns" about traffic.

The determination whether a successive application is materially different from the former application is a step preliminary to consideration of the merits of the revised application. See Brandt Dev. Co. of N.H., 162 N.H. at 557 (noting that the board must determine "as a threshold matter whether a material change of circumstances has occurred and whether full consideration is therefore required"). It is during that "full consideration" that the application with the additional information may be evaluated for satisfaction of the applicable CUP criteria, either as submitted or as modified during the planning process based on input from the board.

A review of our successive application cases demonstrates that what constitutes a "material difference" in such cases turns upon the identified deficiencies in the initial application and the terms of the invitation to reapply. In our first post-Fisher case addressing successive reapplication, we noted that throughout the litigation in that case, the town had "taken the position that it denied the plaintiff's request for a variance because of concerns about the particular proposed structure's impact on the wetlands." Morgenstern v. Town of Rye, 147 N.H. 558, 564-65 (2002). In addition, in its pleadings submitted to the trial court, "the town essentially invited the plaintiff to file a new variance application, stating, '[T]he applicant has provided no evidence that a smaller house and/or a house that did not require filling wetlands could not be built on the lot, thereby addressing the [zoning board of adjustment's] concern." Id. at 566. On those facts, we concluded that "[u]nlike the defendant in Fisher v. Dover, the plaintiff did not merely resubmit substantially the same application for a variance, but, at the town's invitation, submitted a new proposal in an effort to meet the town's concerns." Id. at 566.

Similarly, in <u>Hill-Grant Living Trust</u>, the plaintiff sought, and was denied, a variance from "a zoning ordinance that prohibit[ed] the building of any structure more than 900 feet above sea level." <u>Hill-Grant Living Trust</u>, 159 N.H. at 531. The plaintiff then brought an action alleging inverse condemnation by regulatory taking. <u>Id</u>. The trial court granted summary judgment to the defendant on the ground that the taking claim was premature, and we affirmed. <u>Id</u>. We concluded that "the submission of a new variance

application would not have been futile," <u>id</u>. at 538, noting statements by various zoning board members, including that, "if the applicant came back with a specific location, [the member] could see granting a variance on that specific location," and that, although "the applicant is asking to build anywhere on the lot, . . . if the applicant resubmits with a certain elevation, the Board may grant a [v]ariance," <u>id</u>. at 536 (quotations omitted).

The scope of the actual or hypothetical revisions in Morgenstern and Hill-Grant Living Trust directly corresponded to the identified deficiencies that resulted in the initial denial. See Morgenstern, 147 N.H. at 566; Hill-Grant Living Trust, 159 N.H. at 537. Although the revisions discussed in Morgenstern and Hill-Grant Living Trust involved or contemplated changes to the proposed project, changes of that scope are not required by the Fisher doctrine itself: When a denial identifies a lack of information as the deficiency in the initial application, we have held that a reapplication proposing a project substantially identical to the prior proposed project is materially different under Fisher if the new application provides the information missing from the prior application. In Appeal of Town of Nottingham, 153 N.H. 539 (2006), for example, the New Hampshire Department of Environmental Services (DES) denied an application for a large groundwater withdrawal permit. Appeal of Town of Nottingham, 153 N.H. at 542. The applicant then submitted a second application, relying on information already on file with DES as well as subsequently submitted material. Id. at 542-43. DES approved the subsequent application. Id. at 543.

On appeal, one of the parties challenging that approval argued that to the extent that the second application was "a resubmission of the already denied application, based on no change in events, [DES's] approval of the application was contrary to Fisher." Id. at 565 (quotation omitted). "Assuming without deciding that Fisher's reasoning could be extended to" an application to DES, we disagreed. Id. Instead, we agreed with the applicant that the case was more analogous to Morgenstern than Fisher. Id. We concluded that the applicant's "new application supplemented its prior one in response to comments made by DES in denying the prior application. It was therefore not substantially the same application." Id. at 566 (quotation omitted). In particular, although DES denied the first application because it did "not contain all of the information required by Env-Ws 388.17," DES noted that the applicant "subsequently complied with the requirements of Env-Ws 388 by submitting supplemental information after" the first denial. Id. at 563 (emphases added). Thus, we viewed DES's comments regarding information lacking in the first application as identifying a deficiency and concluded that a subsequent application supplemented with that information was "not substantially the same application" under Fisher. Id. at 566 (quotation omitted).

Here, as in <u>Appeal of Town of Nottingham</u>, the Board identified a lack of information as the deficiency in the initial application. Accordingly, we conclude that TransFarmations' second application supplying the requested information was "materially different from its predecessor, thus satisfying <u>Fisher</u>." <u>Hill-Grant Living Trust</u>, 159 N.H. at 536. Because the trial court's decision concluding otherwise misapplied our <u>Fisher</u> jurisprudence, it is legally erroneous. Accordingly, we reverse the trial court's order as to the July 2020 decision and remand.

Reversed and remanded.

MACDONALD, C.J., and BASSETT, HANTZ MARCONI, and DONOVAN, JJ., concurred.

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THE SUPREME COURT OF NEW HAMPSHIRE

Grafton No. 2014-0775

CBDA DEVELOPMENT, LLC

v.

TOWN OF THORNTON

Argued: September 16, 2015 Opinion Issued: April 7, 2016

Cronin, Bisson & Zalinsky, P.C., of Manchester (John G. Cronin and Daniel D. Muller, Jr. on the brief, and Mr. Cronin orally), for the plaintiff.

<u>Drummond Woodsum</u>, of Manchester (<u>Matthew R. Serge</u> on the brief and orally), for the defendant.

BASSETT, J. The plaintiff, CBDA Development, LLC (CBDA), appeals an order of the Superior Court (MacLeod, J.) affirming a decision of the Planning Board (Board) of the defendant, Town of Thornton (Town), not to consider CBDA's second site plan application for a proposed recreational campground. Applying the subsequent application doctrine set forth in Fisher v. City of Dover, 120 N.H. 187 (1980), the Board decided that it could not consider CBDA's second application because it did not materially differ in nature and degree from CBDA's initial application. CBDA argues that the trial court erred when it: (1) upheld the Board's decision to apply the Fisher doctrine to applications before a planning board; and (2) found that the Board reasonably

concluded that CBDA's second application did not materially differ from its first application. We affirm.

Fisher involved a challenge to a zoning board's grant of a second variance application. Fisher, 120 N.H. at 188-89. In Fisher, the applicant conceded that in its second application it sought a variance that "was substantially the same as the variance previously requested and ultimately denied by the [zoning] board." Id. at 188. We held that unless "a material change of circumstances affecting the merits of the application" has occurred or the application is "for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition." Id. at 190. Otherwise, we explained, "there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan." Id. at 188. Thus, we concluded that the zoning board erred as a matter of law when it reviewed and approved the subsequent application "without first finding either that a material change of circumstances affecting the merits of the application had occurred or that the second application was for a use that materially differed in nature and degree from the use previously applied for and denied by the board." Id. at 191. We have never held that Fisher applies to successive site plan applications before a planning board.

The pertinent facts are as follows. In 2012, CBDA submitted a site plan application to the Board to develop a parcel of land in the Town. The application proposed a campground with approximately 250 campsites, each of which would house a "park model" recreational vehicle with two parking spaces. As described by the Board, the proposed park models were "basically . . . mobile home[s]" that were "meant to be permanent." (Quotations omitted.) CBDA would sell the park models to campers with one-year leases for each campsite, renewable for up to 60 years. The park models required professional removal and could remain on the campsites year-round; nonetheless, the campground would be closed to visitors for several months during the winter and spring. The campground would not accommodate campers who did not own park models.

The Board held several public hearings on the application, during which it expressed concerns about the apparently permanent nature of the proposed campground as evidenced by the mandatory use of park models on each site, the long-term lease agreements, the year-round storage of park models on campsites, and the need for professional removal of the park models. The Board ultimately denied CBDA's application, noting that "the two basic reasons" for the denial were that the campground was "not . . . open to the general public" and that "the initial application presented park model units with a greater amount of permanency than what is intended in the Thornton Campground Regulations and State statutes." In particular, the Board focused

upon the permanence and lack of easy portability of the park model structures, noting that, because the park models required professional removal, they were more similar to permanent dwellings than to campsites. It also emphasized its view that a "campground," as defined in the Town regulations and state statutes, must be a facility where visitors can come and go on a temporary basis. (Quotation omitted.) CBDA's subsequent administrative appeals were denied, and we affirmed.

In 2013, CBDA submitted a second site plan application for the same property. The application proposed a "267 site campground, with associated access roads, onsite septic systems with site hook-ups, community wells and [a] public water system with site hook-ups." The Board held public hearings, during which, citing the Fisher doctrine, it questioned CBDA about the differences between the two applications. The Board noted that it could not consider the merits of CBDA's second application unless "at a minimum the new application [had] changed in such a way that it addresse[d] the reasons for denial [of] the initial application." CBDA explained that, in response to the concerns raised by the Board during CBDA's initial application process, the second application proposed "more campsites, no requirement for a park model to be on every site, no requirement for the park model to be purchased on site from the developer, no long[-]term lease agreement," and "smaller [camp]sites for pop-ups and tents." CBDA also stated that the new application was designed to "capture as much of the transient business" from the public as possible, rather than focusing on use by long-term tenants. When asked whether "the recreational vehicles [would] be stationary on site for the season," CBDA responded that the vehicles could be stored on the campsites when unoccupied, and that there would be "no maximum length of stay."

After comparing CBDA's second application with its prior application, the Board decided that, although the second application addressed the issue of public access to the campground, it did not resolve the Board's concern about the permanent nature of the park models on the campsites. The Board unanimously agreed that it could not review CBDA's second application because the new application did not materially differ in nature and degree from the initial application. See Fisher, 120 N.H. at 190.

CBDA appealed the Board's decision to the trial court by way of writ of certiorari. See DHB v. Town of Pembroke, 152 N.H. 314, 318 (2005) (allowing appellate review by writ of certiorari of planning board's decision not to accept an application). CBDA argued that the Board erred when it refused to consider CBDA's second application "under the subsequent application doctrine" because that doctrine "was created in the context of zoning board appeals" and was not applicable to planning board decisions. Alternatively, CBDA argued that, even if the subsequent application doctrine applied to applications before a planning board, the Board acted unreasonably when it concluded that CBDA's second application did not materially differ from the initial application.

The trial court affirmed the Board's decision to apply the subsequent application doctrine to CBDA's second application, observing that the policy goals of <u>Fisher</u> — the finality of proceedings, upholding the integrity of the zoning plan, and protecting the interests of those who rely upon the zoning plan, <u>see Fisher</u>, 120 N.H. at 190 — "are as relevant and critical in the planning board context as they are in zoning board appeals." The trial court also ruled that the Board "reasonably found that [CBDA's] subsequent application was not materially different" from its original application because the subsequent application "did not adequately address [the Board's] explicit concern about the permanency of the campsites in its proposal." This appeal followed.

Ι

On appeal, CBDA first argues that the subsequent application doctrine does not apply in the planning board context. CBDA argues that the policy rationales underlying our decision in Fisher reflect the particular context of zoning board appeals, and that there are meaningful differences between the zoning and planning contexts. CBDA also argues that, because a planning board is statutorily required to "define through regulation the conditions under which it will accept an application," planning boards can achieve finality in proceedings by adopting regulations that define a "complete application" as one "which satisfies a standard akin to the subsequent application doctrine." Therefore, CBDA argues, the subsequent application doctrine is not needed in this context. The Town counters that the principles underlying our decision in Fisher — particularly that of finality — apply with equal force to planning board decisions, and, therefore, the subsequent application doctrine should apply in this context. The Town also argues that the fact "[t]hat an application is technically complete for regulatory purposes . . . does not affect the applicability of the Fisher doctrine." We agree with the Town.

Superior court review of planning board decisions is limited. <u>Upton v. Town of Hopkinton</u>, 157 N.H. 115, 118 (2008). The appealing party bears the burden of persuading the trial court that, by the balance of probabilities, the board's decision was unreasonable. <u>Id.</u> The review by the superior court is not to determine whether it agrees with the planning board's findings, but to determine whether there is evidence upon which they could have been reasonably based. <u>Id.</u> Our review of the superior court's decision is equally deferential. <u>Upton</u>, 157 N.H. at 118. We will uphold the decision on appeal unless it is unsupported by the evidence or legally erroneous. <u>Id.</u>

Although we have never held that the <u>Fisher</u> doctrine applies to successive site plan applications before a planning board, we agree with the trial court's observation that the policy rationales underlying our decision in <u>Fisher</u> "are as relevant . . . in the planning board context as they are in zoning board appeals." <u>See Fisher</u>, 120 N.H. at 188-90. First, finality is essential to

planning board proceedings. Administrative finality "prevents repetitive duplicative applications for the same relief, thereby conserving the resources of the administrative agency and of interested third parties that may intervene." Johnston Ambulatory Surg. Assoc. v. Nolan, 755 A.2d 799, 810 (R.I. 2000); see also Appeal of Town of Seabrook, 163 N.H. 635, 655 (2012) (observing that the subsequent application doctrine is a "similar doctrine" to administrative finality). It also "limits arbitrary and capricious administrative decisionmaking, while still preserving the ability of an agency to revisit earlier decisions when circumstances have changed." Johnston, 755 A.2d at 810.

Just as zoning boards act in a quasi-judicial capacity when interpreting a zoning ordinance and determining whether to grant a variance, see Taber v. Town of Westmoreland, 140 N.H. 613, 616 (1996), planning boards act in a quasi-judicial manner when approving or denying a site plan application, see Winslow v. Holderness Planning Board, 125 N.H. 262, 267 (1984) (referring to certain actions of a planning board as quasi-judicial). See also Weeks Restaurant Corp. v. City of Dover, 119 N.H. 541, 544 (1979) (noting that "[t]he interests of the parties and the type of issues presented in a site plan review do not differ substantially from those present in the granting of a special exception or a variance" before a zoning board). Thus, allowing applicants to continue submitting substantially similar site plan applications would, just as in zoning board appeals, result in uncertainty about the administrative decision. Accordingly, we conclude that finality is no less important in the planning context than in the zoning context. Cf. Johnston, 755 A.2d at 810 (observing that there "is no inherent reason that the rule [of administrative finality] should not be generally applicable to most areas of administrative regulation").

Moreover, the fact that planning boards must accept for review any "completed" application does not preclude the application of Fisher in the planning board context. As CBDA correctly observes, planning boards are required by statute to "specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval." RSA 676:4, I(b) (Supp. 2015). However, determining whether an application is "complete" is an administrative task by which a planning board ensures only that the applicant has provided "sufficient information . . . to allow the board to proceed with consideration and to make an informed decision" as to whether the proposed development satisfies basic requirements. Id.; see Accurate Transp., Inc. v. Town of Derry, 168 N.H. 108, 115 (2015) ("According to the plain language of RSA 676:4, I . . . accepting jurisdiction of a site plan application is merely a procedural prerequisite to a planning board's consideration of the merits of an application." (emphasis added)). In making that determination, the Board here utilizes a "Site Plan Review Checklist," which includes such items as the name of the site plan and whether the site plan includes provisions for snow removal.

In contrast, whether a subsequent site plan application materially differs from a prior application involving the same property is a fact-sensitive inquiry

that cannot easily be condensed into a simple checklist. <u>See Fisher</u>, 120 N.H. at 190-91 ("The determination of whether changed circumstances exist is a question of fact which necessitates a consideration of the circumstances which existed at the time of the prior denial." (quotation omitted)). Thus, as the trial court observed:

The fact that planning boards are required by statute to consider "completed" applications does not supersede the interests of finality and judicial efficiency embodied by the <u>Fisher</u> doctrine. Indeed, it would be a waste of administrative resources for the planning board to repetitiously reconsider an application it had previously denied simply because each time the application submitted contains all materials to be considered "complete" under the planning board's regulations.

As to the two remaining rationales underlying our decision in <u>Fisher</u>—upholding the integrity of the zoning plan and protecting the interests of those relying upon the plan — CBDA argues that, because site plan review "does not concern whether a use is appropriate for a particular parcel of land," subsequent site plan applications do not constitute a threat to the zoning plan. We disagree.

Although site plan review "does not give the planning board the authority to deny a particular use simply because it does not feel that the proposed use is an appropriate use of the land," Summa Humma Enters. v. Town of Tilton, 151 N.H. 75, 78 (2004) (quotation omitted), we have recognized that site plan review is not merely a "mechanical exercise" of implementing the "specific limitations imposed by ordinances and statutes." Id. at 79. Rather, the planning board has the authority to impose conditions upon site plans that are reasonably related to land use goals and other considerations within its purview, including assuring that sites "will be developed in a safe and attractive manner and in a way that will not involve danger or injury to the health, safety, or prosperity of abutting property owners or the general public." Id. at 78 (quotation omitted). For instance, in Summa Humma, the plaintiff argued that the planning board lacked the authority to deny a proposal to construct a 90-foot flagpole because there was no controlling statute or zoning ordinance regulating the height of flagpoles. Id. We disagreed, holding that, because the planning board had concluded that a flagpole of no more than 50 feet in height was necessary for the "safe and attractive development" of the site, the planning board had the authority to limit the height of the proposed flagpole. Id. at 78-79 (quotation omitted).

Thus, as <u>Summa Humma</u> makes clear, planning board decisions — like zoning board decisions — affect the development of municipalities. Indeed, site plan review is designed to ensure that, in "cases where it would not be feasible to set forth in the [zoning] ordinance a set of specific requirements upon which

a building inspector could readily grant or refuse a permit," sites are developed in such a way that they "fit into the area in which they are being constructed without causing drainage, traffic, or lighting problems." <u>Id</u>. at 78 (quotations omitted). Thus, just as community members rely upon zoning boards to uphold the integrity of zoning plans, they may reasonably expect planning boards to make decisions that will not negatively affect their properties.

