



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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MEETING MINUTES – September 26, 2024 – approved

The Hudson Zoning Board of Adjustment met Thursday, September 26, 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.

I. CALL TO ORDER II. PLEDGE OF ALLEGIANCE

Chairman Daddario called the meeting to order at 7:01 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.

III. ATTENDANCE IV. SEATING OF ALTERNATES

Clerk Dion called the attendance. Members present were Gary Daddario (Regular/Chair), Tristan Dion (Regular/Clerk), Zachary McDonough (Alternate) and. Also present were Dillon Dumont Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair). Dean Sakati (Regular) arrived at 7:25 PM. Alternate McDonough appointed to vote.

Mr. Daddario stated that in order for a vote to pass, it would require a minimum of three (3) affirmative votes and under normal circumstances there would be five (5) voting Members. Mr. Daddario offered each Applicant the option to request a deferment to the next meeting where a full Board could be present. No one exercised that option.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. **Case 173-039 (09-26-24):** Ryan Lacasse, **9 Cummings St., Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow a 160 SF shed to remain in its current location which encroaches the side yard setback leaving 3 feet of setback where 5 feet is required. [Map 173, Lot 039, 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 9/17/2024 and noted that the property has two (2) front setbacks.

Ryan Lacasse stood at the lectern and introduced himself as the Property Owner and stated that the shed was built approximately two (2) years ago by a professional company who gave him assurance that it was built in compliance. Mr. Lacasse stated that he had checked with

the Town who confirmed that a building permit (BP) was not required for the shed. Mr. Lacasse addressed the criteria necessary for the granting of an Equitable Waiver of Dimensional Requirements and the information shared included:

- (a) discovered too late
 - the shed was built by a company over 2 years ago and we were assured that the she was within our property boundaries and in compliance with Zoning
 - the Town only raised the issue after the shed was fully constructed
- (b) innocent mistake
 - the shed's location was the result of a good faith error in interpreting property boundaries, not ignorance or misrepresentation
 - decisions were based on reasonable measurements and zoning understanding
 - we have no history of violations highlighting our commitment to compliance
- (c) no nuisance
 - the shed does not create a nuisance or reduce property values and nor does it interfere with the use of nearby properties
 - one neighbor has not objection and are satisfied with its placement
 - Mr. Lacasse submitted a signed petition from direct and indirect abutters stating that they are okay with the shed's placement and added that there is an additional one from a neighbor who was not available when the petition was circulated
 - The shed aligns with the residential character of the area and poses no harm or inconvenience
- (d) high correction cost
 - moving or removing the she would be financially burdensome and offer no significant public benefit
 - the shed's placement causes no harm or obstruction, making the cost of correction unfair
 - enforcing such a change would be inequitable given the minimal impact in the community

Public testimony opened at 7:16 PM. Andrea Lacasse, 9 Cummings Street, stated that she could bring the document into the office in the morning. Public testimony closed at 7:17 PM

Mr. Dion made the motion to grant the Equitable Waiver of Dimensional Requirement. Mr. McDonough seconded the motion.

Mr. Dion spoke to his motion stating that it was discovered too late, after construction had been completed; that it was an innocent mistake even with checking with the Town and relying on the professional builders; that it does not cause a nuisance which is supported by the petition signed by the neighbors; and that there is a high correction cost to moving the shed two (2) feet, especially when no neighbors have an issue with it. Mr. Dion voted to grant.

Mr. McDonough spoke to his second and stated that his reasoning is similar to Mr. Dion, that it was discovered too late, that the shed was constructed by a professional builder two (2) years ago; that it was an innocent mistake with no intent to cause harm or be a nuisance and does not change the aesthetics of the neighborhood as attested by the petition submitted; and the correction cost is unnecessary to move the shed a couple of feet. Mr. McDonough voted to grant.

Mr. Daddario voted to grant stating that he agrees with the Members' reasoning for this Case on the factors, and added that he appreciated receiving the petition signed by the neighbors because it does make an impression on the Board to receive abutter feedback as it is the neighbors who get to live with it.

