



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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

MEETING AGENDA – February 27, 2025

The Hudson Zoning Board of Adjustment will hold a meeting on **Thursday, February 27, 2025, 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 APPLICATION BEFORE THE BOARD:

1. **Case 165-037 (02-27-2025):** Alexander C. Galloway, 3 Kenyon St., Hudson, NH requests a Variance to allow the parking of an approx. 22,000 lb. work vehicle (truck) at the residence where outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited. [Map 165, Lot 037, Sublot-000; Zoned Town Residence (TR); HZO Article III: General Regulations; §334-15 B (2), Parking and Article V: Permitted Uses; 334-22, Table of Permitted Accessory Uses]

VI. REQUEST FOR REHEARING:

1. **Case 211-067 (12-12-24):** George Hurd, Mgr., Tumpney Hurd Clegg, LLC, 39 Trigate Rd, Hudson, NH by and through its counsel, Colin Jean, Esq. requests a rehearing of a Variance request for **72 Burns Hill Rd., Hudson, NH** which was denied on 12/12/2024 by the Zoning Board of Adjustment. The request was for a proposed construction of four (4) self-storage units totaling 18,950 SF in the rear portion of the vacant 24.816 acre lot previously zoned as General (G) but re-zoned to Residential-Two (R-2) where this Industrial Use (E-13) is not permitted. Self-storage use is permitted only in the Industrial (I) and General-One (G-1) Zones. [Map 211, Lot 067, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

VII. REVIEW OF MINUTES:

- 12/12/2024 edited draft Meeting Minutes
- 01/09/2025 edited draft Meeting Minutes
- 01/23/2025 edited draft Meeting Minutes

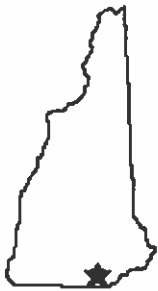
VIII. OTHER BUSINESS:

Discuss Home Occupations

IX. ADJOURNMENT:

Chris Sullivan, Zoning Administrator

Posted: Town Hall, Town Website, Library, Post Office – February 12, 2025



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: February 27, 2025

CSS
2/12/25

Case 165-037 (02-27-2025): Alexander C. Galloway, 3 Kenyon St., Hudson, NH requests a Variance to allow the parking of an approx. 22,000 lb. work vehicle (truck) at the residence where outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited. [Map 165, Lot 037, Sublot-000; Zoned Town Residence (TR); HZO Article III: General Regulations; §334-15 B (2), Parking and Article V: Permitted Uses; 334-22, Table of Permitted Accessory Uses]

ADDRESS: 3 Kemton St
Map 165, Lot 037-000

ZONING DISTRICT: Town Residence (TR)

Relief Requested: Variance: **Article III §334-15 (2) Parking.** Outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 Lbs.

PROPERTY DESCRIPTION:

The Town of Hudson, records indicate this parcel is an existing lot of record. The lot is 17,895 sq. ft. where 10,000 sq. ft is required. The lot is classified as a single-family residence. There is an existing Dwelling that was constructed in 1930. The property also has a garage and a shed. The owner has a truck that is being used in commerce at a residential site with gross vehicle weight greater than 13,000 pounds.

HISTORY/ATTACHMENTS

PLANS:

None

BUILDING PERMITS:

A: BP # 136-94 Kitchen Renovation

ZONING ADMINISTRATOR/CODE ENFORCEMENT AND OTHER CORRESPONDENCE

B: Notice of Complaint 12-19-24

AERIAL / PHOTOS

Aerials (2024) 3 Kenyon Street



IN-HOUSE COMMENTS:

C: Town Engineer: No comments (2-11-25)

D: Inspectional Services/Fire Dept.: No Comment

(2-11-25)

E: Associate Town Planner: No comments

(2-11-25)

TOWN OF HUDSON
ATTN: SUSAN SNIDE
ZONING ADMINISTRATOR
12 SCHOOL STREET
HUDSON, NH 03051

BUILDING PERMIT

AMOUNT PAID

DEPT. FILE COPY

A

MAP 54 LOT 15
VALIDATION

APPLICANT EDWARD AND LISA MARINARO DATE OCTOBER 20, 19 93 PERMIT NO. 136-94
ADDRESS 3 KENYON STREET, HUDSON NH 886-4198 (H)
(NO.) (STREET) (CONTR'S LICENSE)

PERMIT TO ADDITION (TYPE OF IMPROVEMENT) () STORY RESIDENTIAL (PROPOSED USE) NUMBER OF DWELLING UNITS N/A

AT (LOCATION) 3 KENYON STREET ZONING DISTRICT _____
(NO.) (STREET)
BETWEEN _____ AND _____
(CROSS STREET) (CROSS STREET)

SUBDIVISION _____ LOT 15 BLOCK 54 LOT SIZE _____

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

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

REMARKS: CONSTRUCT FOUNDATION TO EXPAND KITCHEN ONTO EXISTING 3-SEASON PORCH AND EXPAND EXISTING ROOF. ELECTRICAL/PLUMBING PERMITS ARE REQUIRED PRIOR TO INSPECTION REQUEST, IF APPLICABLE.

AREA OR VOLUME 95 SQ. FT. (APPROXIMATE) ESTIMATED COST \$ 2,700.00 PERMIT FEE \$ 20.00
(CUBIC/SQUARE FEET)

OWNER EDWARD AND LISA MARINARO
ADDRESS 3 KENYON STREET, HUDSON NH 03051

BUILDING DEPT. BY Robert P. Madigan

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

FORM NO. BOCA-BP 1988

B



Residential TOWN OF HUDSON

Land Use Division



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

Notice of Complaint

December 19, 2024

USPS 1st class

Alexander Galloway
3 Kenyon Street
Hudson, NH 03051

Re: **3 Kenyon St Map 165 Lot 37-000**
District: Town Residence (TR)

Dear Mr. Galloway,

Zoning Review / Determination:

This is a lot of record developed with existing single-family use only.