Finally, we note that nothing in our case law restricts <u>Fisher</u> to zoning board decisions. As we have recognized, "[t]he rule in <u>Fisher</u> is consistent with the majority rule that a new application for administrative relief or development permission may be considered by a board if there is a substantial change in the circumstances or the conditions relevant to the application." <u>Brandt Dev. Co. of N.H. v. City of Somersworth</u>, 162 N.H. 553, 556 (2011) (quotation and ellipsis omitted); <u>see</u> 4 E. Ziegler, Jr., <u>Rathkopf's The Law of Zoning and Planning</u> § 68:9 (2012). Accordingly, we hold that the subsequent application doctrine set forth in <u>Fisher</u> applies in the planning board context. Thus, the trial court did not err when it upheld the Board's decision to apply the subsequent application doctrine to determine whether it could properly consider CBDA's second site plan application.

II

CBDA next argues that its second application was materially different from its prior application, and, consequently, the trial court erred by upholding the Board's decision not to consider the merits of the application. CBDA argues that the <u>Fisher</u> doctrine "does not bar subsequent applications in which the applicant makes an effort to address [the] concerns raised [by the Board] with respect to the initial denied application." The Town counters that the Board properly denied CBDA's subsequent application under the <u>Fisher</u> doctrine because it concluded that the modified application did not sufficiently resolve the Board's concerns about the initial application. We agree with the Town.

Applying the <u>Fisher</u> doctrine in this context, an applicant before a planning board bears the burden of demonstrating that a subsequent application "materially differs in nature and degree from its predecessor." <u>Fisher</u>, 120 N.H. at 190. The determination of whether changed circumstances exist is a question of fact. <u>Id</u>. at 190-91. This determination must be made, in the first instance, by the Board. <u>See Hill-Grant Living Trust v. Kearsarge Lighting Precinct</u>, 159 N.H. 529, 536 (2009). On appeal, the board's factual findings are deemed <u>prima facie</u> lawful and reasonable. <u>Morgenstern v. Town of Rye</u>, 147 N.H. 558, 565 (2002). We will uphold the trial court's decision unless it is not supported by the evidence or is legally erroneous. <u>Id</u>.

We have held that <u>Fisher</u> does not preclude consideration of a subsequent application — explicitly or implicitly invited by a zoning board —

which has been modified to address the board's concerns about the initial application. Hill-Grant, 159 N.H. at 536. For example, in Morgenstern, we concluded that the trial court erred when it upheld the zoning board of adjustment's (ZBA) conclusion that, under Fisher, it could not consider the plaintiff's second application for a variance. Morgenstern, 147 N.H. at 566. We explained:

Throughout the litigation in this case, the town has taken the position that it denied the plaintiff's request for a variance because of concerns about the particular proposed structure's impact on the wetlands. Yet, when the plaintiff submitted a new application . . . that allegedly addressed these concerns, the ZBA declined to hear the application on the merits because it concluded that the application did not differ materially from the [original] application.

<u>Id</u>. at 564-65. Thus, we concluded that, "[g]iven the nature of the plaintiff's initial application and the ZBA's reasons for denying the variance," the trial court erred when it upheld the ZBA's refusal to consider the subsequent application because it was submitted "at the town's invitation" and addressed the ZBA's specific concerns "about the proposed structure's impact on the wetlands." <u>Id</u>. at 566.

Similarly, in <u>Hill-Grant</u> we concluded that <u>Fisher</u> did not preclude the consideration of a second application for a variance when the ZBA had expressed that it was willing to consider an application with specific modifications. <u>Hill-Grant</u>, 159 N.H. at 535-37. In that case, the plaintiff sought a permit to build a house at an elevation higher than the zoning ordinance limit of 900 feet. <u>Id</u>. at 531. The ZBA denied the initial request, but stated that, although it would not grant a general variance to build above the proscribed height, if the applicant resubmitted its application with a "specific location" and "certain elevation," the ZBA might grant a variance. <u>Id</u>. at 531, 536 (quotations omitted). We observed that "it is logical to presume that if the ZBA invites submission of a subsequent application modified to meet its concerns, it would find an application <u>so modified</u> to be materially different from its predecessor, thus satisfying <u>Fisher</u>." <u>Id</u>. at 536 (emphasis added). Thus, we concluded that the ZBA could consider the plaintiff's subsequent application to build on its property. <u>Id</u>. at 536-37.

Accordingly, before accepting a subsequent application under the Fisher doctrine, a board must be satisfied that the subsequent application has been modified so as to meaningfully resolve the board's initial concerns. When a board has identified fundamental issues with an application, those issues must be addressed before the board — as well as the interested community members — should be required to invest additional time and resources into considering the merits of the application. An administrative board "should not be required to reconsider an application based on the occurrence of an inconsequential

change, when the board inevitably will reject the application for the same reasons as the initial denial." Brandt, 162 N.H. at 556 (quotation omitted).

Here, the Board reasonably concluded that CBDA's modified application was not "materially different" from CBDA's initial site plan application. Although the Board identified two primary reasons for its denial of the initial application — that the campground was "not . . . open to the general public" and "the initial application presented park model units with a greater amount of permanency than what is intended in the Thornton Campground Regulations and State statutes" — it is clear from the record that the Board's principal concern was the permanency and relative immobility of the proposed park model units. When denying the initial application, the Board noted that the park models were more similar to permanent dwellings than to campsites, and emphasized that a "traditional campground" was occupied on a temporary basis. (Quotation omitted.) When reviewing CBDA's subsequent application, the Board expressed continued concerns about the permanency of the proposed campground. In particular, the Board noted that whether the park model units would be able "to stay year round" was "a critical issue relative to the initial application." The Board also cited CBDA's statement that, despite the changes contained in the new application, 219 campsites could still be occupied by park models, and observed that, given this fact, and because park models "are not generally set up for temporary use," the "temporary occupancy of the campsites ha[d] not been addressed in the second application." The Board noted that if CBDA had prohibited the use of park models on the campsites or limited the time that each campsite could be occupied by a park model, CBDA's proposal would have been materially different because it would have resolved its concern about the permanency of the campsites.

Although under CBDA's second application, it was only possible — rather than certain — that 219 campsites would be occupied by park models, the Board was not, for that reason, required to conclude that the second application was materially different from the first. As CBDA acknowledges on appeal, "the public's preferences will dictate the camping units present on the site as well as [the] length[] of stay during the time when the campground is open." Thus, the principal issue of concern to the Board was not resolved.

Accordingly, we conclude that the record supports the Board's refusal to consider CBDA's second application and that the trial court did not err by affirming the Board's decision. Although CBDA identifies other arguments in its brief, because these issues were not raised in the notice of appeal, the issues were not properly preserved and are deemed waived. See Dupont v. N.H. Real Estate Comm'n, 157 N.H. 658, 662 (2008).

Affirmed.

DALIANIS, C.J., and HICKS, CONBOY, and LYNN, JJ., concurred.

New Hampshire OV.

Received by: _

| New Hans | APPLICATION | N FOR A VARIANCE | |
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| 3024 | | | |
| - CIVIO: | pard of Adjustment | Entries in this box are to be Land Use Division personne | el |
| Yo: Zoning Bo | oard of Adjustment of Hudson | Case No. 144-005 (| 07-25-24) |
| | | Case No. 144-005 (Date Filed 6/11/24 | |
| Name of Applicant | Rowdy Smith | Map: 144 Lot: 5 Zo | oning District: R-2 |
| Telephone Number | (Home) | (Work) | |
| Mailing Address | 19 Robinson Road, Huds | son, NH 03051 | |
| Owner same as | applicant | | |
| Location of Propert | y 19 Robinson Road, Hud (Street Addres | s) | |
| Signature of Ap | Thu plican | | 124 |
| lem | | 6/11 | /24 |
| Signature of Pro | perty-Owner(s) | Date | |
| it's officials, emplo well as, abutters an of this application may be authorized be deemed appropring hereafter possess a | yees, and agents, including the dother interested members of during any public meeting coby the ZBA, for the purpose of riate by the ZBA. The owner(s) gainst any of the above identions, surveys, tests and/or inspe | owner(s) hereby give permission to the members of the Zoning Board of Act the public, to enter upon the property nducted at the property, or at such f such examinations, surveys, tests and release(s) any claim to or right he/sh fied parties or individuals as a result ctions conducted on his/her (their) pro | djustment (ZBA), as which is the subject reasonable times as d inspections as may be (they) may now or t of any such public |
| owner(s) to confirm | | provide written documentation sign e allowing you to speak/represent on l Variance. | |
| Items i | n this box are to be fille | ed out by Land Use Division p | 1 1 / |
| COST: | | Date receive | ed: 6/11/24 |
| | | recording) (non-refundable): | \$ 185.00 |
| Direct Al | outters x Certified postage | | \$ 66.04 |
| Indirect A | Abutters x First Class pos Total a i | stage rate \$ <u>0,68</u> = mount due: | \$ 0.68 |
| | | Amt. received: | \$ 251.72 |

778, 487

Receipt No.:

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

Engineering _____ Fire Dept. ____ Health Officer _____ Planner ____ Other _____

ROWDY SMITH 19 ROBINSON ROAD HUDSON, NH 03051

June 10, 2024

Via hand-delivery

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

Dear Chairman,

I, Rowdy Smith, hereby authorize Gottesman & Hollis, P.A. to represent me, owner of 19 Robinson Road, Hudson, NH in my application for variance and the presentation to the Zoning Board of Adjustment thereof.

Thank you,

Rowdy Smith

F:\2024\24-114\documents\letter of authorization 5-28-24.docx

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 | Please review the completed application with the Zoning Administrator or staff before | Staff Initials |
|--------------------|--|-------------------|
| EWA | making copies in next step. The applicant must provide the original (with wet signatures) of the complete filled- out application form and all required attachments listed below together with thirteen (13) single-sided copies of the assembled application packet. (Paper clips, no staples) | To pend |
| m- | 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. | TG |
| CM3 | 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.) | TG ON |
| €W} | 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 | 10 |
| ENT. | hearing to a later date, following notification of such abutters.) 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 | 75 |
| ENDO | Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office) | 16 |
| 5,100 | 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. | TG N/A |
| N/A | If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Planning Board. | NA |

Rev. July 22, 2021

| CER1 | CIFIED | 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) N/A The plot plan shall be drawn to scale on an 8 ½" x 11" or 11" x 17" sheet with a North pointing arrow shown on the plan.
- b) N/A The plot plan shall be up-to date and dated, and shall be no more than three years old.
- The plot plan shall have the signature and the name of the preparer, with his/her/their seal. c) N/A
- The plot plan shall include lot dimensions and bearings, with any bounding streets and d) N/A with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property.

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

- e) N/A The plot plan shall include the area (total square footage), all buffer zones, streams or other wetland bodies, and any easements (drainage, utility, etc.)
- f) N/A The plot plan shall include all existing buildings or other structures, together with their dimensions and the distances from the lot lines, as well as any encroachments.
- The plot plan shall include all proposed buildings, structures, or additions, marked as g)_N/A_ "PROPOSED," together with all applicable dimensions and encroachments.
- h) N/A The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.
- The plot plan shall indicate all parking spaces and lanes, with dimensions. i)_N/A_

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

Signature of Applicants

Signature of Property Owner(s)

Date 6/11/24

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 |
|-----------|-------------|--|--|
| *144 | 5 | *Include Applicant & Owner(s) Rowdy Smith | 19 Robinson Rd Hudson, NH 03051 |
| 144 | 3 | Peter Heller, Trustee Great Woods Realty Trust | 58 Robinson Pond Dr. Hudson, NH 03051 |
| 144 | 4-1 | Anousone Souphida Mike Leang | 23A Robinson Rd Hudson NH 03051 |
| 144 | 4-2 | Anthony & Lynn Gringeri | 23B Robinson Rd Hudson, NH 03051 |
| 144 | 6 | Marie Linda Hauck | 15 Robinson Rd Hudson, NH 03051 |
| 144 | 8 | Public Service of NH DBA Eversource Energy | PO Box 270 Hartford CT 06141 |
| 144 | 9 | Kevin Bujnowski, Trustee Bujnowski Revocable Trust | 40 Lawrence Rd Hudson, NH 03051 |
| 144 | 10 | Gerald M. & Kathleen J. Boucher, Trustees | 42 Lawrence Rd Hudson, NH 03051 |
| 144 | 11 | Scott & April Bujnowski | 44 Lawrence Rd Hudson NH 03051 |
| 144 | 12 | Gilles A. Champagne, Trustee Gilles A. Champagne 1989 Trust | 164 Greeley St Hudson, NH 03051 |
| 135 | 30 & 31 | James W. Gruenfelder | 26 Robinson Road Hudson, NH 03051 |
| 144 | 2 | Town of Hudson c/o Conservation Commission | 12 School St. Hudson, NH 03051 |
| Legal Rep | resentative | Gottesman & Hollis, P.A. Attn: Elizabeth M. Hartigan, Esq. | 39 E. Pearl St., Nashua, NH 03060 |

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 |
|-----|-----|-----------------------------------|-------------------------------------|
| 135 | 27 | Jannine M. & Matthew L. Pomerleau | 37 Robinson Rd. Hudson, NH 03051 |
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USPS-Verified Mail

| SENI | DER: | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - CERTIFIED MAIL | Case# 144-005 VARIANCE 19 Robinson Rd., Hudson, NH 03051 Map 144/Lot 005-000 1 of 1 |
|------|----------|--|--|---|
| | | ARTICLE NUMBER | Name of Addressee, Street, and post office address | 07/25/2024 ZBA Meeting |
| 1 | 9589 071 | 0 5270 0960 3543 56 | ROWDY SMITH 19 ROBINSON RD., HUDSON, NH 03051 | APPLICANT/OWNER NOTICE MAILED |
| 2 | 9589 071 | 0 5270 0960 3543 63 | ELIZABETH HARTIGAN, ESQUIRE; GOTTESMAN & HOLLIS P.A. | APPLICANT/OWNER NOTICE MAILED |
| 3 | 9589 071 | 0 5270 0960 3543 70 | 39 EAST PEARL ST., NASHUA, NH 03060-3407 PETER HELLER, TRUSTEE GREAT WOODS REALTY TRUST | ABUTTER NOTICE MAILED |
| 4 | 9589 071 | 0 5270 0960 3543 87 | 58 ROBINSON POND DR., HUDSON, NH 03051 ANOUSONE SOUPHIDA; MIKE LEANG | ABUTTER NOTICE MAILED |
| 5 | 9589 071 | 0 5270 0960 3543 94 | 23 A ROBINSON ROAD, HUDSON, NH 03051 ANTHONY C. GRINGERI LYNN A. GRINGERI | ABUTTER NOTICE MAILED |
| 5 | 9589 071 | 0 5270 0960 3544 00 | 23 B ROBINSON ROAD, HUDSON, NH 03051 MARIE LINDA HAUCK | ABUTTER NOTICE MAILED |
| 7 | 9589 071 | 0 5270 0960 3544 17 | 15 ROBINSON ROAD, HUDSON, NH 03051 PUBLIC SERVICE OF NH dba: EVERSOURCE ENERGY | ABUTTER NOTICE MAILED |
| 8 | 9589 071 | 0 5270 0960 3544 24 | PO BOX 270, HARTFORD, CT 06141-0270 KEVIN J. BUJNOWSKI,TRUSTEE BUJNOWSKI REVOCABLE TRUST | ABUTTER NOTICE MAILED |
| 9 | 9589 071 | 0 5270 0960 3544 31 | 40 LAWRENCE ROAD, HUDSON, NH 03051 GERALD M. BOUCHER, TRUSTEE KATHLEEN J. BOUCHER, TRUSTEE | ABUTTER NOTICE MAILED |
| 10 | 9589 07 | 10 5270 0960 3544 48 | 42 LAWRENCE ROAD, HUDSON, NH 03051 SCOTT BUJNOWSKI APRIL BUJNOWSKI | ABUTTER NOTICE MAILED |
| | | Total Number of pieces listed by sender 10 | 44 LAWRENCE ROAD, HUDSON, NH 03051 Total number of pieces rec'vd at Post Office | Postmaster (receiving Employee) |

USPS-Verified Mail

| SEN | DER: | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - CERTIFIED MAIL | Case# 144-005 VARIANCE 19 Robinson Rd., Hudson, NH 03051 Map 144/Lot 005-000 1 of 1 |
|-----|----------|--|--|---|
| | | | Name of Addressee, Street, and post | |
| | | ARTICLE NUMBER | office address | 07/25/2024 ZBA Meeting |
| | 9589 071 | 0 5270 0960 3544 55 | GILLES A. CHAMPAGNE, TRUSTEE GILLES A. CHAMPAGNE 1989 TRUST | ABUTTER NOTICE MAILED |
| | | | 164 GREELEY STREET, HUDSON, NH 03051 | |
| 2 | 9589 071 | 0 5270 0960 3544 62 | JAMES W. GRUENFELDER | ABUTTER NOTICE MAILED |
| 120 | | | 26 ROBINSON ROAD, HUDSON, NH 03051 | |
| 3 | 9589 071 | 0 5270 0960 3544 79 | TOWN OF HUDSON; C/O CONSERVATION COMMISSION | ABUTTER NOTICE MAILED |
| | | | 12 SCHOOL STREET, HUDSON, NH 03051 | |
| 1 | | Mailed First Class | MATTHEW L. POMERLEAU, JANNINE M. POMERLEAU | ABUTTER NOTICE MAILED |
| | | | 37 ROBINSON RD., HUDSON, NH 03051-0238 | |
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TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

July 15, 2024

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**, **July 25**, **2024** starting at **7:00 P.M.** in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH. Please enter by the ramp entrance at right side.