Vote was 3:0. Equitable Waiver of Dimensional Requirement granted. The 30-day Appeal Period was noted

2. **Case 106-045-001 (09-26-24):** Albert & Lisa Frenette, **13 Boyd Rd., Hudson, NH** requests a Variance to allow an existing un-permitted 1,143.5 SF Accessory Dwelling Unit (ADU) in the finished lower level/basement of the home to remain where the size of an ADU shall not be greater than 750 SF and a building permit for an ADU must be approved and issued prior to the construction of an ADU or conversion of existing space into an ADU. [Map 106, Lot 045, Sublot-001; Zoned General-One (G-1); HZO Article XIII A: Accessory Dwelling Units; §334-73.3.H & J, Provisions and HZO Article III: General Regulations; §334-16, Building Permits]

Mr. Sullivan read the Case into the record, referenced his Staff Report initialed 9/17/2024, noted that the illegal ADU (Accessory Dwelling Unit) was discovered when the real estate agent was doing diligence to make sure the property complied and that in-house comments were received from the Town Engineer and Inspectional Services/Fire Department. The Town Engineer stated that the Applicant shall provide an approved septic system design that will handle the single family and ADU sewer flow. Inspectional Services/Fire Department noted that the basement construction was completed without Building, electrical, plumbing and mechanical permits or inspections and that even if ZBA approves the variance, the dwelling may still be illegal based on the State Adopted Building and Fire Codes.

Property Owners Lisa Frenette and Albert Frenette introduced themselves. Ms. Frenette stated that they bought the property thirteen (13) years ago and the ADU was already there and that they never knew they were in violation. Ms. Frenette stated that Mr. Sullivan and someone from the Fire Department have been into the apartment and they were informed that they need to change one (1) window to an egress window and (2) that they need to change one breaker. Mr. Frenette confirmed that they bought it with the ADU even though it was advertised for sale with a 'possible' ADU. Ms. Frenette stated that they put their property up for sale last fall and had to take it off the market because of the septic system. Ms. Frenette stated that a new septic system was installed in June. Mr. Frenette noted that the new septic system is for four (4) bedrooms. Mr. Daddario asked Mr. Sullivan if the Town has the new State approved septic system design and Mr. Sullivan confirmed that they do.

Ms. Frenette stated that the ADU has approximately 11,435 square feet (SF) and is of an open concept design and totally wheelchair assessable and added that it has been vacant for the past five (5) years and noted that it is at ground level, not below level.

Mr. Frenette next addressed the Variance criteria and the information shared included:

(1) *not contrary to public interest*

- The variance is not contrary to public interest and will not alter the essential character of the neighborhood as there will be no structural changes or additions added to the existing property, with the exception of the required change of one (1) window to an egress window required by the Town
- They had a 400 foot driveway so parking on the property is not an issue

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

- There will be no significant alterations to the property that would affect neighboring properties or the community at large

(3) *substantial justice done*

- substantial justice would be done to the Property Owners
- the lower level was existing prior to the purchase of the property 13 years ago and they are now proceeding with the Town requirements so that

future owners can be assured that the property meets safety and Town requirements

(4) *not diminish surrounding property values*

- the Variance being requested will not change current use of the property that has been in existence since 1977 so there will be no diminishing values to surrounding properties

(5) *hardship*

- To the best of our knowledge, the lower level was finished with a kitchen and bath since it was built in 1977
- Purchased the property 13 years ago with the lower level finished with kitchen and bath
- Since purchasing, they have added new kitchen cabinets, new flooring and a new heating system
- Proposed use is reasonable and appropriate as it aligns with the property's original design and infrastructure

Public testimony opened at 7:37. Anthony Grauslys, abutter at 17 Boyd Road, addressed the Board and stated that as a small child he lived in this house and the ADU was there, confirmed that the driveway is indeed long and parking would not be a problem and that he supports having the variance request granted. Being no one else to speak, public testimony closed at 7:39 PM.