Violation(s): As we were following up on an existing code enforcement issue, we drove by your property referenced above, which is in violation of Hudson's Town Ordinances.

Parking of vehicles or trailers and equipment greater than 13,000 pounds is not permitted and would require a variance of § 334-15 (2) **Parking**. The garaging and parking of large commercial vehicles are only permitted in the Residential Two district per §334-22 **Table of Permitted Accessory Uses**.

Please contact me by January 19, 2024 to verify the complaints as listed above.

Sincerely,

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

cc: Public Folder
B. Dubowik
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.

C

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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-037 (02-27-25) (VARIANCE)

Property Location: 3 Kenyon Street

For Town Use

Plan Routing Date: 02/10/2025 Reply requested by: 02/14/2025 ZBA Hearing Date: 02/27/2025

I have no comments I have comments (see below)

EZD _____ Name: Elvis Dhima, P.E. Date: 02/11/2025
(Initials)

DEPT. Town Engineer Fire/Health Department Associate Town Planner

[Empty rectangular box for comments or additional information]



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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-037 (02-27-25) (**VARIANCE**)

Property Location: 3 Kenyon Street

For Town Use

Plan Routing Date: 02/10/2025 Reply requested by: 02/14/2025 ZBA Hearing Date: 02/27/2025

I have no comments I have comments (see below)

DRH Name: David Hebert Date: 02/11/2025
(Initials)

DEPT. Town Engineer Fire/Health Department Associate Town Planner

[Empty rectangular box for comments]



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

REQUEST FOR REVIEW/COMMENTS:

Case: 165-037 (02-27-25) (**VARIANCE**)

Property Location: 3 Kenyon Street

For Town Use

Plan Routing Date: 02/10/2025 Reply requested by: 02/14/2025 ZBA Hearing Date: 02/27/2025

I have no comments I have comments (see below)

BWG _____ Name: Ben Witham-Gradert Date: 02/11/2025
(Initials)

DEPT: Town Engineer Fire/Health Department Associate Town Planner

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

On **02/27/2025**, the Zoning Board of Adjustment heard **Case 165-037**, being a case brought by **Alexander C. Galloway, 3 Kenyon St., Hudson, NH** to request a **Variance** to allow the parking of an approx. **22,000 lb. work vehicle (truck) at the residence where outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited.** [Map 165, Lot 037, Sublot-000; Zoned Town Residence (TR); HZO Article III: General Regulations; §334-15 B (2), Parking and Article V: Permitted Uses; 334-22, Table of Permitted Accessory Uses]

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

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

Y **N** **2.** The proposed use will observe the spirit of the ordinance, since the proposed use does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”

Y **N** **3.** Substantial justice would be done to the property-owner by granting the variance, and the benefits to the property owner are not outweighed by harm to the general public or to other individuals.

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

(Continue-next page-Hardship Criteria)

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

(Continued)

Y
N
N/A

5. A. The Applicant established that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. "Unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(1) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; **and**

(2) The proposed use is a reasonable one.

Y
N

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

Member Decision: _____

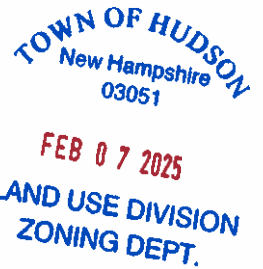
Signed: _____

Sitting member of the Hudson ZBA

Date

Print name: _____

Stipulations: _____



APPLICATION FOR A VARIANCE

To: Zoning Board of Adjustment
Town of Hudson

Entries in this box are to be filled out by
Land Use Division personnel
Case No. 165-037 (02-27-25)
Date Filed 2/7/25

Name of Applicant Alexander Galloway Map: 165 Lot: 37-112 Zoning District: TR
Telephone Number (Home) 603-793-9412 (Work) same
Mailing Address 3 Kenyon Street Hudson, NH 03051
Owner Alexander Galloway
Location of Property 3 Kenyon Street Hudson, NH 03051
(Street Address)

Signature of Applicant [Signature] Date 01/04/2025
Signature of Property-Owner(s) [Signature] Date 01/04/2025

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

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

Items in this box are to be filled out by Land Use Division personnel
Date received: 2/7/25
COST:
Application fee (processing, advertising & recording) (non-refundable): \$ 185.00
6 Abutter Notice:
6 Direct Abutters x Certified postage rate \$ 5.58 = \$ 33.48
6 Indirect Abutters x First Class postage rate \$ 0.73 = \$ 4.38
Total amount due: \$ 222.86
Amt. received: \$ 222.86
Receipt No.: 807,929
Received by: [Signature]
By determination of the Zoning Administrator, the following Departmental review is required:
Engineering Fire Dept. Health Officer Planner Other