Case 144-005 (07-25-24): Rowdy Smith, 19 Robinson Rd., Hudson, NH requests a Variance to allow a continued existing unpermitted multifamily use in the R-2 zoning district where multi-family dwellings are not permitted. [Map 144, Lot 005, Sublot-000; Zoned Residential-Two (R-2); 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,

Chris Sullivan

Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman

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

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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 Chris Sullivan, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: csullivan@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,

Chris Sullivan

Zoning Administrator

APPLICATION FOR A VARIANCE

| Ordinance Article V Permitt | | | the Hudson Zoning |
|----------------------------------|------------------------|------------------------------|-------------------|
| in order to permit the following | ng: | | |
| To allow multi-family in the | R-2 zoning district wh | ere multi-family is not perm | itted. |
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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.") See attached |
|----|--|
| | <u>See attached</u> |
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| 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 attached |
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| 3. | Substantial justice would be done to the property-owner by granting the variance, because: (Explain why you believe this to be true—keeping in mind that the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.) See attached |
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| 4. | The proposed use will not diminish the values of surrounding properties, because: (Explain why you believe this to be true—keeping in mind that the Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.) See attached |
| | oce attached |
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FACTS SUPPORTING THIS REQUEST: (Continued)

| A. | Explain why you believe this to be true—keeping in mind that you must establish that: Because of the special conditions of the property in question, the restriction applied the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way <u>and</u> |
|----------|---|
| Sec | e attached |
| <u> </u> | attached |
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| | 2) Explain how the special conditions of the property cause the proposed use to be reasonable. |
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| | 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 unde |
| | the ordinance. |
| | the ordinance. |
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FACTS SUPPORTING THIS REQUEST:

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

The public interest is to maintain similar densities throughout a zone and to provide adequate lot area for each lot. This building is set back over 200 feet from the road and has been occupied as a 4 unit building since approximately 2009 and referenced as a 4-units building in the assessing records. The use of the property for two units is a permitted use; however, the existing use is not permitted. Granting the variance will not affect the character of the neighborhood as the neighborhood includes many other two multi-family buildings and this building is set back from the road and does not appear to be a 4 unit building from the road; and it has existed in the neighborhood for over 15 years and granting a variance will not change the character at all. Granting the variance will not threaten the public health, safety or welfare as the units are existing and the leach field and septic have been upgraded to service the property. The property will be inspected by the fire safety division and there is sufficient parking and infrastructure in place. Allowing the existing units to continue to be occupied is not contrary to the public interest.

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

While the number of multifamily units is greater than permitted, its appearance is similar to other properties in the area. The required lot size in the R-2 zone is 60,000 sf for a duplex without municipal water and sewer, this lot is 252,212 sf. The general purpose and objective of the ordinance is to keep similar uses together and provide adequate lot area for each unit and to protect property values and not allow creation of a use where it cannot reasonably be accommodated or threaten or public safety. In this case, the 4 units have been in existence for many years and there is sufficient lot area for 4 units. The character of the neighborhood will not be changed as no exterior change or additional new use is proposed and there is no threat to public health, safety or welfare. The outside footprint does not change with a duplex or the 4 units, the character of the neighborhood remains the same.

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

This property has been maintained as a 4 unit building since approximately 2009. While there is some question as to whether it had been converted into a two family following the 2015 variance denial, the applicant is unaware of a conversion. The applicant has owned the property since 2021 and upon his purchase it was a 4 unit building. If the variance is granted there will be no harm to the public at it is accustomed to having a 4 unit dwelling on this very large property. Denial of the variance will create harm to the owner and the tenants which is not outweighed by any harm to the public. The property will remain the same and will be in keeping with the essential character of the neighborhood and would not threaten public health, safety or welfare.

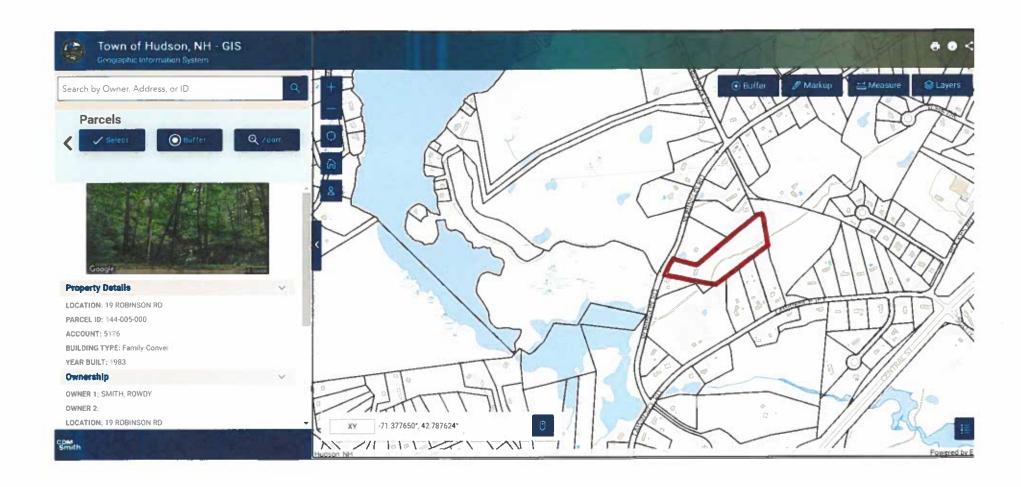
4. The proposed use will not diminish the values of surrounding properties, because:

Granting the variance will not cause any real change as to what has long been a 4 unit use of the property in the neighborhood. Adjacent properties will not be adversely affected as they will see no change to the exterior of the building nor any practical change from what has been in use for years.

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

A. The property is unique in that it is a large parcel (252,212 sf or 5.79 acres) with wetlands along the front of the property and powerlines along the rear of the property and it has long been a 4 unit building, illegal, yet pre-existing. Enforcing the density regulations against this property bears no fair and substantial relationship to the purpose of the ordinance of preventing overcrowding in that this property has long been used for this number of units and it is a very large lot such that the area per unit is in compliance with the ordinance requirements, and requiring conversion to less units is a substantial hardship on the owner and the tenants occupying the units without necessity and for no valid reason with regard to regulating density. By granting the variance the 4 existing units will be lawful and all the tenants will remain in place. Permitting the existing use of 4 units in the existing manner will have no visible changes to the property. This property has sufficient land area to be subdivided and where two duplexes would be permitted on each lot; however, there are wetlands along Robinson Road and a significant powerline easement to the rear of the property and frontage is less than required. This reasonable use will allow the existing units to remain with no changes or harm to the public.

F\\2024\24-114\documents\zoning arguments 6-4-24.docx



Property Location: 19 ROBINSON RD

Parcel ID: 144/ 005/ 000/ /

Card Address:

LUC: 1110 Vision ID: 5176 Blda #: 1 Card #: 1 Print Date: 5/29/2024 8:33:20 AM Account #: 6342 of 1 **CURRENT OWNER** ASSESSING NEIGHBORHOOD PREVIOUS ASSESSMENTS (HISTORY) Nbhd Year Code Assessed Code Assessed Val Year Code Assessed Nbhd Name Year SMITH, ROWDY 323,700 RE Residential Average 2024 1110 323,700 2023 1110 2023 1110 323,700 184,400 184,400 1110 1110 184,400 1110 OPO UTILITIES 1110 2.700 1110 2,700 19 ROBINSON RD. 1110 2,700 Priv Water Ledgy Septic 510.800 Total 510.800 Total 510.800 Total HUDSON NH 03051 APPRAISED VALUE SUMMARY SALE NOTES RECORD OF OWNERSHIP **BK-VOL/PAGE** SALE DATE SALE PRICE VC Q/U V/I Grantor: LINDQUIST, 9511 883 08-11-2021 Q 532.000 00 SMITH, ROWDY Appraised Bldg. Value (Card) 265,300 JEREMY, 384.000 25 9459 2925 04-23-2021 U LINDQUIST, JEREMY Grantor: PALMER 8902 2527 09-30-2016 Q 364,000 00 GREGORY M. PALMER, GREGORY M. 1 Appraised Xf (B) Value (Bldg) 58,400 44 Grantor BUJNOWSKI, PHYLLIS M., TR 6952 1892 06-05-2003 U 0 -1 **BUJNOWSKI**, 2,700 Appraised Ob (B) Value (Bldg) PHYLLIS M., TR. Grantor: Appraised Land Value (Bldg) 184,400 BUJNOWSKI, PHYLLIS M Special Land Value **CURRENT ASSESSMENT** SUPPLEMENTAL DATA Descript Code Appraised Assessed 510,800 Total Appraised Parcel Value Parcel ID 144-005-000 BLDG 1110 323,700 323,700 Zonina R2:Residential-2 C LAND 1110 184,400 184,400 Valuation Method Flood Hazard C 2.700 OB 1110 2,700 Neigh/Abut1 Neigh/Abut2 PREV 0036-0020-0003 Neigh/Abut3 510,800 Total Appraised Parcel Value 510.800 Assoc Pid# 510.800 144-005-000 Total: GIS ID VISIT / CHANGE HISTORY NOTES Purpost/Result Date ld Cd POWERLINE EASEMENT/12/19 CLOSE TO POWER 2022 - 4 APTS EA Measured 03-28-2022 23 02 LINES, APPLY 10% ECO6 ELEC METERS 1 MARK 23 Info At Door 03-28-2022 04 21 30 Sales Data Verification 05-10-2021 ED "HOUSE" N/C APPEARS TO BE 4 UNITS100 12-20-2019 18 02 Measured A sub panel//storage area in IIv for all 12-20-2019 18 11 Entry Denied Field Review 06-15-2017 09 45 units//2 units in LLV, 2 in FFL//EST GD 03-10-2017 07 811 I&Erefused **COND 21** 03 Meas/Inspect 03-09-2017 **BUILDING PERMIT RECORD** SQ ft Comments Permit Id Issue Date Permit C Description Amount Status **Applicant** С 11-28-2016 PRO 0 2016-1243 Propane Tk LAND LINE VALUATION SECTION Site Size B LandUse Acrege Nbhd Notes Land Value Land Type Land Units **Land Adjustment** Description Unit Price Cond. Nbhd. # Code Disc. Index Adj. 111R APTS 4-7 UNITS TOTAL 1.000 AC 170,000 RE 1.00 4 units; 170,000 Site 1.00 5 1.00 WET/PL: 1110 APTS 4-7 UNITS TOTAL 4.790 AC 6.000 1.00 0 1.00 RE 1.00 Easement 0.50 14,400 Excess Total Land Value: Total Card Land Units: 5.790 AC Parcel To Disclaimer: This information is believed to be correct but is subject to change and is not warrantied. 184,400 Parcel Total Land Area: 5,790 AC

Property Location: 19 ROBINSON RD Vision ID: 5176 Account #: 6342

Parcel ID: 144/ 005/ 000/ /

Bldg #: 1

Card Address: Card #: 1 of 1

LUC: 1110 Print Date: 5/29/2024 8:33:21 AM

| | ONSTRUCTION | | CONSTRUC | TION DET | AIL (CONTINUED) |
|------------------|-------------|-----------------|------------------------------------|------------|---------------------|
| Element | Cd | Description | Element | Cd | Description |
| Model | 01 | Residential | Avg Ht/FL | 8 | |
| Stories: | 1 | | Extra Kitchens | 1 | |
| Style: | 11 | Family Conver. | Add Kitchen Ra | FR | |
| Grade: | C | Average | | | Fair |
| (Liv) Units | 4 | | | 1 | |
| Exterior Wall 1 | 04 | Vinyl | | | |
| Roof Structure | 01 | Gable | | | |
| Roof Cover | 01 | Asphalt Shingle | | 1 | |
| Frame | 01 | Wood | | | |
| Foundation | 01 | Concrete | | | |
| Interior Wall 1 | 01 | Drywall | COST | / MARKET | VALUATION |
| Interior Floor 1 | 04 | Carpet | Doubleton Makes N | | |
| Heat Fuel | 03 | Electric | Building Value N | ew | 421,083 |
| Heat Type | 06 | Elec Basebd | | | |
| # Heat Systems | 3 | | N | | 4000 |
| AC Percent | 0 | | Year Built | .21A | 1983 |
| Total Rooms | 14 | | Effective Year Bu | | 2000 FR |
| Bedrooms | 6 | | Depreciation Cod Remodel Rating | ie | FK |
| Full Baths | 4 | | Year Remodeled | | |
| 3/4 Baths | 1 | | Depreciation % | | 22 |
| Half Baths | 0 | | Functional Obsol | | 22 |
| Extra Fixtures | 0 | | External Obsol | | 15 |
| Kitchens | 4 | | Trend Factor | | 1.000 |
| Kitchen Rating | AV | Average | Condition | | 1.000 |
| Bath Rating | AV | Average | Condition % | | |
| Half Bath Rating | | | Percent Good | | 63 |
| Bsmt Garage | 0 | | RCNLD | | 265,300 |
| Fireplace(s) | 0 | | Dep % Ovr | | _00,000 |
| Fireplace Rating | | | Dep Ovr Comme | nt | |
| WS Flues | 0 | | Misc Imp Ovr | | |
| Color | BEIGE | | Misc Imp Ovr Co | mment | 1 |
| Avg Ht/FL | 8 | | Cost to Cure Ovr | | fry |
| Extra Kitchens | 1 | | Cost to Cure Ovr | | |
| OB | OUTBUILDING | & YARD ITEMS(L |) / XF - BUILDING E | XTRA FEA | TURES(B) |
| Code | Description | L/B Uni | ts UOM Unit Pr | i Yr Bit C | nd. % G Assd. Value |

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| XFAPT | Apartment | • | В | 1,325 | SQ, FT | 70.00 | 1983 | AV | 63 | 58,400 |
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| | BUILDING | SUB-AREA | SUMMARY | SECTION | | |
| Code | Description | Living Area | Floor Area | Eff Area | Unit Cost | Undeprec Value |
| EFP | Encl. Porch, Finished | 0 | 258 | 181 | 106,38 | 27,445 |
| FFL | First Floor, Finished | 1,824 | 1,824 | 1,824 | 151.63 | 276,577 |
| LLV | Lower Level, Unfinished | 0 | 1,656 | 745 | 68,22 | 112,966 |
| WDK | Wood Deck, or Composite Dk | 0 | 270 | 27 | 15.16 | 4,094 |
| | | | | | | |
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| | | | | | | |
| | Total Liv Area/Gr. Area/Eff Are | 1,824 | 4,008 | 2,777 | TotalValue | 421,082 |



TOWN OF HUDSON



Land Use Division

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

Zoning Determination #24-020

March 6, 2024

Rowdy Smith 19 Robinson Rd Hudson, NH 03051 First Class Mail

Re: 19 Robinson Road Map 144 Lot 005-000

District: Residential Two (R-2)

Dear Mr. Smith,

You have submitted a request for an administrative decision regarding the number of multi-family units which may be constructed on the above-referenced property (No Plans were provided).

Zoning Review / Determination:

Multi-family use of the property is not permitted. Per the Hudson Zoning Ordinance, Multifamily Structures are not permitted in the Residential Two Zoning District (R-2) in which the property is located according to §334-21 (A-3) <u>Table of Permitted Principal Use</u>. Only single-family and two-family residential structures are allowed in the R-2 Zoning District.

I must further inform you that after reviewing the history of this property, we found a letter dated 3-6-15 from the Hudson Inspectional Services that stated that two (2) of the units were considered illegal and would have to be removed if a variance was not granted by the Zoning Board. On 6-25-15 the owner asked for a variance to keep the existing multifamily and this variance was denied. On 10-13-15 the Code Enforcement Officer received a letter from the owner and it said the structure was switched back to a 2 Family.

After looking at this information, the existing 4 family structure is in violation of the Hudson Zoning Ordinance. Two of the units must to be vacated and the

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

structure restored to a two-family residence. In order to be compliant, the independent living facilities have to be removed from two (2) of the units such that there only two (2) dwelling units remaining.

If you would like to redevelop your property for multi-family use, it will be necessary for you to obtain a variance from the Zoning Board of Adjustment. However, I do need to alert you to the fact that since the multifamily conversion was previously denied by the Zoning Board of Adjustment you will have to demonstrate a material change of circumstances affecting the merits of the application, or that your new proposal materially differs in nature and degree from the prior application that was denied.

Please contact me when the two (2) units have been vacated and we can then inspect that unit for compliance by Monday, May 6, 2024.