Mr. Dion asked and received confirmation from Ms. Frenette that all that is needed for the ADU to pass inspection is the replacement of one widow with an egress window and the replacement of one breaker.

Mr. Sullivan stated that according to the Assessing Department, the lower level is "unfinished". Ms. Frenette stated that they have been paying taxes on it as if it was finished.

Mr. Dion noted that the ADU exists and that the Property Owners are before the ZBA for a variance because the size of the ADU is larger than what is allowed in the Zoning Ordinance. Mr. Dumont stated that the State Regulations (RSA 674:72.VII) does not specify a size, that the size is a Town specification in the Zoning Ordinance (Section 334-73.3.H).

Mr. McDonough made the motion to grant the Variance. Mr. Dion seconded the motion.

Mr. McDonough spoke to his motion stating that the public will not be harmed and the owners were unaware of the issue and have done the work to bring it into compliance; that the use is in-line with the spirit of the Ordinance and the ADU does not change the neighborhood or alter safety; that the owner would gain substantial justice as they have been under the assumption they had a compliant ADU; that the adjacent property values have not diminished over the last thirteen (13) years; that the current use is in-line with the Ordinance and removing it would create a hardship on the owner; and that the use is a reasonable one and not allowing would be unreasonable. Mr. McDonough voted to grant noting that it is contingent on completion of code updates.

Mr. Dion spoke to his second stating that the unit is pre-existing, that the neighborhood has been existing with the ADU for decades; that there is no harm to the neighborhood; that it does not diminish the values of surrounding properties; and that the proposed use is a reasonable use. Mr. Dion voted to grant.

Mr. Sakati asked if he was allowed to vote and in response to Mr. Daddario questions, Mr. Sakati stated that he arrived prior to public testimony and heard most of the presentation and has reviewed the material. Mr. Sakati to vote. Mr. Sakati voted to grant the application noting that it is not contrary to public interest and has been pre-existing for more than a decade; that it is consistent with the Ordinance; that there is no public harm; that there would be no change to surrounding property values; that forcing a change would be excessive without any benefit to the public; and that the use is reasonable.

Mr. Daddario voted to grant stating that the ADU already exists and would present no change to the neighborhood nor harm to others; that it would not change the character of the neighborhood and would not bring harm to the public; that there would be no benefit to the public to deny the Variance; that it has existed for many years and no evidence has been presented as to its impact on surrounding property values; that it is a pre-existing ADU with a variance needed for a small amount in size; that it was previously inspected by the Town in relation to other properties; that the home was purchased with the ADU in place; and that it is a reasonable use, pre-existing, and allowed by State and Local Regulations.

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

3. **Case 191-151 (09-26-24):** Kyrlakoulis & Joan Tsouprakos, **7 Thorning Rd., Hudson, NH** requests a Variance to allow the expansion of an existing non-conforming structure for the construction of a proposed 14 ft. x 6 ft. deck and 2.5 ft. stairs in the front yard setback leaving 22 feet of front yard setback where 30 feet is required. [Map 191, Lot 151, Sublot-000; Zoned Residential- Two (R-2); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-31A, Alteration and expansion of nonconforming structures]

Mr. Sullivan read the Case into the record and referenced his Staff Report initialed 9/17/2024 and noted that in-house comments were received and expressed no concern.

Kyrla and Joan Tsouprakos introduced themselves and stated that the existing front concrete steps have deteriorated since they purchased the property in 1999 and now that they need to be replaced it is their desire to make the entry way safer because as it functions today, the screen door swings out over the entire top step and whoever wants to enter has to back out of the way and in the wintertime that can pose an added danger and bringing in groceries is always a challenge. The proposed front porch is modest and will provide better safety and access for themselves as they age and for guests when they arrive.