Check #
3361

TOWN OF HUDSON, NH

Variance Application Checklist

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

Applicant Initials		Staff Initials
<u>A.G.</u>	Please review the completed application with the Zoning Administrator or staff before making copies in next step.	<u>CJS</u> <u>TG</u> 2/7/25
A.G.	The applicant must provide the original (with wet signatures) of the complete filled-out application form <u>and</u> all required attachments listed below together with thirteen (13) single-sided copies of the assembled application packet. (Paper clips, no staples)	CJS
<u>A.G.</u>	A separate application shall be submitted for each request, with a separate application fee for each request i.e.: Variance, Special Exception, Home Occupation Special Exception, Appeal from an Administrative Decision, and Equitable Waiver but only one abutter notification fee will be charged for multiple requests. If paying by check, make the check payable to the Town of Hudson.	<u>CJS</u>
<u>A.G.</u>	If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (NOTE: if such an authorization is required, the Land Use Division will not process the application until this document has been supplied.)	<u>CJS</u>
<u>A.G.</u>	Provide two (2) sets of mailing labels from the abutter notification lists (Pages 4 & 5) prepared by applicant, with the proper mailing addresses must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained by using the Hudson Geographical Information System (GIS) on the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use (NOTE: the Land Use Division cannot process your application without the abutter lists. It is the applicant's responsibility to ensure that the abutter lists are complete and correct. If at the time of the hearing any applicable property owner is found not to have been notified because the lists are incomplete or incorrect, the Zoning Board will defer the hearing to a later date, following notification of such abutters.)	N/A CJS pending * edits needed on pgs. YES OK - 2/7/25
<u>A.G.</u>	GIS LOCATION PLAN: Requests pertaining to above-ground pools, sheds, decks and use variances, the application must include a GIS location plan with dimensions pertaining to the subject for ZBA relief. A copy of the GIS map can be obtained by visiting the town website: https://www.hudsonnh.gov/community-development/page/gis-public-use	<u>CJS</u>
<u>A.G.</u>	Provide a copy of all single sided pages of the assessor's card. (NOTE: these copies are available from the Assessor's Office)	<u>CJS</u>
<u>A.G.</u>	A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.	<u>CJS</u>
<u>N/A</u>	If there is Wetland Conservation District (WCD) Impact, a Conditional Use Permit may be required. WCD Impact? Y or N (circle one). If yes, submit an application to the Planning Board.	<u>N/A</u>

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
165	037	*Include Applicant & Owner(s) Alexander C. Galloway	3 Kenyon street Hudson, NH 03051
165	39	Donald + Lisa Fitzgerald	100 Webster street Hudson, NH 03051
165	38	Town of Hudson	12 School street Hudson, NH 03051
165	36	John + Sonya Colby	11 Kenyon street Hudson, NH 03051
165	006	Paul + Donna Thorn	12 Grouse lane Litchfield NH 03052
165	007	Donna I. Thorn, TR. Thorn Rev Trust of 2013	12 Grouse lane Litchfield, NH 03052

(16)

ALL INDIRECT ABUTTERS WITHIN 200 FEET

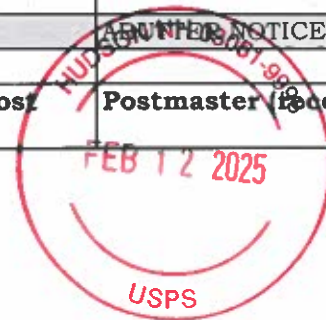
List name(s) and mailing addresses of all indirect abutters (those whose property is not contiguous but is within 200 feet from the property in question) as of the time of the last assessment of taxation made by the Town of Hudson. For indirect abutting properties being under a condominium or other collective form of ownership, list the mailing address of the officers of the collective or association only. If at the time of your hearing, any applicable property owner is found not to have been notified because your lists are incorrect or incomplete, the Zoning Board will defer your hearing to a later date following notification of such abutters.

(Use additional copies of this page if necessary)

MAP	LOT	NAME OF PROPERTY OWNER	MAILING ADDRESS
165	140	Daniel + Patricia Farland	34 Grand Ave. Hudson, NH 03051
165	139	Kevin + Lucie Jeffery	99 Webster Street Hudson, NH 03051
(16)	165	Abbot Farms Condominium to Great North Property Mgmt Abbot Hudson Farms LLC	636 Daniel Webster Highway Merrimack NH 03052
	165	003	Town of Hudson
(16)	165	004	Town of Hudson
	165	005	Town of Hudson
165	016	Town of Hudson	12 School Street Hudson, NH 03051
165	015	Christine Gorveatt	5 Gambia Street Hudson, NH 03051
165	49	Joseph W. Kerry Atkinson Revokable Trust	20 Trafalgar Square Suite 505 Nashua NH 03063
165	008	Erica A. Bates Tina L. Bates	10 Knysen Street Hudson, NH 03051