Sincerely,

Chris Sullivan

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

csullivan@hudsonnh.gov

Att: Inspection Service Letter (March 6, 2015)

Town of Hudson Zoning Board of Adjustment denial letter (7-13-2015)

Letter from Lisa Harrington (October 2, 2015)

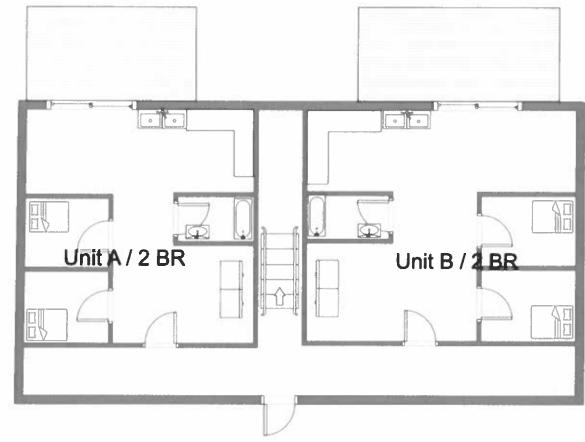
cc: Public Folder

File

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



Top Floor



Bottom Floor



Printed 6/13/2024 10:29AM Created 6/13/2024 10:25 AM

Transaction Receipt

Town of Hudson, NH 12 School Street Hudson, NH 03051-4249 Receipt# 778,487

tgoodwyn

| <u>Description</u> | | | Current Invoice | <u>Payment</u> | Balance Due | |
|--------------------|---|----------|-----------------|-------------------------------|-------------|---------------|
| 19 F | ing Application-7/2 Robinson Rd 5 144 Lot 005-000 | | | | | |
| V | 'ariance | | 0.00 | 251.7200 | 0.00 | |
| | | | | Total: | | 251.72 |
| Remitter | | Рау Туре | Reference | Tendered | Change | Net Paid |
| Gotterman & Holl | is, P.A. | CHECK | CHECK # 17786 | 251.72 | 0.00 | 251.72 |
| | | | | Total Due: | Total Due: | |
| | | | | Total Tendered: Total Change: | | 251.72 |
| | | | | | | 0.00 |
| | | | | Net Paid: | | 251.72 |



TOWN OF HUDSON

Land Use Division

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

Zoning Administrator Staff Report Meeting Date: January 25, 2024

July

Case 126-024-002 (07-25-24): Todd Hirst, 9 B David Dr., Hudson, NH requests a Home Occupation Special Exception to allow the accessory use of a home office for two (2) businesses Including storage of tools/equipment and parking of four (4) business vehicles. [Map 126, Lot 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations and HZO Article V; Permitted Uses; §334-22, Table of Permitted Accessory Uses

Address: 9 B David Dr. Map 126, Lot 024-002

Zoning district: General One (G-1)

Property Description: .

The Town of Hudson, records indicate this parcel is an existing non-conforming lot of record. The Lot is 32,234 sq. ft. where 87,120 sq. ft. is required. There is a duplex on the property. The duplex was built in 1982. According to the assessing records the duplex is classified as a condo-conex.

In-House comments:

Town Engineer:

Applicant shall provide additional information regarding the parking situation within the property and where the four vehicles park.

Inspectional Services/Fire Dept.:

Multi-family dwellings are required to have building sprinkler systems and building fire alarm systems. Inspectional Services shall be allowed to perform an inspection of the entire structure to assess what needs to be added for compliance with the State Adopted Fire Code.

Associate Planner:

The applicant shall apply to, and receive site plan approval from the Planning Board per §334-16.1.

History/Attachments:

AERIAL / PHOTOS

A: Aerials: 2024

OTHER SUBMITTALS:

B: BP# 311-81 to erect a 36X30' Duplex (6-18-81)

C: Occupancy permit #1213

ZONING BOARD ACTION

D: Letter: Notice of Complaint (6-4-24)

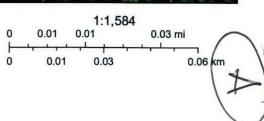
DEPARTMENTAL COMMENT SHEETS

E: Engineering - Request for Request of review (7-9-24)
F: Inspectional Services/Fire Dept. Request of review (7-9-24)
G: Planning - Request of review (7-10-24)

Case 126-024-002 - 9 B David Drive - Home Occupation



7/15/2024



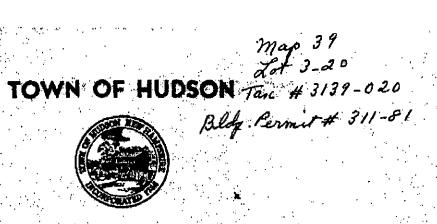


Town of Hudson, N. H.

126-024-0011 No. 311-81

Office of Town Building Inspector
BUILDING PERMIT

| | france 18 , 1981 |
|---|--|
| This certifies that Watersedge. | Jac. |
| <i>v</i> | Name of Owner |
| is granted permission to alter | Name of Owner 36 X 30 Description |
| repair move | Description |
| move | 1. 6 -a- |
| Well of Sept | tu System |
| of Building | |
| on premises located at and known as | |
| 3/39-620 Davi | $\int_{\Omega} \int_{\Omega} \frac{1}{2\pi} \int_{\Omega} \frac{1}{2\pi} \frac$ |
| 1137-020 Vary | |
| Number | Street or Avenue |
| and to do things lawful to that end. | |
| | linance, and is void unless work thereunder shall have a date hereof. |
| This Permit is issued under the condition | that this building WILL NOT be occupied until a |
| Certificate of occupancy is obtained from the B | uilding Inspector. |
| | |
| Value \$ 64,000.00 | Richard E. Millard Administrative Officer |
| Fee S /28.00 | • |



OCCUPANCY PERMIT

| Wat | ortedoc | 1.00 | Trage (%) | |
|---------------------|---------------------|-------------|-----------------|--------------------|
| Owner or Builder | Marie Conference | 4., | | |
| | A COLOR | AMOUNT AND | 1.1 | <u> </u> |
| Address of Building | | | | |
| OPP SCIENTING A | HEREBY GRANTE | n ro occiuv | THIS BUIL | DING |
| LEMMISSICAL IS I | CATALON CARCALISADO | D TO OCCUPE | TING BUIL | DITO: |
| A shares | 10.5 | 1 Acres | oking sport | Supplied the State |
| Date | | | Inspector's App | 3,00 |

No person shall occupy this building until Inspector's approval



TOWN OF HUDSON



Land Use Division

12 School Street

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

Notice of Complaint

June 4, 2024

Todd Hirst 9B David Drive Hudson NH 03051

Re:

9B David Drive Map 126 Lot 024-CDX

District: General One (G-1)

Complaint: You are running a pesticide spraying and irrigation business out of your home.

Violations:

The General One Zone does not permit the operation of a business from this residence. It looks like the activity associated with your business is parking and storing trucks, trailers equipment, and materials related to a pesticide and irrigation company. This use would require a Home Occupation Special Exemption from the Zoning Board of Adjustment per §334-24 Home Occupations.

Please contact me, to verify the use of the property by June 21, 2024

Sincerely,

Chris Sullivan

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

csullivan@hudsonnh.gov

cc:

Public Folder

Brook Dubowik (Planning Admin Aide)

Inspectional Services

File

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



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

REQUEST FOR REVIEW/COMMENTS:

Case: 126-024 (07-25-24) (HOME OCCUPATION

| Property Location: 9 B David Dr | —SPECIAL EXCEPTION) |
|--|-------------------------------------|
| For Town Use | |
| Plan Routing Date: 07/09/2024 Reply requested by: 07/12/2024 | ZBA Hearing Date: <u>07/25/2024</u> |
| I have no comments I have comments (see be | elow) |
| EZD Name: Elvis Dhima. P.E. | Date: <u>07/09/2024</u> |
| (Initials) | |
| DEPT. Town Engineer Fire/Health Department | Associate Town Planner |
| | |
| Applicant shall provide additional information regarding the | e parking situation within |
| the property and where the four vehicles park | |
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ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW TOWN OF HUDSON, NEW HAMPSHIRE

REQUEST FOR REVIEW/COMMENTS:

Case: 126-024 (07-25-24) (HOME OCCUPATION

Property Location: 9 B David Dr SPECIAL EXCEPTION) SPECIAL EXCEPTION)

| For Town Use | | | |
|--|--|--|--|
| Plan Routing Date: <u>07/09/2024</u> Reply requested by: <u>07/12/2024</u> ZBA Hearing Date: <u>07/25/2024</u> | | | |
| I have no comments I have comments (see below) | | | |
| DRH Name: David Hebert Date: 07/10/2024 | | | |
| (Initials) | | | |
| DEPT: Town Engineer Fire/Health Department Associate Town Planner | | | |
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ZONING ADMINISTRATOR REQUEST FOR INTER DEPARTMENT REVIEW TOWN OF HUDSON, NEW HAMPSHIRE

REQUEST FOR REVIEW/COMMENTS:

Case: 126-024 (07-25-24) (HOME OCCUPATION
Property Location: 9 B David Dr SPECIAL EXCEPTION)

| For Town Use | | | | |
|--|--|--|--|--|
| Plan Routing Date: <u>07/09/2024</u> Reply requested by: <u>07/12/2024</u> ZBA Hearing Date: <u>07/25/2024</u> | | | | |
| ✓ I have no comments I have comments (see below) | | | | |
| BWG Name:Benjamin Witham-Gradert Date: 07/10/2024 | | | | |
| DEPT: Town Engineer Fire/Health Department Associate Town Planner | | | | |
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HUDSON ZONING BOARD OF ADJUSTMENT Home Occupation Special Exception Decision Worksheet

On 07/25/2024, the Hudson Zoning Board of Adjustment heard Case 126-024-002, being a request by Todd Hirst, 9 B David Dr., Hudson, NH for a <u>Home Occupation Special Exception</u> to allow the accessory use of a home office for two (2) businesses including storage of tools/equipment and parking of four (4) business vehicles. [Map 126, Lot 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations and HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses]

After reviewing the petition, and after hearing all testimony and documentary evidence supplied by the Applicant(s) and any other interested citizens, and after taking into consideration personal knowledge of the property in question, the undersigned member of the Hudson Zoning Board of Adjustment, sitting for this case, made the following determinations.

The intended use for which a Home Occupation Special Exception has been requested complies with the definition of a home occupation as an accessory use which by custom has been carried entirely within a dwelling unit, which is incidental and subordinate to the dwelling use, and which complies with the requirements of §334-24 as follows:

| is incider | ntal and | subordinate to the dwelling use, and which complies with the requirements of §334-24 as follows: | | |
|------------|----------|--|--|--|
| Y | N | The proposed use is a sales / service operation for goods produced or services provided on-site. | | |
| Y | N | The proposed use shall be secondary to the principal use of the home as the business owner's residence. | | |
| Y | N | The proposed use shall be carried on within the residence and / or accessory structure. | | |
| Y | N | Other than the home occupation sign(s) permitted under Article XII, Section 334-67, there shall not be any exterior display nor other exterior indication of the home occupation, and there shall not be any variation from the primarily residential character of the principal or accessory building. | | |
| Y | N | There shall not be any exterior storage, unless permitted by a special exception (if permitted, must be screened from neighboring views by a solid fence or by evergreens of adequate height and bulk at the time of planting to effectively screen the area, unless this requirement is waiver by the Board because of existing foliage and / or long distances). | | |
| Y | N | There shall not be any objectionable circumstances (such as noise, vibrations, dust smoke, electrical disturbances, odors, heat or glare) produced as the result of this proposed use. | | |
| Y | N | Traffic generated by the proposed home occupation activity shall not be substantially greater in volume than would normally be expected in the neighborhood. | | |
| Y | N | Parking provided for the home occupation activity shall be off-street, located outside of the setback areas and / or the front yard, in driveways or paved areas, and limited to no more than two vehicles at one time. | | |
| Y | N | The home occupation shall be conducted only by residents of the dwelling. | | |
| Y | N | Excluding any personal vehicle that can also be used for business purposes, parking of no more than one business vehicle (limited to no more than 13,000 pounds with adequate screening if the B, G. and I zones) shall occur. | | |
| Signed: | | | | |
| Sit | ting Me | mber of the Hudson ZBA Date | | |
| Print Name | e: | | | |

JUL 0 9 2024 JUL 0 9 2024 JUL 0 9 2024 JUL 0 9 2024

APPLICATION FOR A HOME OCCUPATION SPECIAL EXCEPTION

LAND USE DIVISION
To: Zoning Board of Adjustment
Town of Hudson

Telephone Number (Home)

Location of Property 96

Signature of Applicant

Mailing Address

Name of Applicant Todd Hirst

Owner Todd Hirst

96

| Ēntr Lanc | ries in this box are to be filled out by d Use Division personnel on 126-024 (07-25-24) | |
|--------------|---|----------|
| | Filed 7/9/24 Map: 126 Lot: 024 Zoning District: 002 | G-1 |
| | (Work) (603) 321-3228 | |
| Dr. | Hudson NH 03051 | |
| Dr. | Hudson NH 03051 | · Voz |

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 Home Occupation Special Exception.

| Items in this box are to be filled or COST: | Date receive | 11./ |
|--|----------------------------|----------------------------------|
| Application fee (processing, advertising & rec Abutter Notice: | | \$_185.00 |
| Direct Abutters x Certified postage rat Indirect Abutters x First Class postage Total amount | e rate \$ 0.68 = | \$ 45.72 \$ 3.40 \$ 234.12 |
| | Amt. received: | \$ 234.12 |
| Received by: 756 | Receipt No.: | 783,080 |
| By determination of the Zoning Administrator, Engineering Fire Dept Health Off | the following Departmental | review is required: |

TOWN OF HUDSON, NH Application Checklist

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

| Applicant Initials | | Staff Initials |
|-----------------------|--|-------------------|
| | The applicant must provide the original (with wet signatures) of the complete filled- out application form and all required attachments listed below together with 10 (ten) single-sided copies of the assembled application packet. (Paper clips, no staples) | 76 |
| 1 | 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> 76</u> |
| N/A | If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.) | N/A |
| | 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 | Perso |
| _ | (NOTE: the Land Use Division cannot process your application without the abutter lists. It is the applicant's responsibility to ensure that the abutter lists are complete and correct. If at the time of the hearing any applicable property owner is found not to have been notified because the lists are incomplete or incorrect, the Zoning Board will defer the hearing to a later date, following notification of such abutters.) | |
| | GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use | TG |
| 12 | Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office) | 76 |
| | 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. | 76 |
| NA | If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Planning Board. | NA |

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) [1] [4] | The plot plan shall be drawn to scale on an 8 ½" x 11" or 11" x 17" sheet with a North pointing arrow shown on the plan. | NA |
|------------|---|------|
| b) | The plot plan shall be up-to date and dated, and shall be no more than three years old. | |
| c) | The plot plan shall have the signature and the name of the preparer, with his/her/their seal. | |
| d) | The plot plan shall include lot dimensions and bearings, with any bounding streets and with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property. | |
| | (NOTE: 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.) | |
| D | The plot plan shall include all existing buildings or other structures, together with their | - 1 |
| | dimensions and the distances from the lot lines, as well as any encroachments. | |
| g) | The plot plan shall include all proposed buildings, structures, or additions, marked as | |
| | "PROPOSED," together with all applicable dimensions and encroachments. | 7/ |
| h) | The plot plan shall show the building envelope as defined from all the setbacks required | //_ |
| { | by the zoning ordinance. | |
| i)(i | The plot plan shall indicate all parking spaces and lanes, with dimensions. | Y |
| | | (76) |

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

Signature of Applicant(s)

7/9/24

Signature of Property Owner(s)

Date

ALL DIRECT ABUTTERS

List name(s) and mailing addresses of the owner(s) of record of the property and all direct abutters as of the time of the last assessment of taxation made by the Town of Hudson, including persons whose property adjoins or is directly across the street or stream from the land under consideration. For abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. If at the time of your hearing, any applicable property owner is found not to have been notified because your lists are incorrect or incomplete, the Zoning Board will defer your hearing to a later date following notification of such abutters.