Mr. and Ms. Tsouprakos addressed the criteria for the granting of a variance and the information shared included:

- (1) *not contrary to public interest*
- The existing concrete steps to the front door were present when property purchased in 1999
 - The landing of the steps is small and over time has deteriorated

- The front screen door sweeps across the top step and the person needs to step away
 - Adding the modest front porch will improve the character of the home and improve safety for us and visitors
 - The proposed front porch will improve the character of our home and improve safety for us and for visitors
 - The proposed front porch will improve character of the neighborhood and will not threaten public safety
- (2) *will observe the spirit of the Ordinance*
- The proposed front porch will not pose a hazard to public safety, will not interfere with public utilities, will not interfere with transportation or parking and will not create overcrowding or create pollution
 - The proposed front porch will enhance the safety and character of the neighborhood and does observe the spirit of the Ordinance
- (3) *substantial justice done*
- Substantial justice would be done to the Property Owners
 - The current landing at the front door is small
 - Increasing the landing enhances the safety for anyone entering or exiting our home through the front door
- (4) *not diminish surrounding property values*
- The proposed front porch will only enhance the safety and character of the neighborhood, which if anything, should improve our property value and should not diminish surrounding property values
 - The proposed front porch will not hinder the view of neighbors, will not affect traffic or parking in the neighborhood and will not pose a danger to the public
- (5) *hardship*
- We purchased our home in 1999 and plan to live the rest of our lives here
 - The existing front steps are concrete and the landing is small and the concrete is deteriorating
 - Adding the proposed front porch will improve our safety now and in the future as we age and will improve the safety for all who visit out home, whether it be our friends or family or anyone from the general public
 - The proposed front porch will only add an additional level of safety for us and all who come to visit us
 - The proposed front porch is modest and is a reasonable use

Board reviewed pictures of the front of the house and the surveyed plot plan prepared by Keach-Nordstrom Associates, Inc., dated 8/26/2024 and stamped by LLS (Licensed Land Surveyor) Christopher J. Hickey (LLS #911).

Public testimony opened at 8:02 PM. No one addressed the Board. Public testimony closed at 8:03 PM.

Mr. Dion stated that it is a shame that the house was placed exactly thirty feet (30') from the property line when it seems possible to have been laid further back.

Mr. Dion made the motion to grant the Variance. Mr. Sakati seconded the motion.

Mr. Dion spoke to his motion stating that the house was built at the setback line and that safety would be improved for both the homeowners and the neighbors so the spirit and

justice is done, that property values should increase for both the property owners and surrounding properties and the proposed use is a reasonable one. Mr. Dion voted to grant.

Mr. Sakati spoke to his second stating that it is not contrary to public interest as it creates more safety when entering the house, that it is not oversized and not asking for more than is necessary and will enhance the character of the neighborhood, that it does benefit the owners and their safety without causing any harm to others, that there is no diminution of property values and the hardship is caused by the house placement on the lot and the use is a reasonable use. Mr. Sakati voted to grant.

Mr. McDonough voted to grant stating that the public will not be harmed and will, in fact, increase safety for anyone who goes to the property, that the deck is in the spirit of the Ordinance and will increase safety, that the owners receive justice and the general public would have no harm, that it will property values to this house and the neighborhood, that the applicant would receive unnecessary hardship through being forced to keep a less safe stair and that the proposed is a reasonable sized deck to increase safety and increase property values..

Mr. Daddario voted to grant stating that there would be no change in the character of the neighborhood, that it would be an improvement in appearance with no harm brought to the public, that it is still a safe distance from the road and will provide safer entering and exiting the home with no harm to the general public, that no evidence was presented regarding impact on surrounding property values but the improvement in appearance is unlikely to cause diminution in surrounding property values, that the existing stairs need repair and pose a danger in use, that the proposed stairs will keep a safe distance from the road and the proposed use is a reasonable one and will make access and egress safer.