USPS-Verified Mail

SENDER:		US POSTAL SERVICE - CERTIFIED MAIL & FIRST CLASS		Case# 165-037 VARIANCE 3 Kenyon Street, Hudson, NH 03051 Map 165, Lot 037, Sublot-000 (1 of 1)
ARTICLE NUMBER		Name of Addressee, Street, and post office address	02/27/2025 ZBA Meeting	
1	9589 0710 5270 2409 0629 38	Alexander C. Galloway 3 Kenyon Street, Hudson, NH 03051	APPLICANT/OWNER NOTICE MAILED	
2	9589 0710 5270 2409 0629 45	Donald & Lisa Fitzgerald 100 Webster Street, Hudson, NH 03051	ABUTTER NOTICE MAILED	
3	9589 0710 5270 2409 0629 52	Town of Hudson 12 School Street, Hudson, NH 03051	ABUTTER NOTICE MAILED	
4	9589 0710 5270 2409 0629 69	John & Sonya Colby 11 Kenyon Street, Hudson, Nh 03051	ABUTTER NOTICE MAILED	
5	9589 0710 5270 2409 0629 76	Paul & Donna Thorn 12 Grouse Lane, Litchfield, NH 03052	ABUTTER NOTICE MAILED	
6	9589 0710 5270 2409 0629 83	Donna I. Thorn, Tr.; Thorn Rev Trust of 2013 12 Grouse Lane, Litchfield, NH 03052	ABUTTER NOTICE MAILED	
7	Mailed First Class	Daniel & Patricia Farland 34 Grand Avenue, Hudson, NH 03051	ABUTTER NOTICE MAILED	
8	Mailed First Class	Kevin & Lucie Jeffery 99 Webster Street, Hudson, NH 03051	ABUTTER NOTICE MAILED	
9	Mailed First Class	Abbott Farm Condominiums; c/o Great North Property Mgmt. 636 Daniel Webster Hwy., Merrimack, NH 03054	ABUTTER NOTICE MAILED	
10	Mailed First Class	Christine Gorveatt 5 Gambia St., Hudson, NH 03051	ABUTTER NOTICE MAILED	
11	Mailed First Class	Joseph W. Kenny, Tr.; Atkinson Revocable Trust 20 Trafalgar Square, Suite 505, Nashua, NH 03063	ABUTTER NOTICE MAILED	
12	Mailed First Class	Eric A. Bates; Tina L. Bates 10 Kenyon Street, Hudson, NH 03051	ABUTTER NOTICE MAILED	
Total Number of pieces listed by sender 12		Total number of pieces rec'vd at Post Office 12	Postmaster (Receiving Employee) RBL	





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

February 12, 2025

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, February 27, 2025 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 165-037 (02-27-2025): Alexander C. Galloway, 3 Kenyon St., Hudson, NH requests a Variance to allow the parking of an approx. 22,000 lb. work vehicle (truck) at the residence where outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited. [Map 165, Lot 037, Sublot-000; Zoned Town Residence (TR); HZO Article III: General Regulations; §334-15 B (2), Parking and 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

February 12, 2025

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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

General Regulations

TG

TG

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article ~~Parking~~ III of HZO Section(s) 334-15A(2) ~~Parking~~ B in order to permit the following:

Dark vehicle over 13,000 lbs
(Approx 22,000 lbs)

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.”)

The only time the vehicle is running is when it is leaving or parking to on also the first house on the road and am not driving up & down the street

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 vehicle will be parked on the property

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.)

1. I will be able to continue parking my work truck that contains all my tools at my house
2. I would not have to consider moving to another district
3. It would eliminate very costly storage / parking rentals

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

(Explain why you believe this to be true—keeping in mind that the Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

The vehicle is only parked for the night / weekend, much like a school bus at a driver's house.

FACTS SUPPORTING THIS REQUEST: (Continued)

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

A. Explain why you believe this to be true—keeping in mind that you must establish that:

1) Because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a “fair and reasonable” way and

The only "special condition" I believe this property has is that it is the first house on the road. It borders a very busy road in which large trucks frequently use. In my opinion it is a perfect location to allow this variance

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

The vehicle will be on the property at night and weekends. It is rarely started to leave before 6am and rarely back after 3pm.

B. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance.



Residential TOWN OF HUDSON

Land Use Division



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

Notice of Complaint

December 19, 2024

USPS 1st class

Alexander Galloway
3 Kenyon Street
Hudson, NH 03051

Re: **3 Kenyon St Map 165 Lot 37-000**
District: Town Residence (TR)

Dear Mr. Galloway,

Zoning Review / Determination:

This is a lot of record developed with existing single-family use only.

Violation(s): As we were following up on an existing code enforcement issue, we drove by your property referenced above, which is in violation of Hudson's Town Ordinances.

Parking of vehicles or trailers and equipment greater than 13,000 pounds is not permitted and would require a variance of § 334-15 (2) Parking. The garaging and parking of large commercial vehicles are only permitted in the Residential Two district per §334-22 Table of Permitted Accessory Uses.

Please contact me by January 19, 2024 to verify the complaints as listed above.

Sincerely,

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

cc: Public Folder
B. Dubowik
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: 3 KENYON ST
 Vision ID: 7401 Account #: 3576

Parcel ID: 165/037/000/1
 Bldg #: 1

Card Address:
 Card #: 1 of 1

LUC: 1010
 Print Date: 01-03-2025 11:50:02

CURRENT OWNER		ASSESSING NEIGHBORHOOD				PREVIOUS ASSESSMENTS (HISTORY)								
GALLOWAY, ALEXANDER C. 3 KENYON ST. HUDSON NH 03051		Nbhd	Nbhd Name		Year	Code	Assessed	Year	Code	Assessed Val	Year	Code	Assessed	
		RE	Residential Average		2024	1010	218,500	2024	1010	218,500	2023	1010	218,500	
		TOPO		UTILITIES			1010	134,800		1010	134,800		1010	134,800
		Level		Town Water			1010	6,500		1010	6,500		1010	6,500
				Town Sewer										
Total						359,800	Total						359,800	

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	SALE NOTES	APPRAISED VALUE SUMMARY			
GALLOWAY, ALEXANDER C.		9111 2315	09-21-2018	U	I	259,900	89	Grantor: 603 REALTY INVESTMENT, LLC Grantor: LAKEVIEW LOAN SERVICING, LLC Grantor: FLAGG, KENNETH M. Grantor: WILCOX, STEPHEN D. Grantor: MARINO F	Appraised Bldg. Value (Card)			218,500
603 REALTY INVESTMENT, LLC		9066 1989	04-02-2018	U	I	169,500	37		Appraised Xf (B) Value (Bldg)			0
LAKEVIEW LOAN SERVICING, LLC		9029 1756	11-22-2017	U	I	178,200	51		Appraised Ob (B) Value (Bldg)			6,500
FLAGG, KENNETH M.		8470 2271	09-12-2012	Q	I	192,000	00		Appraised Land Value (Bldg)			134,800
WILCOX, STEPHEN D.		5942 0026	05-15-1998	Q	I	117,000	00		Special Land Value			0
Total						359,800		Total Appraised Parcel Value			359,800	