(Use additional copies of this page if necessary)

| MAP | LOT | NAME OF PROPERTY OWNER | MAILING ADDRESS |
|-----|---------|---|------------------------------------|
| 126 | 024-002 | *Include Applicant & Owner(s) | Ab david dr Hudson WH,03051 |
| 126 | 024-001 | Trudi Durham | 9a david dr Hudson WH 03051 |
| 126 | 014 | Cole Paul F TR Cole Janet MTR | 6 david dr Hudson UH 03051 |
| 126 | 015 | Damshouse, meliss a Bo sworth, stephen | 8 david dr Hudson NH 03051 |
| 126 | 616 | Suprement, Kevin B | 10 David dr Hubson NH 03051 |
| 126 | | Fouvel Jason P Fouvel, Jean-laul | 86 Kienna Rd Hudson UH 03051 |
| 126 | 023-002 | Maryanski Doucet linda M | 11B David dr Hudson NH 03051 |
| 126 | | 1 Colantuoni, Frank Colan tuoni, Alexandra | Por Frontier Dr Polham NH 03076 |
| 126 | 629 | Alukonis sophies | 123 Central St Hudson NH 03051 |
| | | | |
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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 |
|-----|---------|--|---------------------------------|
| 126 | 013 | Touchette Kich Touchette, Roxanne | 4 David dr Hudson NH 03051 |
| 196 | 617 | Cormier, Mark PTR Cormier, BetsyTR Huard Francis A | 2 David dr Hudson WH 03051 |
| 26 | 022 | Huard Francis A' Huard Mar goret HO, KhanH | 13 David de 14 door NH 03051 |
| 126 | 026-001 | | 54 David dr Hudson UH 03051 |
| 126 | 026-002 | SZCZBINSKI Raymandson SZCZPINSKI RUTM | 5B David Er Hudson NH 03051 |
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| | | | 772-17-101 |
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USPS-Verified Mail

| CENT | DEB. | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - CERTIFIED MAIL | Case# 126-024-002 HOME OCCUPATION SPECIAL EXCEPT. 9B David Dr., Hudson, NH 03051 Map 126 Lot 024 Sublot 002 1 of 1 | | | |
|---------|-------------|--|---|---|--|--|--|
| SENDER: | | | Name of Addressee, Street, and post | | | | |
| | | ARTICLE NUMBER | office address | 07/25/2024 ZBA Meeting | | | |
| 1 | 9589 071 | 0 5270 0960 3545 09 | HIRST, TODD M. | APPLICANT/OWNER NOTICE MAILED | | | |
| | | | 9B DAVID DR., HUDSON, NH 03051 | | | | |
| 2 | 9589 073 | 0 5270 0960 3545 16 | DURHAM, TRUDI | ABUTTER NOTICE MAILED | | | |
| | 100 1 0 1 2 | | 9A DAVID DR., HUDSON, NH 03051 | | | | |
| 3 | 9589 071 | 0 5270 0960 3545 23 | COLE, PAUL F., TR.; COLE, JANET M., TR. | ABUTTER NOTICE MAILED | | | |
| | | | 6 DAVID DRIVE, HUDSON, NH 03051 | | | | |
| 4 | 9589 071 | 0 5270 0960 3545 30 | DAMPHOUSSE, MELISSA; BOSWORTH, STEPHEN | ABUTTER NOTICE MAILED | | | |
| | | | 8 DAVID DR., HUDSON, NH 03051 | | | | |
| 5 | 9589 071 | 0 5270 0960 3545 47 | SURPRENANT, KEVIN R. | ABUTTER NOTICE MAILED | | | |
| | | | 10 DAVID DRIVE, HUDSON, NH 03051 | | | | |
| 6 | 9589 071 | D 5270 0960 3545 54 | FAUVEL, JASON P.; FAUVEL, JEAN-PAUL | ABUTTER NOTICE MAILED | | | |
| | | | 26 KIENIA RD., HUDSON, NH 03051 | | | | |
| 7 | 9589 073 | .0 5270 0960 3545 61 | MARYANSKI DOUCET, LINDA M. | ABUTTER NOTICE MAILED | | | |
| 1 | | | 11B DAVID DRIVE, HUDSON, NH 03051 | | | | |
| 8 | 9589 073 | 0 5270 0960 3545 78 | COLANTUONI, FRANK; COLANTUONI, ALEXANDRA | ABUTTER NOTICE MAILED | | | |
| | | | 127 FRONTIER DR., PELHAM, NH 03076 | | | | |
| 9 | 9589 073 | .0 5270 0960 3545 85 | ALUKONIS, SOPHIE S. | ABUTTER NOTICE MAILED | | | |
| | | | 123 CENTRAL STREET, HUDSON, NH 03051 | | | | |
| 10 | | | | | | | |
| | | Total Number of pieces listed by sender 9 | Total number of pieces rec'vd at Post Office | Postmaster (receiving Employee) | | | |

JUL 15 2024

USPS

Page 1

| SENDER: | TOWN OF HUDSON 12 SCHOOL STREET HUDSON, NH 03051 | US POSTAL SERVICE - FIRST CLASS MAIL | Case# 126-024-002 HOME OCCUPATION SPECIAL EXCEPT. 9B David Dr., Hudson, NH 03051 Map 126 Lot 024 Sublot 002 1 of 1 | | | | |
|---------|--|---|--|--|--|--|--|
| SERDER. | | Name of Addressee, Street, and post | | | | | |
| | ARTICLE NUMBER | office address | 07/25/2024 ZBA Meeting | | | | |
| 1 | Mailed First Class | TOUCHETTE, KEITH; TOUCHETTE, ROXANNE | ABUTTER NOTICE MAILED | | | | |
| | | 4 DAVID DRIVE, HUDSON, NH 03051 | | | | | |
| 2 | Mailed First Class | CORMIER, MARK P., TR.; CORMIER, BETSY, TR. | ABUTTER NOTICE MAILED | | | | |
| | | 12 DAVID DRIVE, HUDSON, NH 03051 | | | | | |
| 3 | Mailed First Class | HUARD, FRANCIS A.; HUARD, MARGARET | ABUTTER NOTICE MAILED | | | | |
| | | 13 DAVID DRIVE, HUDSON, NH 03051 | | | | | |
| 4 | Mailed First Class | HO, KHANH | ABUTTER NOTICE MAILED | | | | |
| | | 5A DAVID DR., HUDSON, NH 03051 | | | | | |
| 5 | Mailed First Class | SZCZYPINSKI, RAYMOND, JR.; SZCZYPINSKI, RUTH | ABUTTER NOTICE MAILED | | | | |
| | | 5B DAVID DRIVE, HUDSON, NH 03051 | | | | | |
| 6 | | | | | | | |
| 7 | | | | | | | |
| 8 | | | | | | | |
| 9 | | | | | | | |
| 10 | | | | | | | |
| | Total Number of pieces listed by sender 5 | Total number of pieces rec'vd at Post Office | Postmaster (receiving Employee) | | | | |



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

July 15, 2024

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**, **July 25**, **2024** starting at **7:00 P.M.** in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH. Please enter by the ramp entrance at right side.

Case 126-024-002 (07-25-24): Todd Hirst, 9 B David Dr., Hudson, NH requests a Home Occupation Special Exception to allow the accessory use of a home office for two (2) businesses including storage of tools/equipment and parking of four (4) business vehicles. [Map 126, Lot 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations and HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory 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,

Chris Sullivan

Zoning Administrator



TOWN OF HUDSON



Zoning Board of Adjustment

Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

July 15, 2024

ABUTTER NOTIFICATION

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Case 126-024-002 (07-25-24): Todd Hirst, 9 B David Dr., Hudson, NH requests a Home Occupation Special Exception to allow the accessory use of a home office for two (2) businesses including storage of tools/equipment and parking of four (4) business vehicles. [Map 126, Lot 024, Sublot-002; Zoned General-One (G-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations and HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses]

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 Chris Sullivan, Zoning Administrator, Town of Hudson, 12 School Street, Hudson, NH 03051. Email comments before 4:00 PM prior to the meeting to: csullivan@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,

Chris Sullivan Zoning Administrator

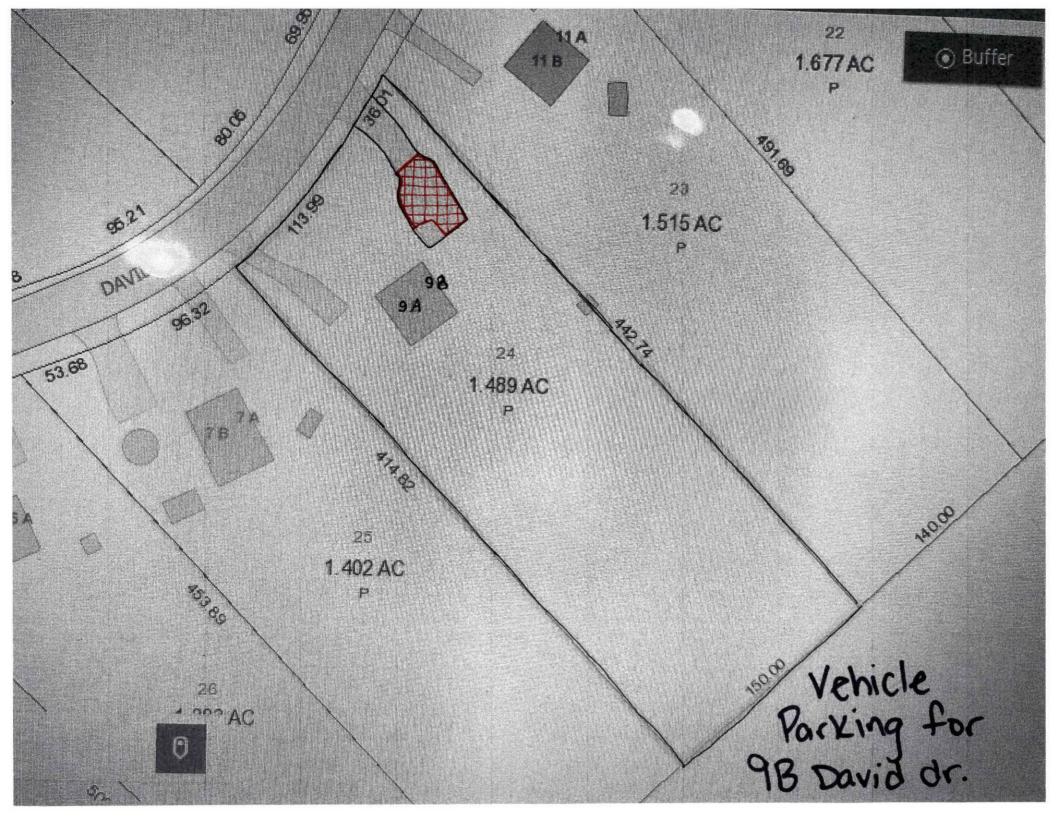
APPLICATION FOR A HOME OCCUPATION SPECIAL EXCEPTION

A home occupation is a wholesale sales or service operation for goods produced or services provided on-site and is permitted only as a special exception upon approval by the Zoning Board of Adjustment. In granting such an exception, the Board must find the home occupation to be in full compliance with the requirements listed below. Per Hudson Zoning Ordinance Article VI, Special Exceptions; §334-24 F, On-site retail sales are an expressly prohibited home occupation special exception use.

| Please explain, in detail, the nature of your home business. Home base for both LCS. Hirst Outdoors LLC |
|---|
| Hirst Mosquito and Tick U.C. Both business |
| use this location for storage of |
| materials, vehicles and paperwork. |
| Is the home occupation secondary to the principal use of the home as the business owners' residence? Please explain. |
| |
| Will the home occupation business be carried on within the residence and/or within a structure accessory to the residence? Please explain. Yes, for storage and paperwork. |
| Other than the sign(s) permitted under Article XII, will there be exterior display or other exterior indications of the home occupation? Will there be any variation from the primarily residential character of the principal or accessory building? Please explain. |
| |
| |
| |

APPLICATION FOR A HOME OCCUPATION SPECIAL EXCEPTION (CONTINUED)

| Will there be a vehicle(s) for the home occupation? Please explain the type and number of vehicle(s). Yes. 4 trucks. I used for Hirst mosquito |
|--|
| Who will be conducting the home occupation? Please explain. |
| We always come to them. |
| Where will customer/client parking for the home occupation be located? Please explain. Customers / Chents do not have any need to come to this residence. |
| Will the traffic generated by the home occupation activity be substantially greater in volume that would normally be expected in the neighborhood? Please explain the expected traffic to your business. No, as there are only 2 employees that may pass through. |
| |
| getting ready to bring to jobs or returning from a job. |
| Will there be noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare produced? Please explain, and if there will be electrical disturbances, describe the frequency. Only moving of vehicles and equiptment |
| enclosed. |
| sheds. One enclosed and one partially |
| evergreens of adequate height and bulk at the time of planting to effectively screen the area? It situations where a combination of existing foliage and/or long distances to neighboring views provide screening, the fencing requirements may be waived at the discretion of the Board. Please explain how you will comply. Nes. thure is storage within exterior |



I, Todd Hirst, am the owner of 9b David Dr. Hudson, NH 03051 and owner of both businesses Hirst Outdoors LLC and Hirst Mosquito and Tick LLC. My home business office will be conducted at this address (paperwork and over the phone only, no customers will be coming to this address.) I understand that I am responsible for any violations of the Hudson Zoning Ordinance chapter 334-24, Home Occupations. I also understand that the approval of this home occupation special exception expires with the change of my ownership of the property and that the home occupation special exception is conditional on the residents of the dwelling and not on the property.

Sign:

Date:

PAMELA L BISBING
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
September 7, 2027

To Whom it May Concern

I Trudi Durham the owner of 9A David Dr. Hudson NH, give my permission for Todd Hirst owner of 9B David Dr. Hudson NH to operate his business from his home.

Sincerely, Ludi J. Husham Trudi J. Durham



TOWN OF HUDSON





Notice of Complaint

June 4, 2024

Todd Hirst 9B David Drive Hudson NH 03051

Re:

9B David Drive Map 126 Lot 024-CDX

District: General One (G-1)

Complaint: You are running a pesticide spraying and irrigation business out of your home.

Violations:

The General One Zone does not permit the operation of a business from this residence. It looks like the activity associated with your business is parking and storing trucks, trailers equipment, and materials related to a pesticide and irrigation company. This use would require a Home Occupation Special Exemption from the Zoning Board of Adjustment per §334-24 <u>Home Occupations</u>.

Please contact me, to verify the use of the property by June 21, 2024

Sincerely,

Chris Sullivan

Zoning Administrator/Code Enforcement Officer

(603) 816-1275

csullivan@hudsonnh.gov

cc:

Public Folder

Brook Dubowik (Planning Admin Aide)

Inspectional Services

File

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

Property Location: 9 B DAVID DR

Vision ID: 5557

Account #: 6310

Parcel ID: 126/ 024/ 002/ /

Bidg #: 1

Complex Name: 126/024 DAVID DR

Card #: 1 of 1

LUC: 1021

Print Date: 07-09-2024 9:53:54 A

| CUI | RRENT OWNER | máticia — s | | ASSES | SING N | EIGHBO | RHOC | D | (| (CO) | 1,500 | 6 10 | | - 120 | PRE | VIOUS A | ASSESS | MENT | S (HIST | DRY) | | THE SHAP |
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| | | 3 5 | TO | PO | | | UTI | LITII | ES | 1000 | | | 1021 | | ,700 | | 1021 | | 154,700 | | 1021 | 154,700 |
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Property Location: 9 B DAVID DR Vision ID: 5557 Account

Total Living Area / Gross Area / Eff.Area

Account #: 6310

Parcel ID: 126/ 024/ 002/ / Bldg #: 1

Complex Name: 126/024 DAVID DR Card #: 1 of 1

LUC: 1021 Print Date: 07-09-2024 9:53:55 A

| CONSTRUCTION DETAIL | | | | | 1 | CONSTRUCTION DETAIL (CONTINUE | | | | | ITINUED) | |
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| Half Bath | | AV | Average | | Trend Factor | | | | | 1.000 | | |
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| OFP | | rame Por | | | 0 | 32 | | 6 | 21. | 50 688 | | |
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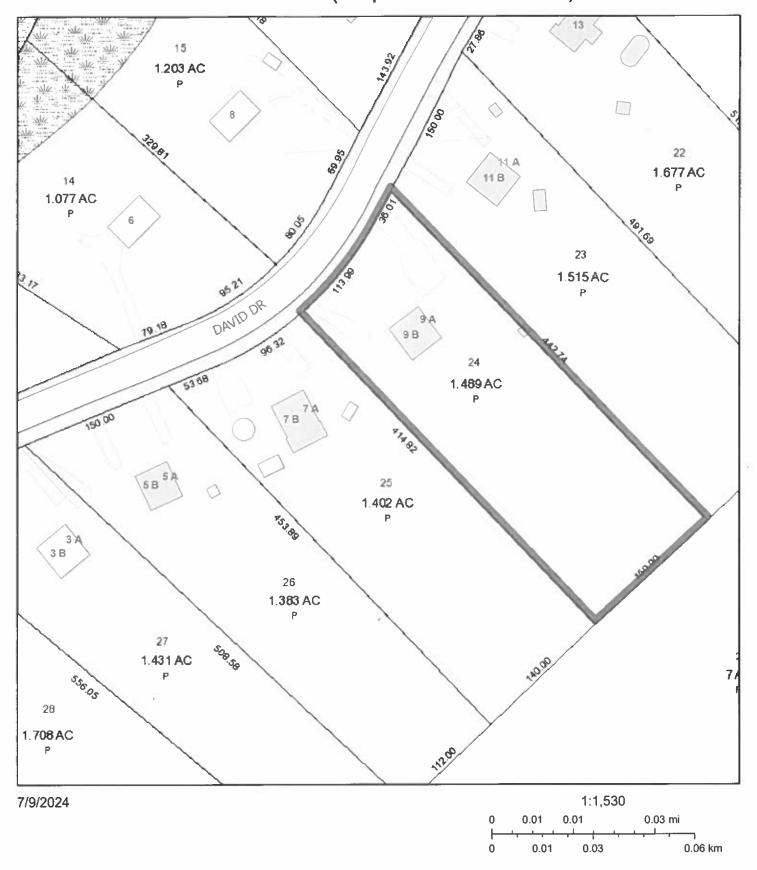
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9 B David Dr (Map 126 Lot 024-002)



Printed 7/09/2024 12:42PM Created 7/09/2024 12:38 PM

Transaction Receipt

Town of Hudson, NH

12 School Street Hudson, NH 03051-4249 Receipt# 783,080 publicw

| | <u>Description</u> | | Current Invoice | <u>Payment</u> | Balai | nce Due | | | |
|----------|---|------------------|-----------------|------------------|------------------|----------|--|--|--|
| 1.00 | Zoning Application-Ju 9B David Drive Map126 Lot 024-002 | ly 25, 2024 ZB | A Mtg | | | | | | |
| | Home Occup SE | | 0.00 | 234_1200 | | 0.00 | | | |
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| 2 | | | | Total Tendered: | | 241.03 | | | |
| | | | | Total Change: | 0.00 | | | | |
| | | | | Net Paid: | | 241.03 | | | |

SERVICE CHARGE NOTICE

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

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

| BY USING THIS SERVICE AND AGREE TO PAY THE SERV | VICE CHAR | RGE. | | |
|---|-----------|--------|-------|--------------|
| SIGNED: | _ DATE: | 7/9/24 | Type: | MC Visa Amex |



TOWN OF HUDSON

Zoning Board of Adjustment

stment
electmen Liaison

🛣 ary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

MEETING MINUTES - June 27, 2024 - draft

 The Hudson Zoning Board of Adjustment will hold a meeting on **Thursday**, **June 27, 2024**, at **7:00 PM** in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH. Please enter by the ramp entrance at right side.

I. CALL TO ORDER 7:02

II. PLEDGE OF ALLEGIANCE

Chairman Daddario called the meeting to order at 7:02 PM, invited everyone to stand for the Pledge of Allegiance and read the Preamble (Exhibit A in the Board's Bylaws) regarding the procedure and process for the meeting.