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

4. **Case 242-007 (09-26-24):** Edgar Oliva, **101 Musquash Rd., Hudson, NH** requests a Home Occupation Special Exception for an internet car sales business with no on-site cars for sale on the property nor advertisements. [Map 242, Lot 007, Sublot-000; Zoned Residential- Two (R-2); HZO Article VI: Special Exceptions; §334-24, Home Occupations]

Mr. Sullivan read the Case into the record and referred to his Staff Report initialed 9/17/2024.

Edgar Oliva introduced himself as the Property Owner who is seeking the Home Office Special Exception (HO/SE) to operate his online retail car sales business. Mr. Oliva stated that he has three (3) children and is transitioning to being a part time dad and added that he does not sell junk cars but high end cars like BMWs and that the State requires an address for a Retail Home business.

Mr. Oliva addressed the criteria for the granting of a Special Exception and the information shared included:

- (a) nature of home office business
 - my business would involve selling vehicles through online platforms from home
 - this model allows me to leverage internet marketing, social media and auto sale website to reach potential buyers without needing a physical car lot
 - I handle all aspects of the sales process, including listing vehicles, communicating with potential buyers and managing the paperwork required for each transaction

- By operating from home, I reduce overhead costs and I am able to sell cars on the internet without any on site sales/advertising
- (b) is home occupation secondary to the principal use of a home
 - yes it is secondary to the address
 - the primary use of the property is my home residence
- (c) will it be carried within residence or accessory structure
 - the Home Occupation would be registered to my home and everything will be done from my office inside my home
- (d) no exterior display of the business
 - there will be no exterior display of my business
- (e) no exterior storage unless screened
 - there will be no exterior storage
- (f) no objectionable circumstances such as noise, odors etc.
 - there will be no disturbance – no noise, no vibrations, no dust or smoke, or electrical disturbances, no odors, heat or glare produced
- (g) traffic not to exceed volume in a neighborhood
 - there will be no extra traffic from the business as customers do not come to my home
- (h) parking to be off-street and limited to 2 vehicles at any one time
 - no customer/client parking as they do not come to my home
- (i) home occupation to be conducted only by residents of dwelling
 - yes, himself, property owner and business owner
- (j) number of vehicles for business
 - there are no vehicles for just the business

Mr. Dion asked where the cars for sale would be stored. Mr. Oliva responded that they would be kept in a storage yard, not on his property and added that he buys the cars at online auctions.

Public testimony opened at 8:23 PM

- (1) Maryellen Davis, 14 Nathaniel Drive, introduced herself as a direct Abutter and former Member of the Board. Ms. Davis stated that she understands that it is a State need to have an address in order to issue a vendor license and asked if the address would be used in any type of correspondence or advertising; asked about the drop off and pick up process; and noted that the property has a 4-car garage and questioned if it would be used for the business; and that the Applicant is involved with East Coast Carriers and questioned where the car carrier would be stored; and asked what the involvement is with the Pelham Auto Group site.

Mr. Oliva responded and confirmed that the home address would not appear on any site for the business; that yes, he does have a 4-car garage but it will not be used for the business; that he has owned East Coast Carriers for approximately eight (8) years now where he performs as the middleman as a broker; and that he does not own Pelham Auto Group and the Group has nothing to do with the Home Office Special Exception he seeks.

Ms. Davis stated that granting this request puts the neighbors in a tough position to be the ones to 'police' it and asked the Board to consider conditions if granted – like no sign, no employees, no exterior lighting after 11 PM, no outside storage, no selling on site and no car detailing on site.

Mr. Sullivan stated that he is the Code Enforcement Officer and he drives on Musquash Road everyday and he will be keeping an eye.

Mr. Oliva stated that there will be no onsite repairs nor any detailing done onsite, that he does need a sign for the State License and they are particular about letter sizing and added that he has spoken with his neighbors across the street and they have no issues with his plan.

Mr. Daddario stated that the criteria seems to address most of the conditions suggested and added that there is no lighting for a HO/SE.

Being no one else to address the Board, Public testimony closed at 8:40 PM.