SUPPLEMENTAL DATA				CURRENT ASSESSMENT				VISIT / CHANGE HISTORY			
Parcel ID	165-037-000	Descrpt	Code	Appraised	Assessed	Date	Id	Cd	Purpost/Result		
Zoning	TR:Town Residential	BLDG	1010	218,500	218,500	07-18-2022	24	45	Field Review		
Flood Hazard	A	LAND	1010	134,800	134,800	05-08-2019	12	30	Sales Data Verification		
Neigh/Abut1		OB	1010	6,500	6,500	08-24-2018	12	30	Sales Data Verification		
Neigh/Abut2		Total:		359,800	359,800	10-05-2012	12	30	Sales Data Verification		
Neigh/Abut3	PREV 0054-0015-0000	Total:		359,800	359,800	04-26-2006	08	02	Measured		
GIS ID	165-037-000	Assoc Pid#		Total Appraised Parcel Value		07-19-2005	01	71	Acreage Adjustment From New Map		
						07-10-2001	00	14	Inspected		
						06-27-2001	00	13	Missed Appt		

BUILDING PERMIT RECORD										
Permit Id	Issue Date	Permit C	Description	Amount	Status	Applicant	SQ ft	Comments		

LAND LINE VALUATION SECTION																
B #	LandUse Code	Description	Land Type	Land Units	Unit Price	Acrege Disc.	Size Adj.	Site Index	Cond.	Nbhd.	Nbhd Adj.	Land Adjustment			Notes	Land Value
1	1010	SINGLE FAMILY RES	Site	0.413 AC	170,000		1.91	5	1.00	RE	1.00					134,800
Total Card Land Units:				0.413 AC	Parcel Total Land Area:				0.413	AC	Total Land Value:			134,800		

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

Property Location: 3 KENYON ST
 Vision ID: 7401 Account #: 3576

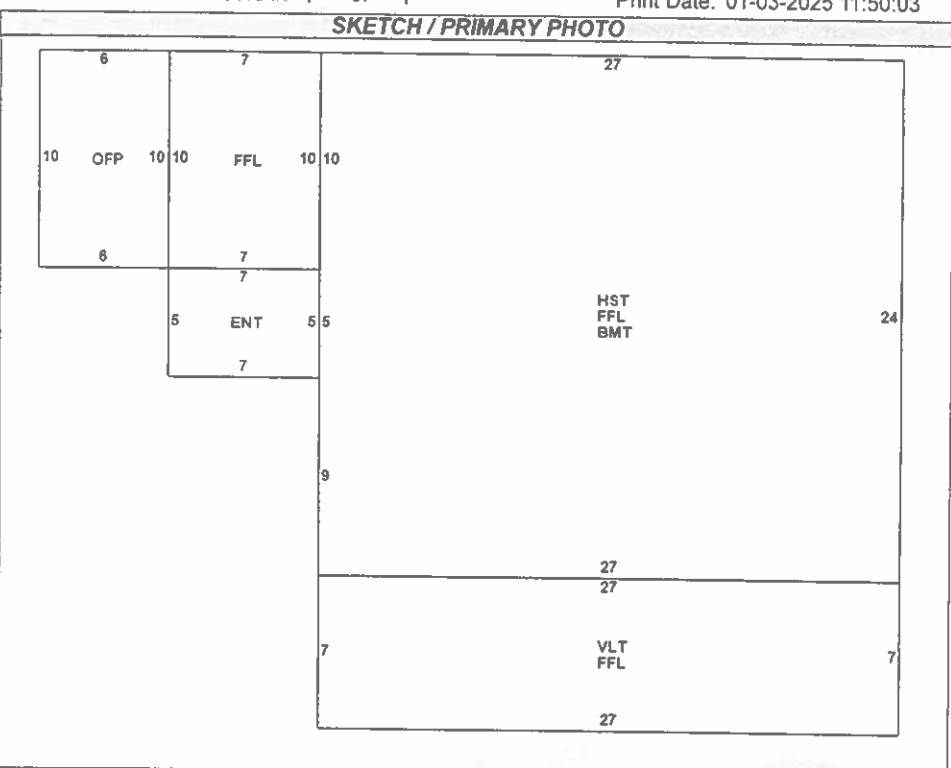
Parcel ID: 165/037/000/1
 Bldg #: 1

Card Address:
 Card #: 1 of 1

LUC: 1010
 Print Date: 01-03-2025 11:50:03

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Model	01	Residential	Avg Ht/FL	8	
Stories:	1.5		Extra Kitchens	0	
Style:	113	NEW ENGLANDR	Add Kitchen Ra		
Grade:	C	Average			
(Liv) Units	1				
Exterior Wall 1	01	Wood Shingle			
Roof Structure	01	Gable			
Roof Cover	01	Asphalt Shingle			
Frame	01	Wood			
Foundation	03	Brick/Stone			
Interior Wall 1	01	Drywall			
Interior Floor 1	03	Hardwood			
Heat Fuel	01	Oil			
Heat Type	03	Forced Hw			
# Heat Systems	1				
AC Percent	0				
Total Rooms	6				
Bedrooms	3				
Full Baths	1				
3/4 Baths	0				
Half Baths	0				
Extra Fixtures	0				
Kitchens	1				
Kitchen Rating	GD	Good			
Bath Rating	AV	Average			
Half Bath Rating					
Bsmt Garage	0				
Fireplace(s)	0				
Fireplace Rating					
WS Flues	0				
Color	BROWN				
Avg Ht/FL	8				
Extra Kitchens	0				