Mr. Martin made the motion to adjust the order of the Agenda to hear the third Case (Case #165-049) before the three-part second Case (Case # 1980912, a,b,&c). Mr. Lanphear seconded the motion. Vote was unanimous. Agenda order altered.

26 III. ATTENDANCE

IV. SEATING OF ALTERNATES

Clerk Dion called the attendance. Members present were Gary Daddario (Regular/Chair), Tristan Dion (Alternate/Clerk), Tim Lanphear (Regular) and Normand Martin (Regular/Vice Chair)). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Mr. Sullivan noted that Dean Sakati (Regular) would be late. Alternate Dion was appointed to vote. All Members present voted. Mr. Sakati arrived at 7:36 PM.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

Case 182-003-008 (06-27-24): Peter Madsen, Project Engineer, Keach-Nordstrom Associates, Inc., 10 Commerce Park North, Suite 3B, Bedford, NH requests an Equitable Waiver of Dimensional Requirement for 18 Garden Circle, Hudson, NH to allow a newly poured foundation to remain in its current location, which encroaches 0.5 feet into the side yard setback leaving 14.5 feet where 15 feet is required. [Map 182, Lot 003, Sublot-008; Zoned Town Residence (TR); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and NH RSA 674:33-a.I.]

Mr. Sullivan read the Case into the record, referenced his Staff Report initialed 6/14/2024 and noted that no in-house comments were received. Mr. Daddario stated that per the room's capacity, there is in excess two (2) individuals and asked that if

you are not concerned about this Case to please exit the room and confirmation was given that reentry would be possible.

Peter Madsen, Project Engineer from Keach–Nordstrom Associates, Inc. of Bedford, NH, introduced himself as representing the Property Owner Etchstone Properties, Inc. and introduced Chris Hickey, Head of Survey from Keach-Nordstrom Associates, Inc. and noted that there were two (2) representatives from the Project Developer also present in the audience.

Mr. Madsen stated that they seek and Equitable Waiver for Lot #3-008 and addressed the criteria outlined in RSA 674:33-a.I. The information shared included:

(a) discovered too late

(a) discovered too late

- the violation was not noticed until the certified plot plan was prepared where it was discovered that the revision made to the western boundary line of the property during the subdivision application process but when the change was made it was not updated appropriately and the error was carried through to both the recorded subdivision plans and the lot development plans and was not discovered until after the foundation had been laid out and poured
- (b) innocent mistake
 - the violation was caused by a good faith error in calculation by the
 design engineer and the project surveyor during the subdivision
 application process and was not an outcome of ignorance of law or
 ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith
 on the part of the owner or his agent
 - the minimum building setback line was never updated accordingly on the project plans when the western lot line was adjusted and updated
- (c) no nuisance
 - the violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor adversely affect any present or permissible future uses
 - the encroachment is 0.5 feet into the 15' setback does not alter the character of the overall development especially when one considers that fact that the foundation poured for Lot 3-007 is 32.3 feet away from the property line
- (d) high correction cost
 - the cost of correction far outweighs any public benefit
 - re-construction efforts would include re-excavation of the lot, forming and re-pouring of the new foundation a mere six inches from its current location. The effort would prolong disturbance to the abutting residential properties and any public benefit to be gained is inconsequential when compared to the cost of correction.

Public testimony opened. No one addressed the Board. Mr. Martin read the email received from abutters Jessica and Jeffrey Clegg of 59 Central Street dated 6/19/2024 that stated that they have no issues with the slightly reduced setback line. Public testimony closed at 7:21 PM.

Mr. Martin made the motion to grant the Equitable Waiver of Dimensional Requirement. Mr. Lanphear seconded the motion.

Mr. Martin spoke to his motion stating that it was discovered too late in the process, that despite the error, it has been handled professionally and timely, that it does not present a nuisance and that there would be a high correction cost as the foundation is poured. Mr. Martin voted to grant.

Mr. Lanphear spoke to his second, agreed with Mr. Martin's reasoning and stated that it was a good thing to address at the point of discovery and not later, like then the building was constructed. Mr. Lanphear voted to grant.

Mr. Dion voted to grant and agreed with the reasoning presented by Mr. Martin.

Mr. Daddario voted to grant stating that the discovery was not made until after the foundation was poured, that it was an innocent mistake, that moving a foundation six inches compared to the cost for such a move is not cost beneficial especially considering that favorable testimony has been received that the sis inches does not pose a nuisance and that there would indeed be a high correction cost.

Vote was 4:0. Relief granted. The 30-day Appeal period was noted

The Board next addressed Agenda #3, Case #165-049

2. <u>Case 198-012 (06-27-24)</u>: Jay Hall, Esq. duly authorized for Colbea Enterprises, LLC, 695 George Washington Highway, Lincoln, RI, requests <u>three (3) Variances</u> as follows for a proposed gas station/convenience store/car wash to be constructed at <u>91-97 Lowell Road, Hudson, NH</u> [Map 198 Lots 011, 012, 014, 015, 016 Zone B (Business)]:

Mr. Sullivan read the request into the record, stated that he would read each Variance request as they were presented to the Board for consideration and noted that in his Staff Report initialed 6/17/2024, no in-house departmental comments were received from the Town Planner, Town Engineer or the Fire Department.

a. **Wall Signs**: A <u>Variance</u> to allow three (3) Business and Industrial wall signs where only one (1) is permitted. [HZO Article XII: Signs; §334-63, Business and industrial building signs]

Mr. Sullivan read the Case into the record. Chris Drescher, attorney from Cronin, Bison & Zalinsky PC introduced himself on behalf of the Applicant and other members of the team in the audience available to answer questions – Jason Cook of TF Moran, Mike Decco Director of construction and maintenance for Seasons Market, Jay Hall, in-house counsel for Seasons Market and seated at the applicant's table, Chris Rice, engineer from TF Moran.

Atty. Drescher stated that they seek a variance to allow for three (3) wall signs where only one (1) is allowed. Atty. Drescher referred to Exhibit 1 that identifies all the signs proposed for the plan. The signs proposed to be on the main building are: Sign C for the brand for the business – Seasons; Sign D for the Convenience Store - Corner Market; and Sign E is for the co-brand, an independent business like a Subway or a Dunkin Donut.

150 Atty. Drescher identified the location of the site at the end of the Business district at an 151 elevation lower than Lowell Road and surrounded by a vegetative buffer, stated that the 152 intended project as a whole is for a gas station, convenience store and carwash to be constructed at 91-97 Lowell Road and that currently the property is undeveloped and 153 154 consists of multiple lots that will be merged into one (1) lot totally approximately five (5) 155 acres. Atty. Drescher stated that the property is within the Aquifer area where gas stations are not typically allowed; however its transmissivity is within the "Low-Moderate 156 157 Yield" and noted that the surrounding area is almost exclusively commercial and that the 158 property does abut the Town Residential (TR) Zone.

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162 163 Atty. Drescher stated that to place all three businesses on one sign would not only be confusing to a customer but given the restrictions of sign size it would be too difficult to fit all the information onto one sign. Atty. Drescher noted that the signs would not be visible from the road due to the elevation of the site and would only be visible to customers coming into the site.

164 165 166

Atty. Drescher next addressed the criteria necessary for the granting of a Variance. The information shared included:

167 168

(1) not contrary to public interest

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• There is a lot of information to be conveyed on the signage for the main building, indeed for the property as a whole.

172 173 174 • A sign is needed for the business brand (Season's), a sign for the convenience store (Corner Market) and a sign for the co-brand, such as Dunkin Donut • The number of proposed signs are not only necessary but will accomplish the

goal without creating a confusing evesore or overtly offending the Zoning Ordinance as its purpose does not allow signage to get too large, too unsightly, or cause any distractions for motorists and Section 334-63 restricts the number of signs for the simple goal of avoiding an overabundance of signs on a single structure

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• The signs will not be visible to passing motorist and will not cause confusion as they will only be visible once a customer has entered into the site to utilize its services and amenities

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• There are several businesses that will be located in the main building and each should enjoy its own advertisement from the building's exterior

185 186 187 • The signs are inline with the commercial character of the neighborhood and will not pose any threat to the health, welfare and safety of the surrounding area nor will it be visible from Lowell Road or Atwood Avenue

188 189 • The signs are needed to identify specific businesses inside the main building located on the property and will not detract from the essential character of the neighborhood nor be a threat to public safety

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(2) will observe the spirit of the Ordinance • the spirit of the Ordinance will be observed, as outlined above

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(3) substantial justice done the loss to the applicant in not granting the variance would far outweigh any

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benefit to the general public the signs need to accurately convey the various businesses and amenities that will be available in the main building, to help bring customers into the main building

- the signs will not obstruct sightlines or block any abutting commercial properties
 - if the variance is denied, the public gains nothing
 - the signs are meant to be informational and avoid confusing the public and denial would result in a more confusing layout for the businesses within

(4) not diminish surrounding property values

- currently the property is an undeveloped eyesore, so the overall project would be a significant improvement
- the abutters are largely other commercial properties with signs to attract customers
- the proposed signs will not block any of the abutters from sight of their own potential customers
- the signs will not be visible from Lowell Road or Atwood Avenue
- a developed site, versus an undeveloped site, will not diminish surrounding properties but very likely have a positive effect

(5) hardship

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- the special condition is satisfied due to the unique part of Lowell Road where the property sits
- despite being right in the heart of the Business Zone, the property falls into a business "dead zone". Across the street is a restaurant, entrance to Country Road and a vacant commercial lot; there's a large vegetative buffer to the abutting north lot that obstructs the property's view for anyone driving south; the abutting property at 99 Lowell Road to the south seems to be a preexisting nonconformity with regard to setback with its structure almost on top of Lowell Road that obscures view from anyone traveling north
- what is being proposed is a gas station/EV charging station/convenience store/carwash is a common combination of businesses
- Lowell Road is a State highway and can handle the traffic
- The signs cannot be seen from Lowell Road or Atwood Avenue and to force all three signs to be crammed onto one sign would not only be confusing to the customers but difficult to read with the smaller print
- It is a reasonable use and a reasonable ask

Mr. Rice noted that the total sign size is less than what is permitted in the Zoning Ordinance but they are asking for three (3) signs.

Mr. Martin questioned the need for a sign for the co-brand, that it would be a gas station with a convenience store and they all sell food, that a sign telling him there's a Subway in the store is not necessary. Mr. Dion commented that some Walmart Stores have separate signage for 'groceries' or 'Subway' or pharmacy.

Mr. Dion stated that there are three (3) other gas stations/convenient store combinations on Lowell Road. Atty. Drescher stated that there is hardship from the land and from the Ordinance and added that the building is approximately two hundred feet (200') into the site. Mr. Dion asked if the hardship is self-imposed with placing the building so far into the site. Mr. Rice stated that the proposed site plan follows tradition, that it is commonplace to place the gas pumps in front of the building.

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Public testimony opened at 9:33 PM. No one addressed the Board. Mr. Daddario read the written public comments received from Martha LaChance of Lowell Road expressed concern regarding traffic. Public testimony closed at 9:34 PM.

Mr. Martin stated that he is not opposed to the proposal but finds it unnecessary to identify what else is being offered inside. Mr. Dion stated the he feels that it is a self-imposed hardship with the placement of the building so far back from the road and referenced the Irving station that did not require a Variance per Mr. Martin. Mr. Daddario stated that he views the hardship criteria with regard to the restrictions of the Zoning Ordinance and noted that the total of the proposed three (3) signs does not exceed what is permitted in the Zoning Ordinance fir a single wall sign.

Mr. Lanphear made the motion to grant the Variance as requested and as identified as #5 on the proposed plan. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion stating that the granting will guide the public where to go, that it does observe the spirit of the Ordinance, that it will not diminish surrounding property values and that hardship is met and the proposed layout is clear and proper. Mr. Lanphear voted to grant with the stipulation.

Mr. Martin spoke to his second stating that the proposed use is not contrary to public interest, that it will observe the spirit of the Ordinance, that substantial just would be dome, that it will not diminish the values of the surrounding properties, that the Zoning Ordinance restricts the amount of signs on the property and the addition of two additional signs is reasonable and the proposed use is a reasonable one. Mr. Martin voted to grant with the one stipulation.

Mr. Sakati voted to grant with the one stipulation and stated that the request is not contrary to public interest, that the signage as shown is within the spirit of the Ordinance, that substantial justice would be done, that it would not diminish surrounding property values, that if denied it would result in unnecessary hardship and that the proposed use is a reasonable use.

Mr. Dion voted to grant with the stipulation and stated that it would not be contrary to the public interest as there are pre-existing gas stations in the surrounding area, that it does not alter the character of the neighborhood, that no harm will be done by the additional signs, that property values will not be diminished as there are similar sites in the neighborhood and that multiple signage is needed to be a more usuable space and the proposed use is a reasonable use.

Mr. Daddario voted to grant with the stipulation and stated that it is not contrary to public interest, that it is consistent with the business character and will help the public identify services offered, that the total square footage of the three proposed signs is within the total allowed in the Ordinance, that there is no harm to the public, that no evidence was presented to suggest any change to the surrounding property values, that the purpose of the Ordinance is to prevent over abundance of signage, that each sign speaks to a specific separate business and the total is within the allowed ninety feet and the proposed use is a reasonable use and the basic signage identifies the businesses present at the main building.

 Vote was 5:0. Variance granted with one stipulation that the sign be as presented on the sign plan prepared by TF Moran dated April10, 2024. The 30-day Appeal period was noted.

b. **Free-Standing Signs**: A <u>Variance</u> to allow a freestanding "pylon" sign with 146.9 SF where a maximum size of 100 square feet is permitted <u>and</u>; To allow five (5) freestanding signs where each individual site may have no more than one (1) freestanding pole or ground sign. [HZO Article XII: Signs; §334-64A and §334-64, Freestanding business and industrial signs]

Mr. Sullivan read the request into the record. Atty. Drescher stated that they seek a variance for the big roadside pylon sign that lets everybody know that they are there and to allow for five (5) freestanding signs where only one is permitted. The proposed dimension of the pylon sign is 146.9 SF (square feet) where only 100 feet is permitted and to allow for five (5) freestanding signs. Atty. Drescher referred to Exhibit 1, the proposed sign schedule noting that Sign #1 is the roadside pylon, Sign W, the carwash menu, Sign R for the electrical charging location, Sign U for the Coin Box Canopy, Sign V for the Menu sign for the driveway thru and Sign F for the canopy over the gas pumps which will bear the Shell logo.

Atty. Drescher stated that when traveling north to south on Lowell Road the site would be on the right but just before there is a large vegetative wall obstructing the site's view from the traveler. Traveling south to north, the same situation exists but by the daycare building into their front setback right up to Lowell Road. Atty. Drescher stated that this site will conform to the Zoning requirements, including setbacks, except for the signs being requested.

Atty. Drescher stated that the gas canopy will be setback 100' from Lowell Road, and the main building will be over 200' from Lowell Road. Atty. Drescher stated that there is no issue with the driveway line of sight, just the obstruction of view from a traveler's point of view. The proposed 25' tall pylon sign is not proposed to be taller that the Zoning requirements of 30', but to be a little wider which will allow for a larger font and be easier to read.

Atty. Drescher stated that the Zoning ordinance allows for one freestanding sign per lot but the way the site is laid out and includes several services, like the charging stations, carwash, the drive through for the restaurant etc, relief is being sought to identify the location of the various services within the site.

• with regard to setback with its structure almost on top of Lowell Road that obscures view from anyone traveling north

the pylon sign is 5' shorter than what is allowed in the Zoning Ordinance but the width needs to be larger to note the other businesses within the site – the carwash, the coffee shop, the Atty. Drescher next addressed the criteria necessary for the granting of a Variance. The information shared included:

(1) not contrary to public interest

• There is a lot of information to be conveyed on the pylon sign that has its view obstructed by the properties to its north and south

- 348 • The request is for a wider sign so that a larger font can be applied to facilitate 349 motorists to identify all the services contained within the site and allow for 350 sufficient time to adjust the lane they are traveling to enter the site
 - Lowell Road, also known as Route 3A, consists of two lanes of opposite traffic with a middle for turning
 - It is not contrary to public interest
 - The pylon will not obstruct the view or cause a distraction or obstruct the view of surrounding businesses
 - The pylon is more than the traditional gas station pylon as the number of businesses and services provided on site also require that be located on the pylon sign - and will include the convenience store, the separate coffee counter business, car wash and EV charging station
 - The pylon sign is in line with the essential character of the neighborhood, which is commercial in nature, and poses no threat to the health, welfare and safety of the surrounding area
 - The free-standing signs will pose no threat to the community, nor will they even be particularly visible from Lowell Road or Atwood Avenue
 - The free-standing sign are needed to identify specific areas of the property
 - The signs would not detract from the essential character of the neighborhood, which is being of a commercial character, nor be a threat to public safety

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- (2) will observe the spirit of the Ordinance
 - the spirit of the Ordinance will be observed, as outlined above
- (3) substantial justice done
 - the loss to the applicant in not granting the variance would far outweigh any benefit to the general public
 - a gas station requires a pylon of appropriate size to help customers find the gas station and see it from a distance to allow ample time for a lane correction to make the turn into the site
 - the pylon sign also needs to accurately convey the various businesses and amenities available at the property
 - the pylon sign will help bring customers to the property and the sign will not block any views, obstruct sightlines or block abutting commercial properties
 - the free-standing signs are necessary to identify the stand-alone areas of the property that are not attached to the main building
 - if denied, the public gains nothing
 - the signs are meant to be informational and foster public safety
 - denying the signs would result in a more confusing layout for the businesses in the site

(4) not diminish surrounding property values

- currently the property is an undeveloped eyesore, so the overall project would be a significant improvement
- the abutters are largely other commercial properties with signs to attract customers

- the pylon sign will not block any of the abutters from sight of their own potential customers
 - the free standing signs will not be visible from Lowell Road or Atwood Avenue
 - a developed site, versus an undeveloped site, will not diminish surrounding properties but very likely have a positive effect

(5) hardship

- the special condition is satisfied due to the unique part of Lowell Road where the property sits
- despite being right in the heart of the Business Zone, the property falls into a business "dead zone". Across the street is a restaurant, entrance to Country Road and a vacant commercial lot; there's a large vegetative buffer to the abutting north lot that obstructs the property's view for anyone driving south; the abutting property at 99 Lowell Road to the south seems to be a preexisting nonconformity EV charging station in a large enough font to be read as potential customers drive by
- the free standing signs are critical to identify the various businesses a separate EV charging station, a separate carwash assign with its menu, a coin box canopy to alert vehicles of clearance and the canopy over the gas pumps must have the Shell logo
- the proposed use is a reasonable use and the signs are reasonable

Mr. Daddario asked for clarification on the coin box sign. Mr. Rice stated that its purpose is to identify the clearance available for the car wash. A picture of the clearance sign was displayed that also showed the carwash menu. Mr. Rice also stated that the pylon sign would not be right on Lowell Road but would honor the setack as displayed in the picture posted

Public testimony opened. No one addressed the Board. Mr. Daddario declared public testimony closed at 10:19 PM.