Mr. Dion compared the requested conditions to the HO/SE criteria and the testimony received and noted that the control of the sign will be by State license regulation and be within the Zoning Ordinance; and that there are to be no employees, just the resident; that exterior lighting be restricted from 11PM-6AM but, per testimony, there will be no exterior lighting; and that per testimony, there is to be no car detailing on site. Mr. McDonough stated that the specific conditions requested are not needed as it is all part of the application. Mr. Daddario added that they are all covered in the SE Criteria. Mr. Sakati stated that he respects the spirit of the questions asked but applying conditions is not really necessary as they are inherent in the criteria as well as the testimony presented.

Mr. Dion made the motion to grant the HO/SE. Mr. Sakati seconded the motion.

Mr. Dion spoke to his motion stating that the proposed use is a service operation on site, is secondary to the principal use as a home, that all activity will be conducted within the house, with no signage, no exterior storage, no change to the neighborhood, no change to traffic and no customers to and no cars for sale on site. Mr. Dion voted to grant.

Mr. Sakati spoke to his second stating that the business is an online service, secondary to the main purpose of a residence, that the sign shall conform to Article XII, Section 334-67, that there will be no storage, no noise, no traffic, no customers to the site and no business vehicles. Mr. Sakati voted to grant.

Mr. McDonough voted to grant stating that the business is an online sales operation utilizing one room in the home as an office, that a sign required for the dealer license has to comply with the Zoning Ordinance, that there will be no onsite sales, only online sales, that there will be no visible activity beyond the residential use and no business vehicles, just personal vehicle.

Mr. Daddario voted to grant and stated that he agrees with the reasoning of the Board, the proposed use is to provide an online service to sell high end vehicles, it will be secondary to the primary use of the house as a home and be carried out within one room within the house, that the sign will meet State dealership requirements and be within the Ordinance, that there will be no exterior storage, no customers to site, no business vehicle, no parking, no traffic, no exterior lights, no detailing of vehicles, no vehicles for sale on site, no employees and only operated by the owner.

Vote was 4:0 to grant the HO/SE. The 30-day Appeal period was noted. Mr. Oliva asked and received clarification regarding the sign – yes, okay to have a sign per Article XII, Section 334-67 of the Zoning Ordinance and that should allow compliance with the State requirement for the dealer license.

5. **Case 152-067 (09-26-24):** Thomas G. Brown, **110 Barretts Hill Rd., Hudson, NH** requests a Variance to allow the continued parking of a vintage recreational motor

coach bus where the parking of recreational buses (Industrial use E-13) is not permitted in the R-2 Zone. [Map 152, Lot 067, Sublot-000; Zoned Residential- Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

Mr. Sullivan read the Case into the record and referenced his Staff Report initialed 9/17/2024 and noted that it is before the Board as a result of Code Enforcement action that resulted in his Zoning Determination dated 9/5/2024.

Thomas and Rachel Brown introduced themselves as the property owners and the owner of the 1959 GM Motor Coach Home they purchased in 1990 and have been restoring for more than twenty (20) years, like creating custom cabinets, dinette etc., resulting in a comfortable recreational vehicle that they take out occasionally for camping with the family (children and grandchildren) and friends off premise and have even participated in parades down Main Street with it.

The Applicants addressed the criteria for the granting of a Variance and the information shared included:

(1) *not contrary to public interest*

- The motor coach leaves the yard only a few times a year
- It is quieter than a motorbike or a dumpster truck
- We get a lot of looks on the road as it is an antique 1959 GM bus
- Our neighbors generate more noise from their summer pool parties, barking dogs and fireworks
- The granting is not contrary to the public interest

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

- it does observe the spirit and we enjoy having the bus
- our grandchildren enjoy camping with us in it
- camping is part of our family history and tradition - my folks enjoyed going camping, going to fairs and just camping with family and friends

(3) *substantial justice done*

- substantial justice would be done
- we take it out for camping at campgrounds
- refusal would be a loss to our family after 35 years of investment and enjoyment