COST / MARKET VALUATION	
Building Value New	269,794
Year Built	1930
Effective Year Built	2003
Depreciation Code	VG
Remodel Rating	
Year Remodeled	
Depreciation %	19
Functional Obsol	
External Obsol	
Trend Factor	1,000
Condition	
Condition %	
Percent Good	81
RCNLD	218,500
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)									
Code	Description	L/B	Units	UOM	Unit Pri	Yr Bilt	Cnd.	% G	Assd. Value
GAR1	Garage, 1 story	L	320	SQ. FT	33.70	1930	AV	60	6,500

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BMT	Basement, Unfinished	0	648	162	46.55	30,163
ENT	Entry	0	35	35	186.19	6,517
FFL	First Floor, Finished	907	907	907	186.19	168,877
HST	Half Story, Finished	324	648	324	93.10	60,327
OFF	Open Frame Porch	0	60	12	37.24	2,234
VLT	Vaulted Ceiling Area, not Sq. F	0	189	9	8.87	1,676
Total Liv Area/Gr. Area/Eff Are		1,231	2,487	1,449	Total Value	269,794



3 Kenyon Street



Printed
2/07/2025
3:03PM
Created
2/07/2025
3:00 PM

Transaction Receipt

Receipt# 807,929
tgoodwyn

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

	Description	Current Invoice	Payment	Balance Due
1.00	Zoning Application-2/27/25 ZBA Mtg 3 Kenyon Street Map 165 Lot 037-000 Zone-TR Variance	0.00	222.8600	0.00
			Total:	222.86

Remitter	Pay Type	Reference	Tendered	Change	Net Paid
Galloway Fleet Service	CHECK	CHECK# 3361	222.86	0.00	222.86
			Total Due:		222.86
			Total Tendered:		222.86
			Total Change:		0.00
			Net Paid:		222.86

HUDSON ZONING BOARD OF ADJUSTMENT

REHEARING REQUEST WORKSHEET

Per RSA 677:2. Motion for Rehearing of Board of Adjustment...

Within 30 days after any order or decision of the zoning board of adjustment... any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment...may grant such rehearing if in its opinion good reason therefor is stated in the motion...

Per RSA 677:3.II. Rehearing by Board of Adjustment...

Upon the filing of a motion for a rehearing, the board of adjustment...shall within 30 days either grant or deny the application, or suspend the order or decision complained of pending further consideration...

On 02/27/2025, the Hudson Zoning Board of Adjustment received a Rehearing Request for Case 211-067, brought by George Hurd, Mgr., Tumpney Hurd Clegg, LLC, 39 Trigate Rd., Hudson, NH by and through its counsel, Colin Jean, Esq. of a Variance request for 72 Burns Hill Rd., Hudson, NH which was denied on 12/12/2024 by the Zoning Board of Adjustment. The request was for a proposed construction of four (4) self-storage units totaling 18,950 SF in the rear portion of the vacant 24.816 acre lot previously zoned as General (G) but re-zoned to Residential-Two (R-2) where this Industrial Use (E-13) is not permitted. Self-storage use is permitted only in the Industrial (I) and General-One (G-1) Zones. [Map 211, Lot 067, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

Members sitting on the Zoning Board of Adjustment for this Request for Rehearing are to vote to determine if any below applies (more than one may apply):

Y **N** The applicant presented new evidence not available at the first hearing.
(Does the request for rehearing contain any new information not presented or available to the Board at the original Public Hearing?) Please explain.

AND/OR,

Y **N** The Zoning Board of Adjustment made an error in law, or was unlawful, or unreasonable in making their previous decision regarding this case.
(Did the Board fail to completely address each of the points of law required for the Special Exception and/or Variance?) Please explain.

AND/OR,

Y **N** There was a procedural error. This includes improper notice, denying someone the right to be heard, etc. *Please explain.*

AND/OR,

Y **N** Good reason is stated in the applicant's Motion. *Please explain.*

Motion for Rehearing is (select one): **Granted** _____ **Denied** _____

Signed: _____ **Date:** _____
 Sitting Member of the Hudson ZBA

Print name: _____

Colin Jean
Attorney at Law, LLC

64 McKean Street
P.O. Box 3661
Nashua, New Hampshire 03061

LICENSED IN NH & MA

Tel: (603) 881-5535

E-mail: ColinJean@nhjean.com

TOWN OF HUDSON
New Hampshire
03051

JAN 09 2025
LAND USE DIVISION
ZONING DEPT

Hudson Zoning Board of Adjustment
c/o Chris Sullivan, Zoning Administrator
12 School Street
Hudson, NH
03051

January 9, 2025

Administrator Sullivan,

Please accept the enclosed Motion for Rehearing from Tumpney Hurd Clegg, LLC regarding the ZBA denial of the requested variance at the December 12, 2024 hearing for relief from Article V of the Hudson Zoning Ordinance, Section 334-21-1 (13).

Thank you for your usual very professional assistance.