Mr. Lanphear made the motion to grant the Variance. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion stating that it is not contrary to public health and works to advise of all the different businesses on the gas station site, that it will not threaten public health and will help guide customers on site, that justice would be done, that the signs are appropriate and will help promote public safety, that substantial justice is done, that the proposed will not diminish surrounding property values and that the hardship is satisfied as there is no fair and substantial relationship between the general purposes of the Ordinance to the specific application of that provision to the property as the proposed signs will guide the flow of traffic safely to and through the lot. Mr. Lanphear voted to grant the Variance.

Mr. Martin spoke to his second stating that it will not be contrary to the public interest, that it will observe the spirit of the Ordinance, that substantial justice would be done, that it will not diminish surrounding property values, and that even though the Zoning Ordinance places restrictions, the proposed use is a reasonable use and is unique with the combination of businesses on site and the need for identification. Mr. Martin voted to grant the Variance with no stipulations.

 Mr. Sakati voted to grant as it is not altering the essential character of the neighborhood, is does observe the spirit, that justice would be done, that the hardship is related ti the multiple brands and the proposed use is a reasonable use.

Mr. Dion voted to grant and stated that the proposed use is fair for the property and surrounding area and will not alter the character of the neighborhood, there will be no harm to the public, no diminishing of surrounding property values, and there are no special conditions of the property the signage as designed is appropriate for the space and what is being placed on the property and the proposed use is a reasonable one.

Mr. Daddario voted to grant and stated that it is consistent with the business character, that it poses no threat to the public and no harm to the public, that the spirit of the Ordinance is observed as the height of the pylon sign is less than what is permitted and the additional free-standing signs each serve a separate purpose, that justice is done as there is no harm to the general public and no evidence presented to suggest any impact to surrounding property values, and the purpose of the Ordinance is to prevent and overabundance of signage, there is a need for the size proposed for the pylon sign given the characteristics of the area and the additional free-standing signs each serve a different purpose and the proposed use is a reasonable one and is consistent with business use and similar sites of such businesses.

Vote was 5:0. Motion carries. Variance granted. The 30-day Appeal period was noted.

c. **Directional Signs**: A <u>Variance</u> to allow several directional and directory signs to be larger than three (3) SF where no greater than three (3) square feet in area is permitted and do not contain any additional advertising or messages other than incidental corporate or institutional symbols or logos. [HZO Article XII: Signs; §334-68, Directional and directory signs]

Mr. Sullivan read the Case into the record. Atty. Drescher noted that the Zoning Ordinance restricts these signs to three square feet (3 SF) and the signs at issue, referring to Exhibit 1, are Sign I, Dispenser Sign which will be posted on the gas dispensers and measure 3.1 SF; Sigh T, one flip open/close sign measuring 3.7 SF; and Sign S, carwash enter and exit measuring 5.1 SF. Atty. Drescher stated that these separate businesses is in a distinct and separate from the others, located in different areas of the property thereby necessitating the need for the extra size for readability and clarity

Atty. Drescher next addressed the criteria necessary for the granting of a Variance. The information shared included:

(1) not contrary to public interest

 • The proposed size increase is not contrary to the public interest

There is a lot of information to be conveyed and the signs need to be "user friendly"
There are several directional and directory signs that are necessary to direct

- customers to which section of the property they desire to go to, be it the carwash, the convenience store, gas pumps, EV charging station etc

 The signs at issue do not create a distraction for any drivers but are needed to

497 • The signs will blend in with the surrounding area because the abutters are 498 largely commercial businesses and will likely benefit said business 499 customers visiting the property 500 • The signs are in line with the essential (commercial) cjaracter of the 501 neighborhood 502 • The signs will pose no significant to the health, welfare or safety of the 503 surrounding area and they will not be visible from Lowell Road • The signs would not be a threat to public safety as they would promote safety 504 and seem very commonplace for what is being proposed 505 506 507 508 (2) will observe the spirit of the Ordinance 509 • the spirit of the Ordinance will be observed, as outlined above 510 511 (3) substantial justice done • the loss to the applicant in not granting the variance would far outweigh any 512 benefit to the general public 513 514 515 the free-standing signs are necessary to identify the stand-alone businesses on the property that are not attached to the main building 516 517 if denied, the public gains nothing 518 the signs are meant to be informational and foster public safety denying the signs would result in a more confusing layout for the businesses 519 520 in the site the signs will help direct customers, promote safety and convey information 521 522 in a readable manner 523 524 525 (4) not diminish surrounding property values • currently the property is an undeveloped eyesore, so the overall project 526 527 would be a significant improvement 528 the abutters are largely other commercial properties with signs to attract 529 530 the signs will not block any of the abutters from sight of their own potential 531 customers 532 the free standing signs will not be visible from Lowell Road 533 a developed site, versus an undeveloped site, will not diminish surrounding 534 properties but very likely have a positive effect 535 (5) hardship 536 the special condition is satisfied due to the unique part of Lowell Road where 537 the property sits and despite being right in the heart of the Business Zone, 538 the property falls into a business "dead zone". Across the street is a 539 restaurant, entrance to Country Road and a vacant commercial lot; there's 540 a large vegetative buffer to the abutting north lot that obstructs the property's view for anyone driving south; the abutting property at 99 Lowell 541 542 Road to the south seems to be a preexisting nonconformity the purpose of the Zoning Ordinance is to insure that signage does not get too 543

large, too many, unsightly or cause distractions

- the signs proposed will not overtly offend the Zoning Ordinance as the added size is minimal and only stands to benefit public safety
 - the dispenser sign on a gas pump is 3.1 SF and contains safety information such as warnings and caution having to so with fire safety and is the size as manufactured and provided by Shell
 - the signs associates with the carwash entrance/exit sign is 5.1 SF and the carwash open or closed sign is 3.7 SF
 - the proposed use is reasonable

Mr. Price added that the carwash signs have no logo or anything else added.

Mr. Dion asked and received confirmation that the request is restricted to the three (3) signs.

Mr. Lanphear asked if the signs would be internally lit and Atty. Drescher stated that they would not be.

Public testimony opened. No one addressed the Board. Public testimony closed at 10:43 PM.

Mr. Lanphear made the motion to grant with the stipulation that it pertains to three signs reviewed: Sign I (Dispenser signs at 3.1 SF), Sign T (Carwash flip open/close sign at 3.7 SF) and Sign S (Carwash enter/exit sign at 5.7 SF. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion stating that it is not contrary to public interest, that the signs are needed to conduct the business, that this is a large property with multiple businesses and the signs are vital for the business use, that substantial justice is done as the variance outweighed by the guide of the property without harm to the general public, that the surrounding property values would not be diminishes as this is a new development, that a fair and substantial relationship exists as the signs will let everyone know what is going on with the property and the proposed use is a reasonable use as all the signs are needed for safety. Mr. Lanphear voted to grant with the stipulation.

Mr. Martin spoke to his second and stated that the requested variance would not be contrary to public interest, that it would observe the spirit of the Ordinance, that substantial justice would be done, that it would not diminish values of surrounding properties, that the Zoning Ordinance only allows 3 SF which is very restrictive and that the proposed use is a reasonable one. Mr. Martin voted to grant with the stipulation.

Mr. Sakati voted to grant with the stipulation and stated that it is not contrary to the public interest, that it does observe the spirit of the Ordinance, that substantial justice would be done, that there would be no diminution to surrounding property values and approving prevents unnecessary hardship and provides better navigation on the property and the proposed use is a reasonable one.

Mr. Dion voted to grant with the stipulation and stated that the signs promote the welfare and increase safety, that it will not effect safety or welfare, that it will not diminish the values of surrounding property values, and larger way-finding is needed for safety and the proposed use is a reasonable one.

Mr. Daddario voted to grant with the stipulation and stated that it is consistent with the character of the business neighborhood and poses no harm to the public, that the gas pump signs are the size per the manufacturer, that the additional signs are directional and not excessive for the purpose, that there is no harm to the public and possible safety benefits directing traffic properly on site, that no evidence was presented regarding impact on surrounding property values and it is reasonable to assume that new construction would have a positive impact, that the purpose is to prevent an overabundance of signage, that the gas pump signs are manufactured and not the result of the applicant's design and the carwash signs are proper for the purpose of directing traffic and the proposed use is a reasonable one and is consistent with this type of business.

Vote was 5:0. Motion passed with one stipulation. The 30-day appeal period was noted.

3. Case 165-049 (06-27-24): Manuel D. Sousa of Sousa Realty & Development Corp., 46 Lowell Rd., Hudson, NH requests a Variance for 36 Campbello St., Hudson, NH for the proposed construction of a new private road and 10 new single family homes plus retaining the existing single family home on a lot with 30.37 feet of frontage where a minimum of 90 feet is required in the Town Residence (TR) district. [Map 165, Lot 049, Sublot-000; Zoned Town Residence (TR); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements]

 Mr. Sullivan read the Case into the record, referenced his Staff Report initialed 6/17/2024 and noted that no in-house comments were received. Mr. Daddario asked Mr. Martin to open the door to the meeting and see if anyone in the hallway was present for this Case.

David Jordan, Engineer and Land Surveyor from Greenan-Pedersen, Inc., in Salem, NH representing Sousa Realty in the development, identified the location of the site noting that it is a 4.7 acre lot with an existing residence with a back lot line being the Merrimack River. Mr. Jordan stated that the subdivision application process has already begun with the Planning Board where it was noticed that a Variance would be required for the available frontage. Mr. Jordan stated that the lot was created by subdivision approved by the Planning Board back in 1980 where it was noted that the property had frontage on Webster Street, that the 4.74 acres has remained as is (undeveloped) and the frontage changed to Campbello Street, with just 30.74' of frontage. The hardship exists as there is no other land available to provide the required 90' of frontage and they now need a variance to pursue their intended development.

Mr. Jordan addressed the Variance criteria and the information shared included:

(1) not contrary to public interest

 • The variance is not contrary to public interest and neither will it alter the essential character of the locality nor threaten the public health, safety, or welfare

• The property is an existing lot of record created through a subdivision plan endorsed by the Planning Board on 5/21/1980

- Granting the variance will allow a single-family development on the property and will not alter the essential character of the area which is a neighborhood of single-family homes
 - The property is located is in the TR district and the proposed development of 11 dwellings is less than the 15 dwellings allowedper the Zoning requirements
 - The dwellings will be serviced by Municipal water and sewer with adequate access from a private roadway capable of accommodating emergency vehicles
 - The proposed stormwater management system proposed will meet all local requirements for the treatment, peak flow reduction and groundwater recharge will protect the groundwater and surface water resources

(2) will observe the spirit of the Ordinance

- The granting of the variance will not alter the essential character of the area, nor will it threaten the public health, safety, or welfare and remains consistent with the spirit of the Ordinance
- The granting of the variance will allow the applicant to develop the property in a manner consistent with the requirements of the Zoning Ordinance and Site Plan Regulations and consistent with the character of the surrounding area

(3) substantial justice done

- The granting of the variance will allow the applicant to develop the property consistent with the requirements of the Zoning Ordinance and Site Plan Review regulations and provide additional housing opportunities at a time when there is a well-documented need for more housing throughout NH
- There is no benefit to the public that outweighs the hardship to the applicant if the variance was denied

(4) not diminish surrounding property values

- The use is allowed and is consistent with the use of surrounding properties
- The construction of 11 new single-family residences with market values equal to or greater than other homes in the area will not diminish the values of the surrounding properties

(5) hardship

- This is a pre-existing lot of record created by subdivision in 1980.
- This parcel is the largest property within this neighborhood and its only frontage is along the end of Campbello Street, which only has a 30-foot wide tight-of-way in this area
- All adjacent properties are privately owned and support other dwellings; there is no opportunity for the owner to acquire the additional frontage needed to conform to the Zoning frontage requirement
- Denial of the variance would result in an unnecessary hardship
- The proposed use is reasonable the property is of sufficient size to accommodate the development and that it would meet all other Zoning requirements

Mr. Jordan noted that the process with the Planning Board for Site Plan review has only been suspended pending the need for the variance and added that the parcel will remain a single parcel with the existing residence and hopefully a private road to support ten new single-family homes once the variance is granted and Site Plan has been approved.

Mr. Martin asked Mr. Sullivan if there were any specific requirements regarding the proposed cul-de-sac. Mr. Sullivan stated that it has to be of a sufficient width to accommodate the mobility of a fire truck and added that those requirements would be addressed by the Planning Board. Mr. Dumont confirmed. Mr. Martin noted that the first criteria is to determine whether or not it would threaten public health, safety or welfare and regardless of it being a Planning Board issue, he has to sign his name to the decision sheet that would convey that it was considered and he was satisfied that it would not threaten public health, safety or welfare. Mr. Jordan stated that based upon their review, the cul-de-sac will accommodate the turning for a fire truck, a ladder truck and other emergency vehicles to protect public safety.

Mr. Dion questioned that if it is to be a private road whether it has the leeway to alter that could threaten public safety. Mr. Sullivan responded that even though it will be designated as a private, it will need to be constructed to Town standards and has to be reviewed and approved by Town Engineering. In response to Mr. Dion's other questions, Mr. Sullivan stated that there is no possibility to increase the frontage, that the lot has only one driveway into it and the proposed private road would access that driveway entrance.

Mr. Lanphear asked and received confirmation that the Town plows snow to the end of Campbello Street to the edge of this property and asked if that could hinder emergency access. Mr. Sullivan responded that the ability to back-up and drag the snow is a possibility and that the details would be reviewed by the Planning Board to insure emergency access is not hampered.

Mr. Sakati questioned future deterioration of the private road and its maintenance that could inhibit emergency vehicle access. Mr. Sullivan stated that there would be an HOA (Home Owner Association) and it would be their responsibility to collect monies for its maintenance and added that review of the HOA is part of the Planning Board process. Mr. Daddario noted that what is before the Zoning Board is just the reduced frontage, that the development of the private road, the size of the cul-de-sac, that the size of the lots, the HOA document etc reside with the Planning Board.

Mr. Daddario questioned whether the lot created in 1980 was created with 30' of frontage. Mr. Jordan referred to the Subdivision Plan from 1980 and noted that there are notations on the Plan that the cul-de-sac is to be dedicated to the Town if the lot is to be subdivided in the future and noted that the plan is not to subdivide the property with this development, leaving it as one singly parcel.

Public testimony opened. The following individuals addressed the Board:

(1) Ryan McMuray, 8 Kenyon Street, stated that he has heard the concerns raised about public safety and his concern has to do with his shallow well, that several of his neighbors also have shallow wells, and there is a high water table

in the area and questioned who would be responsible if have issues with their well water.

Mr. Daddario asked Mr. Jordan to clarify/confirm that Municipal water has been proposed for the development. Mr. Jordan confirmed and added that they have been working with the Engineering Department and the plan is to extend Municipal water from Federal Street down Campbello Street.

(2) John Colby, 11 Kenyon Street, stated that he, and many present in the room, have attended the Planning Board meetings, and there is a major concern regarding water and are curious about why they are here at the Zoning Board

Mr. Daddario stated that the Zoning Board has limited jurisdiction and the only concern with this Board has to do with the limited 30' of frontage that is abutting the roadway (Campbello Street)

Mr. Colby thanked Mr. Daddario for the clarification and said that he needs to rethink his concerns for this Board as most of the comments he was going to present actually belong before the Planning Board.

(3) Richard Suter, 12 Campbello Street, expressed concern regarding the density presented to the neighborhood and questioned whether the 30' that is before this Board begins at Campbello Street or into the property where the private road begins.

Mr. Sullivan responded and stated that it is the 30' at the end of Campbello Street.

(4) Vadym Iamtsun, 19 Merrimack Street, and asked why couldn't Campbello Street be extend through the property to created the required frontage for the ten-lot proposal

(5) Ed Welsh, 38 Campbello Street, stated that he has grandchildren and expressed concern with the additional traffic into the neighborhood and noted that almost everyone in the neighborhood has the required 90' of frontage and this lot has 2/3 less frontage and they want to add ten new houses. That will change the character of the neighborhood and it will no longer be safe for the children to ride their bikes in the street.

(6) Robert Scire, 6 Schaefer Circle, submitted an email that stated that he was once on the Zoning Board and that a proposal for such reduced frontage would never be allowed and that it should not be allowed today.