(4) *not diminish surrounding property values*

- the bus is screened from the road – parked on the side of the barn and behind a tree
- it has not been moved in a few years
- it does not affect surrounding property values because it is not seen

(5) *hardship*

- this is a valued and valuable motor coach
- we have placed much money and time into it customizing it into a recreational vehicle
- it would be a great loss to our family to lose it, aside from the monetary and sentimental value
- it is part of a family tradition because when our parents lived on the property behind us, they also had a coach that they converted into a motor home, also from an antique buss
- it runs great and it is doubtful it poses any problem to anyone else

In response to Mr. Dumont's question, Mr. Sullivan responded that it originated from a Code Enforcement standpoint that resulted in his determination that it be classified as a motor coach based on the size and weight, an estimate in excess of 13,000 pounds and/but it is approximately 22,000 pounds. Mr. Dumont noted that ZORC (Zoning Ordinance Review Committee) should check into this. Mr. Daddario asked and received confirmation that the vehicle has always been parked in the same spot, by the barn.

Public testimony opened at 9:05 PM. The following individuals addressed the Board:

- (1) Conrad and Judy Gauthier, 113 Barretts Hill Road, stated that they are direct abutters and live across the street, that this is just a hobby vehicle registered at about 28,000 pounds and that they do not have a problem with it at all. Ms. Gauthier stated that they don't see it and Mr. Gauthier added that it cannot be seen from the road.
- (2) Amanda Brown, 110 Barretts Hill Road, stated that she is the daughter, that she has grown up here helping to rebuild it, that it is part of her family's heritage and custom, the neighbors have no problem with it and it should not be an issue.

Being no one else to speak, public testimony closed at 9:08 PM.

Mr. Dion asked if the complaint has been addressed. Mr. Sullivan stated that it has and was resolved by not considering a Recreational Vehicle primarily because of its weight and classifying it a motor coach / bus, which requires the variance. Mr. Dion asked if it was not visible from the street and Mr. Sullivan confirmed and added that one would need to go onto the property to see it.

Mr. Dion made the motion to grant the Variance. Mr. Sakati seconded the motion.

Mr. Dion spoke to his motion stating that it is not contrary to public interest as it is shielded from view, that it does observe the spirit of the Ordinance and has existed for years without issue, that it is important to the family, that it is neutral to surrounding property values and that enforcement would take away a valuable family item and it is reasonable. Mr. Dion voted to grant.

Mr. Sakati spoke to his second stating that it does not affect public safety, that it poses no change to the character of the neighborhood and is only used as a recreational vehicle, that justice would be provided, that it does not present any change to surrounding property values, the specific application is to keep family close enjoying camping with the recreational vehicle as they have been doing for three (3) decades, and it is a reasonable use. Mr. Sakati voted to grant.

Mr. McDonough voted to grant stating that the bus has existed for many decades and at this point does not detract from the neighborhood as it is primarily hidden from road view; that the ordinance was not setup to handle this scenario and approving the variance would meet the spirit of the Ordinance; the owner would be granted justice for a scenario that the Ordinance does not account for; that the vehicle has been on site for decades and the property values have not been impacted; the Ordinance does not account for this scenario and an undue hardship would occur by forcing them to relocate the vehicle after 30 years; and the proposed use is reasonable and in the spirit of the Ordinance; that it is the vehicle size and weight just don't fit the Ordinance.

Mr. Daddario voted to grant stating it cannot be seen from outside the property and has been there for 34 years and has become part of the character of the neighborhood and provides no harm to the public; that there is no benefit to the public to remove it and no harm to the public by its presence; that there is no evidence to suggest any impact on surrounding property values; that there would be no benefit to the public by preventing this

to continue as parking has been occurring in this manner for 34 years and it is questionable as to whether it is properly classified as a bus versus a recreational vehicle; and it is a reasonable use as parking their personal property at their residence without causing a disturbance to others.