Respectfully,



Colin Jean

Encl.

cc. Client

APPLICATION FOR A REQUEST FOR A REHEARING

To: Zoning Board of Adjustment
Town of Hudson

Case No. 211-067

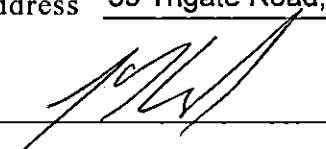
Date of Hearing 12-12-2024

Location of Property 72 Burns Hill Road, Hudson, NH Map: 211 Lot: 067-000

Applicant Tumpney Hurd Clegg, LLC - c/o George Hurd, Manager

Telephone Number (Home) 603-718-2932 (Work) _____

Mailing Address 39 Trigate Road, Hudson, NH 03051



Signature of Applicant

January 9, 2025

Date

If you believe that the Board's decision is wrong, unlawful, or unreasonable, you have the right to appeal for a rehearing. In addition, any third party/parties affected by the decision also has/have the right to appeal the decision of this 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 re-hear 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.

Please refer to NH RSA Chapter 677 for more detail on rehearing and appeal procedures.

Items in this box are to be filled out by Land Use Division personnel

Received by: 

Date: 1-09-25

MOTION FOR REHEARING

Zoning Board of Adjustment

Town of Hudson

RE: Case No. 211-067

Hearing Date 12-12-24

The Applicant / Owner, Tumpney Hurd Clegg, LLC, by and through its counsel, respectfully requests that the Zoning Board of Adjustment allow a Rehearing regarding the matter that was before the Board on December 12, 2024. Specifically, the Applicant/Owner sought relief from Article V of the Hudson Zoning Ordinance, Section 334-21-I (13).

As reasons for this request the following facts and circumstances are offered in support of this Motion:

1. The Board unreasonably ignored the importance of the existing partnership between the Town and the property owner regarding the two Town owned deep wells which were placed on the Applicants land. While this fact was specifically referred to in each of the five relevant criteria in the Application for the Variance, there was no discussion or acknowledgement of such in the Board's comment and deliberation. The fact that the Town owned wells were directly considered and integrated into plans by the Applicant for use of the prior General Zoned portion of the property, is relevant to the requirement that allowance of the variance would not be contrary to the public interest; would observe the spirit of the ordinance; would provide substantial justice to the property owner; would not diminish surrounding properties; and, the special conditions which exist would be unfair and impose an unnecessary hardship.

The fact that the existence of the two deep Town owned wells on private property is of significant benefit to the Town, neighboring properties, and the community in general, while at the same time being of significant detriment to the property owner's use of the land was not reasonably considered by the Board. The Board did not fairly consider these facts in determining the totality of the circumstances, as they apply to the intended use for the area, and as depicted in the Conceptual Site Plan provided. The offer made by the Applicant of including the two Town owned wells into the area restricted for the proposed use would have clearly ensured continued maintenance of the wells, while simultaneously allowing for the least adverse effect on the land owner.

2. The Board did not reasonably consider the timeline under which the Applicant/Owner brought forward its Application for a Variance. As described and provided for in the Application for the Variance, there was significant monetary investment in engineering, surveying, and soil science analysis in developing a Conceptual Site Plan for use of the General Zoned portion of the property prior to the change in Zoning from General to R-2. As described in the Application, during the month of October 2023, preparations and finalized proposals for the use of the rear portion of the property for the storage unit facility were ready for discussion, meeting, and review with the Land Use Department.

In January 2024, the Planning Board approved a change of zoning Warrant Article that redefined much of the existing G Zoned property in the Town to R-2 Zoning. As of January 2024, the Applicant was effectively precluded from simply bringing a Site Plan for consideration and approval to the Planning Board. In reality, the Applicant was left in a pending situation until after the results of the March 2024 Town vote results. The vote approved the change in zoning and the Applicant's property was partially moved into the R-2 Zone.

The circumstances, as they developed, placed the Applicant in the untenable position of being stalemated from January 2024 through April 2024. Once the Warrant Article changing the Zoning passed the Applicant began plans to apply for

the requested Variance. Unlike the assertions made at the Hearing of December 12, 2024, the Applicant did not wait for years in coming forward with its request, but rather a mere five months. More reasonable consideration by the Board regarding the timeline of events and interceding circumstances would have been reasonable in its discussion and deliberation.

3. The Applicant's request for the use Variance, produced much public opposition. Unfortunately, much of the opposition to the request was based on misinformation regarding the parcel. Many residents conflated the property that the former Town Dump occupies with the Applicant's parcel. More importantly, testimony was readily taken by those in opposition on matter that would have been appropriately before the Planning Board and not within the purview of the Zoning Board. Items such as traffic, lighting, security, signage, fencing were all freely presented as reasons to deny the requested variance, very possibly prejudicing the Board in making determinations strictly within its authority.

Regarding issues brought before the Board that directly touched on the required criteria, the Conceptual Site Plan and Application, when properly taken together, clearly demonstrate that the location of the proposed storage unit facility is, at its closest point, approximately 300 feet from the closest residential abutter. The site plan shows that proposed location is approximately 800 feet from the Burns Hill Road frontage and is generally more than 500 feet from all other abutters, except the Town of Hudson former dump. According to Hudson GIS the nearest residence (home) is in excess of 700 feet removed from the proposed site. As was stated and viewed at the hearing the proposed location for the storage units was surrounded but coniferous trees and shrubbery keeping it out of view. The allowance of the facility when these facts are taken into consideration evidence that it would not alter the character of the neighborhood.