 Mr. Jordan was given the opportunity to respond. Mr. Jordan stated that they understand the concerns expressed regarding water and noted that those issued will be addressed by the Planning Board and stormwater will also get reviewed by NHDES. Mr. Jordan stated that this is one of the largest parcels in the area.

Mr. Martin stated that there is a two-story single family home on the property with full use of the property and that the hardship exists because there is a desire to add an additional ten single-family homes onto the lot with access from the reduced frontage. Mr. Jordan stated that the hardship criteria notes that the special conditions of the property distinguish it from other properties in the area, and it satisfies that requirement by its size, and according to the Zoning Ordinance, lots in the TR Zone can be as small

as 10,000 SF and this lot is of sufficient size to accommodate ten such lot sizes in addition to the existing single-family residence. Mr. Jordan stated that they did not create the hardship with the reduced frontage, that it has existed and added that it was the property owners' belief that their legacy included the development of this large parcel into residences that would be consistent with the neighborhood.

Mr. Sakati stated that the potential for the Applicant to make a profit does not merit presenting a potential to cause public health. Mr. Jordan stated that making a profit is part of reality and that they do not feel that their request will harm public health.

Mr. Dion asked Mr. Sullivan what the frontage requirements are for the proposed houses to be built and Mr. Sullivan stated that there are really no frontage requirements as it will remain one parcel and the only frontage is Campbello Street. Mr. Dion asked and received confirmation from Mr. Jordan that the existing house would be part of the HOA.

Mr. Lanphear inquired about the 1980 Subdivision and the cul-de-sac that was preserved for snow plowing and asked if that could not be extended to provide the needed frontage. Mr. Dumont noted that the cul-de-sac was never constructed. Mr. Jordan stated that it would also affect the setback requirements.

Mr. Daddario opened a second round of public testimony and asked if anyone wished to address any of the new information just presented. No one addressed the Board.

Public testimony closed at 8:11 PM.

Mr. Dion stated that this lot was created a long time ago with the reduced frontage and that the hardship is being presented because of the reduced frontage. Mr. Martin stated that if it was intended for future development, they would have put the cul-de-sac at the end and shifted the location of the existing house so that a roadway could have been constructed to allow for frontage to be conforming. Mr. Dumont stated that the requirements for the single family home back then and the requirements for the proposed subdivision are one in the same. Mr. Daddario asked if the existing house had a Variance and Mr. Sullivan confirmed that it does not. Mr. Dumont added that that correction is part of the requested Variance. Mr. Sullivan noted that what exists today is a driveway and what is being proposed is to construct a private road from the driveway. Mr. Dion stated that even an alteration to the existing house, or to any of the proposed ten (10) new homes, would require a Variance because the lot is a non-conforming existing lot of record.

Mr. Dumont stated that there is also a question of density and the impact to the neighborhood that needs to be considered and noted that the intent of the neighborhood and the TR Zone is to accommodate high density housing. Discussion between Mr. Martin and Mr. Dumont pointed out that Town Roads do not just appear, that they are usually the result of a development and that the developer is responsible for its construction to Town standard and its maintenance for a period of time before it can be petitioned to the Town for acceptance.

Mr. Martin stated that there are other developments in the TR Zone that have at least one larger parcel, noted that some have appeared before this Board, like Mark Ave, for petitions to develop and were denied.

Mr. Dumont asked if the Board would view a development differently if a road was proposed to be constructed through the lot to connect to Webster Street and then proposed a ten lot subdivision? Mr. Dumont stated that it is not a reasonable use to have a single-family home on over four acres in the TR Zone. Mr. Sakati stated that the property owner has had a reasonable use since 1980 when the house was built.

Mr. Daddario stated that the Variance before the Board is the reduced frontage requirement and has nothing to do with the proposed development of ten (10) additional homes on the 4.7 acre property, nor whether there is a density issue. Mr. Dumont agreed and stated that, in his opinion, a single-family home on 4.7 acres is not reasonable in the TR Zone. Mr. Dion disagreed.

Mr. Lanphear asked and received confirmation that the frontage back in 1980 was ninety feet (90'). Discussion arose on the street widths in Town. Mr. Jordan was asked regarding the width of the proposed private roadway and responded that it would be 20', wider than the existing portion of Campbello Street as it comes in from Merrimack Street.

Mr. Dion asked if the private road could ever become a Town road and Mr. Dumont stated that it could/would not. Mr. Sullivan was asked to present and aerial of the section of Town to view the road widths and density of the neighborhood.

Mr. Lanphear made the motion to deny the Variance. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion and stated that the granting would be contrary to the public interest and would change the character of the neighborhood; that it does not observe the spirit of the Zoning Ordinance; that the justice in granting the variance does not outweigh the harm to the general public particularly because it is already in current use; that it would not diminish values of surrounding property values; that even though the hardship criteria may have been met, the 30' of frontage is okay for a driveway. Mr. Lanphear voted to deny the Variance as it failed to satisfy three of the five criteria – criteria 1, 2 and 3.

Mr. Martin spoke to his second stating that it is contrary to public interest, changing from a driveway to a private road; that it is not consistent with the current neighborhood and will threaten the public safety of the residents; that it does not observe the spirit of the Ordinance and does threaten the public safety for the new proposed residents; that if the Variance is approved substantial justice would be done; that there was no evidence presented to show that property would be diminished or have added value; that even though it seems to be a reasonable use, the current house enjoys the use of the property already, allowing less frontage to add all the proposed homes is not in conformance with the Zoning Ordinance. Mr. Martin voted to deny the Variance as it failed to satisfy criteria 1 and 2.

Mr. Sakati voted not to grant the Variance as granting it would be contrary to public interest; that the essential character of the neighborhood would be changed with the significant density proposed; that the property is in current use and as is provides no harm; that the impact on surrounding property values is undefined; and that no hardship has been presented, that the house is used today and the desire to increase return on their investment does not present a hardship. All five criteria failed.

Mr. Dion voted against the motion and to grant the Variance request as all five (5) criteria have been satisfied. Mr. Dion spoke to his vote stating that it is not contrary to public interest and noted that the lot is surrounded in a neighborhood of high density; that the proposed use does not alter the essential character of the neighborhood, that this lot is different not only in its size but by the fact that the road ends as their driveway begins; that the granting would not impede the rights of the neighborhood nor bring it any harm; that there was no evidence presented regarding impact to surrounding property values but it stands to reason that new construction tends to have a positive impact; and that the proposed use is a reasonable use and the hardship has been satisfied by the small sliver of a driveway being the only frontage to the property.

Mr. Daddario voted to deny the motion and to grant the request and stated that the concerns raised have been heard and the limitations placed on this Board does not allow for any consideration on the proposed development of ten new homes, their proposed lot sizes or the proposed private road and cul-de-sac. With regard to the criteria this Board must address, which is limited to the thirty feet (30') of frontage, Mr. Daddario stated that it is not contrary to the public interest and the granting could allow the lot to become more in line with the others in the neighborhood; that the spirit of the Ordinance is satisfied as the lot is already a lot of record since 1980 and the prior Planning Board approved plan did note its potential for future development; that smaller frontage does not pose a threat and that is the only relief being requested from the Zoning Board; that no evidence was presented regarding impact on surrounding property values and no reason why new houses would decrease the value of existing properties; and the hardship was not created by the property owner, that the subdivision that created this lot had a notation for its potential future development and the frontage has not changed since its creation and that the lot is massive compared to others in the neighborhood.

Vote was 3:2 not to grant the Variance request. The 30-day Appeal period was noted.

Question arose whether the count of the vote should have been five (5) or four (4) as Mr. Salati was not declared as a Voting Member. Mr. Daddario noted that Mr. Sakati is a Regular Member and would have by right be a Voting Member upon his presence at 7:36 PM whether it was stated or not.

Board took a recess at 8:56 PM. Board returned at 9:05 PM. Mr. Daddario directed everyone's attention to Agenda item #2, Case #198-012

4. <u>Case 145-005 (06-27-24)</u>: Kyle Segal, Manager, Axis Realty Group, LLC, 270 Nashua Rd., Londonderry, NH requests a <u>Variance</u> for <u>2 Sullivan Rd., Hudson, NH</u> for the proposal to redevelop and expand an existing motel into multi-family housing with up to 14 units where multi-family dwellings are not permitted in the G-1 district. [Map 145, Lot 005, Sublot-000; Zoned General-One (G-1); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

Mr. Sullivan read the Case into the record, referenced his Staff Repot initialed 6/18/2024 and read the Town Engineer's comments into the record that included questions regarding parking spaces, private well and septic, and fire suppression capability and the Associate Town Planner noted that if the Variance is granted, Site Plan Review by the Planning Board will be required.

Dan Barowski Project Manager with Fieldstone Land Consultants, PLLC, introduced himself as representing Axis Realty Group, LLC. Seated at the applicants' table were Radhika Patel, owner of Milap Corporation, and Jim Gibo from Axis Realty Group, LLc. Mr. Barowshi identified the location of the site and noted that the 0.86 acres was once the Great Eagle Motel and that they seek a variance to convert it to a 14-unit multifamily housing.

Mr. Martin asked if the Town Engineer's comment about the parking in the front setback and how that would impact the project if it had to be removed. Mr. Barowski stated that it is a preexisting nonconforming use and they have made no plans for their removal; however, if during Site Plan Review with the Planning Board they need to be reviewed, there is plenty of room to the rear of the building to accommodate parking spaces.

Mr. Barowski addressed the criteria for the granting of a Variance and the information shared included:

(1) not contrary to public interest

 • The variance is not contrary to public interest and neither will it alter the essential character of the locality nor threaten the public health, safety, or welfare

• Multi-family housing is proposed for the redevelopment of the property

 The property has historically been developed as a 12-unit motel but has currently been being used as a long-tern rental site
The proposed change in use from motel to multi-family housing so the

 The proposed change in use from motel to multi-family housing so the necessary infrastructure is already in place.
Multifamily housing is currently only permitted by right in the Business

 District that comprises roughly 4.3% of the Town's total area

• The proposed multifamily development will not conflict with the general purpose of the zoning ordinance to promote the health, safety and general welfare of the community

(2) will observe the spirit of the Ordinance

• The spirit of the Ordinance will be observed because multifamily use is contemplated in the Zoning Ordinance (ZO) in the Business District where water and sewer infrastructure are present.

 The proposed multifamily use will not be dissimilar to a nursing home, hotel or the existing motel which are permitted in the G-1 Zone
The proposed use will not alter the essential character of the neighborhood

 • The redevelopment into multifamily housing will not threaten public health, safety or welfare or otherwise injure public rights

(3) substantial justice done

 • justice would be done with the grating of the variance as it will allow the property owner to redevelop the property with a much needed use in the community

 • the proposed multifamily development will productively redevelop this parcel that has private water and sewer infrastructure in place while providing responsible growth in the community

• the public would realize no appreciable gain from denying the variance

•

(4) not diminish surrounding property values

- there is no evidence that a change from a motel use to a multifamily use would diminish surrounding property values but it stands to reason that long term residents rather than transient motel guests will have a stake in the appearance and upkeep of the property because it is their home
- redevelopment and investment in communities often result in positive impacts to property values

•

(5) hardship

- the special condition of this lot include its unique shape, frontage on a Class V and Class II roads,
- other properties in the area a developed largely as single-family residences with some commercial where this site was developed as a motel facility and is currently being use as a long-term rental for temporary tenants
- conversion from motel to multifamily housing would likely have the lease impact
- redevelopment of this site with permitted types of commercial development could be in conflict with the existing residential neighborhood
- the proposed us is a reasonable use

Mr. Dion asked the current capacity of the motel and was informed by Mr. Patel that there are twelve rooms on the main floor and a rather large room on the second floor that would be divided into two units to provide a total of 14 multifamily units. Jim Gibo added that the same transition occurred in Windham NH.

Mr. Daddario inquired about an addition to the building. Mr. Gibo stated that there will be a 12'x12' addition to the back of the building, that will not be visible from the road to add a bedroom to the 8 units in the back. Mr. Dumont asked if there would be kitchens in the units and Mr. Gibo stated that there would be kitchenettes, sufficient but not conducive to cooking Thanksgiving dinner. Mr. Daddario asked if the proposed addition would include the second floor. Board reviewed the building elevations where it was noted that the second floor was just in the front section of the building and the rest of the building is just one story. Mr. Lanphear asked if the restaurant was included and was informed that there was once a restaurant but it no longer exists. Mr. Lanphear inquired about the other building specifications, like sprinkler system, and Mr. Patel confirmed that the building will be "up to code".

Mr. Dion noted that the transition is from temporary to permanent housing but if one looks at the aerial views, the building seems to be in an industrial area and questioned whether there would be any shielding, like shrubbery, to help shield it from noise. Mr. Patel stated that there is already trees on the site but would not be contrary to add more or a fence. Mr. Sullivan noted that the Planning Board would address during Site Plan Review.

Mr. Sakati asked about the amount of traffic generated today from the site. Mr. Gibo stated that the larger second floor unit is currently being used as an owner-occupied unit, that there are several long term units as well as short term units which does experience some turn-over but overall, changes to the traffic generated from the site will

be similar with the conversion. Mr. Gibo noted that Axis Realty Group has a Purchase and Sales agreement to the property, that their ownership is contingent upon approval to do the conversion to a multifamily.

Mr. Dion asked if the driveway would change from Central Street, a busy road, to perhaps Sullivan Road. Mr. Sullivan stated that both are State roads and will need NHDOT approval. Mr. Dumont noted that improvements are already slated for that intersection and Mr. Sullivan added that the Stated is working with the lumber yard and could include a traffic light. Mr. Dion stated that his concern also extends to any children that may be occupants of the multifamily building. Mr. Patel stated that the units will be more studio efficient style and usually attracts young professionals, not families as the units are not conducive to children.

 Public testimony opened and no one addressed the Board. Mr. Martin read an email received into the record from the abutter Melissa Johnson and Aaron Locke at 8 Sullivan Road who were opposed to the re-development as they have concerns with the increase in traffic it will present given the current situation. Mr. Daddario stated that the traffic concerns will be addressed by/at the Planning Board and are not applicable to the Zoning Board and the Variance request.

Public testimony closed at 11:12 PM.

 Mr. Lanphear made the motion to grant the Variance. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion and stated that it will not be contrary to public interest and will help renovate and old building and make safety better, that it will work with the spirit of the Ordinance and substantial justice will be done and will improve the area and should improve, not devalue, surrounding property values, and it will take an old idea to a new idea for the future as the proposed use is a reasonable use. Mr. Lanphear voted to grant the motion with not stipulations and with the understanding that the project must get Site Plan Review from the Planning Board.

Mr. Martin spoke to his second and stated that it will not be contrary to public interest nor will it alter the essential character of the neighborhood, that it will observe the spirit of the Ordinance and substantial justice will be done, that it will not diminish the values of surrounding properties, the Zoning Ordinance does not allow for multi-families in the G-1 Zone and by not allowing this to happen will make the property continue to be an eyesore and the proposed use is a reasonable one. Mr. Martin voted to grant the Variance with no stipulations.

Mr. Sakati voted to grant and stated that it is not contrary to public interest as the proposal is positive, the character of the neighborhood will be for the better, substantial justice will be done, there will be no diminishment to surrounding property values and literal enforcement of the Zoning Ordinance creates the hardship as the proposed use is a reasonable one.

Mr. Dion voted to grant stating that it will increase safety and will change the character of the neighborhood for the good, that it will increase public safety and increase the value of surrounding properties, the proposed use will allow for enhanced use of the property and that the proposed use is a reasonably one.

Louise Knee, Recorder

1146 Lo 1147 1148

1100 Mr. Daddario voted to grant and stated that there will be improvements to the building 1101 and have a positive impact on the character of the neighborhood, that there is a 1102 deminimus change in use and development at the property, no harm or significant 1103 impacts, no harm to the public, possible benefit from improvement to the building and 1104 more consistent non-transitory residents, improvements to the building will not likely 1105 diminish the values of surrounding industrial or residential properties, the use 1106 limitation in the ZO is not fair or substantial purpose given that the motel already exists 1107 and that the use is a reasonable one, similar but better use of the lot. 1108 1109 Vote was 5:0 to grant the Variance as requested. The 30-day Appeal period was noted. 1110 1112 VI. REQUEST FOR REHEARING: 1113 1114 No requests were presented for Board consideration. 1117 VII. REVIEW OF MINUTES: 05/23/2024 edited draft Meeting Minutes 1118 1119 Board reviewed. Mr. Martin made the motion to approve the Minutes as edited. Mr. 1120 Langhear seconded the motion. Vote was unanimous at 5:0 to approve. 1121 1123VIII. OTHER BUSINESS: Upcoming: SAVE THE DATE 1. Case 165-021 (07-11-2024 tentative): Keystone Estates, LLC, 343R High St., 1124 Hingham, MA requests an Appeal from an Administrative Decision for 12-14 1125 1126 Gambia St., Hudson, NH. 1127 1128 So noted. Mr. Sullivan stated that there would be a consultation with Town Counsel 1129 at 6:15 PM. Mr. Daddario stated the conference with Town Counsel will occur in the 1130 meeting room at Town Hall and the Board must be mindful of the time to allow 1131 enough time to get to the Library across the street for the hearing on the Case. 1132 1133 2. Case 144-005 (07-25-24): Rowdy Smith, 19 Robinson Rd., Hudson, NH requests a Variance. 1134 1135 1136 So noted. 1137 1139 IX. ADJOURNMENT: 1140 1141 Motion made by Mr. Lanphear, seconded by Mr. Sakati and unanimously voted to adjourn the meeting. The June 27, 2024 meeting adjourned at 11:26 PM. 1142 1143 1144 1145 Respectfully submitted,