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

VI. REQUESTS FOR REHEARING:

1. **Case 165-021 (07-11-2024) (Deferred from 08-22-24):** Brendan Burke, Manager for Keystone Estates, LLC, 343R High St., Hingham, MA requests a rehearing of an Appeal from an Administrative Decision request for 12 14 Gambia St., Hudson, NH where a Code Enforcement – Notice of Violation Cease & Desist letter dated May 8, 2024 was upheld by the Zoning Board of Adjustment.

Mr. Sullivan read the request into the record and stated that it was continued from the 8/22/2024 meeting per email request from their legal counsel.

No one was present to present the request.

Discussion arose. Mr. Sullivan stated that it appears to be a request pertaining to a Variance but a Variance has never been applied for. Mr. Dumont stated that the ZBA can provide “reasonable accommodation” throughout the process. Mr. Daddario stated that the Board has not seen a Variance application that the ZBA has only heard an appeal to the Zoning Administrator’s decision that resulted in the Board agreeing with the Zoning Administrator’s violation letter. Mr. Dion stated that the request for a rehearing can only pertain to the Appeal they heard, which was an appeal to Code Enforcement content of Mr. Sullivan’s May eighth Cease and Desist letter.

Discussion then focused on how best to proceed. Several Members were inclined to not hear the rehearing request. Mr. Dumont suggested consulting with Town Counsel. Mr. Sullivan stated that Town Counsel has been consulted and that the Property Owner has been informed that they need to apply for a Variance as well as their need to go to the Planning Board.

Mr. Daddario reviewed the four (4) elements required in order to grant a rehearing. To summarize the element and consensus of the Board:

- (1) *new evidence presented that was not available at the first hearing*
 - no evidence presented
- (2) *ZBA made an error in law*
 - ZBA made no error in law
- (3) *Was there a procedural error made*
 - No procedural errors were made
- (4) *Good reason offered*
 - No reason was offered in Applicant’s motion for rehearing

The general consensus was to close/deny the rehearing request and let the applicant proceed with pursuing a Variance.

Mr. McDonough made the motion to deny the request for rehearing. Mr. Sakati seconded.

Mr. McDonough spoke to his motion stating that no new evidence was presented, that there was no error in law made, that there were no procedural errors made and there was no good reason stated. Mr. McDonough voted in support of the motion to deny the request.

Mr. Sakati spoke to his second for the same reasons Mr. McDonough stated – the applicant failed all four (4) criteria. Mr. Sakati voted in support of the motion to deny the request.

Mr. Dion voted to deny the rehearing request as no new evidence was presented, no error made in law, no procedural error was made and no good reason was offered and the applicant's not present to offer any and that it seems they are trying to appeal an appeal.

Mr. Daddario voted to deny the rehearing request as no new evidence has been presented, there was no error made in law or procedure, that no new evidence has been presented and the Board has not received or reviewed a Variance application and that it appears that the allegations presented pertain more to a variance application.

Vote was 4:0 to not grant the request for rehearing. Rehearing denied

VII. REVIEW OF MINUTES:

07/11/2024 edited draft Meeting Minutes

08/22/2024 edited draft Meeting Minutes

Board reviewed the edited drafts presented and made no further changes. Mr. Sakati did note that the 7/11/2024 Minutes clearly reflect what transpired with the case of 12 14 Gambia Street appeal of the Cease and Desist Letter (Case 165-021) and the Board's confusion of what they were requesting in the 8/22/2024 Minutes.

Mr. Dion made the motion and Mr. Sakati seconded the motion to approve to 7/11/2024 and the 8/22/2024 edited Minutes as presented. Vote was unanimous at 4:0

VIII. OTHER BUSINESS:

No other business was presented for Board consideration.

IX. ADJOURNMENT:

Mr. Dion made the motion to adjourn. Mr. Sakati seconded the motion. Vote was unanimous at 4:0. The 9/26 /2024 ZBA meeting adjourned at 9:40 PM

Respectfully submitted,

Gary M. Daddario, ZBA Chairman