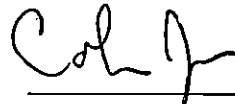
4. The Ordinance changing the Zoning from the G Zone to the R-2 Zone, if looked at from the objective view, was neither implicitly or explicitly intended to do harm to a property owner who demonstrably intended to make use of the G Zoned portion of the property, but was caught in a time period that neither allowed pursuit of such before the Planning Board nor yet ripe for consideration before the Zoning Board. The special circumstance associated with this particular Application, if reasonably considered by the Board, are unique and do not injure the public rights intended by the forward-looking restrictions intended by the Ordinance.
5. The nature of the proposed use, if reasonably assessed by the Board, would not adversely cause harm to the general public. In fact, substantial justice would be done to the property-owner because of the intervening factual situation as described throughout. Fears of crime, increased traffic, outsiders entering the area, fatalities, hazardous waste, and effect on wildlife, while offered for consideration to the Board, are without basis and only served to deflect from the reality that the proposed use will likely have no impact on the surrounding properties or the general public. The benefit to the Applicant would not be outweighed any perceived harm.
6. The designated placement of the storage facility upon the subject property takes every precaution to seclude it from public view. As depicted on the site plan, it is proposed to be serviced by an 800-foot private drive, thereby assuring no direct impact on surrounding properties. It is likely that property values are far more affected by being in close proximity to the former Town dump than the proposed use by the Applicant. In fact, concerns by opponents should be somewhat allayed by the fact that the proposed use to construct storage units would be on slab and require far less soil disturbance. Properties in the area have increased despite their location near the former Town dump, and there should be no expectation that the addition of a residential storage facility would adversely affect properties which are hundreds of feet from the designated site.

For the above cited reasons, the Applicant/Owner respectfully requests that the Hudson Zoning Board of Adjustment grant this Motion for a Rehearing regarding the denial of the Variance Application brought before the Board on December 12, 2024.

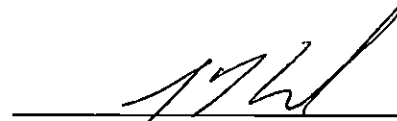
Respectfully,

Tumpney Hurd Clegg, LLC,

By,



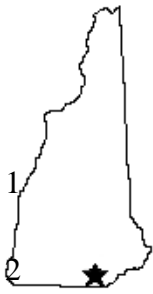
Colin Jean, Esq.



George Hurd, Manager

Colin Jean Attorney at Law
P O Box 2061
Nashua, NH 03061

Hudson Zoning Board of Adjustment
c/o Chris Sullivan, Zoning Administrator
12 School Street
Hudson, NH
03051



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

594-1142

MEETING MINUTES – December 12, 2024 – As Edited

The Hudson Zoning Board of Adjustment met on Thursday, December 12, 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

III. ATTENDANCE

IV. SEATING OF ALTERNATES

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

Clerk Dion called the attendance. Members present were Tristan Dion (Regular/Clerk), Gary Daddario (Regular/Chair), Tim Lanphear (Regular), Zachary McDonough (Alternate), Normand Martin (Regular/Vice Chair) and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. All Regular Members voted, no Alternate was appointed to vote.

Mr. Daddario stated that the physical capacity for the room has been exceeded and asked members of the public who are not concerned with the first Case for 63B Wason Road to please step out of the room.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

- Case 217-017-002 (12-12-24):** John D. Onoroski, **63B Wason Rd., Hudson, NH** requests a Home Occupation Special Exception to allow a home business to produce and sell first aid kits online in the basement of the home. [Map 217, Lot 017, Sublot-002; Zoned Residential-Two (R-2); HZO Article VI: Special Exceptions; §334-24, Home Occupations]

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 12/2/2024 and noted that no In-House Review comments have been received.

46 John Onoroski introduced himself as the Property Owner and Applicant and a
47 Disabled Veteran who is seeking a Special Exception to operate his business from
48 his home. Mr. Onoroski stated that he creates quality purpose built bags with a
49 sewing machine and plastic parts made from a desktop injection molder to create
50 first aid kits that he fills with supplies he purchases in bulk to sell online. All of
51 this is only conducted in his basement so there is no way for anyone to determine
52 that he's running a business out of his home as there is nothing stored outside,
53 there's no noticeable noise, vibrations, smoke, odors or glare produced and there is
54 no customer traffic to his home as it is all online sales so no need for any customer
55 parking and the only vehicle involved is his personal pickup truck. Mr. Onoroski
56 displayed several types of kits – from the general WalMart variety, to specialty
57 camping first aid bags that would contain tweezers and gauges to marine first aid
58 kits. Mr. Onoroski stated that he has a Post Office Box in Nashua where he does all
59 his shipping.

60
61 Mr. Onoroski went through the criteria for the granting of a Special Exception Home
62 Occupation.

63
64 Mr. Martin asked and received confirmation that all shipments would be made from
65 the PO Box and transported by the personal pickup truck and all supplies would be
66 brought to the residence by the pickup truck. Mr. Martin asked about the hours of
67 operation. Mr. Onoroski responded that it is dependent on when the orders are
68 received, being an online business, and added that his goal is to complete an order
69 for shipping the following day.

70
71 Mr. Sakati asked to address the frequency and storage of the supplies to fill the first
72 aid kits and Mr. Onoroski explained that he intends to operate like a redistributor,
73 that orders would be placed based on need and confirmed that all would be stored
74 in his basement. Mr. Dion asked if commercial contracts would be sought and Mr.
75 Onoroski responded that he has no intention, especially considering he's a solo
76 operator. Mr. Dion noted that there are two (2) categories of medical kits and each
77 are subject to medical regulations.

78
79 Public Testimony opened. No one addressed the Board. Mr. Dion read letter from
80 Abutters of 65 Wason Road expressing support for their neighbor and his home
81 based business. Public hearing portion closed at 7:22 PM.

82
83 Mr. Lanphear made the motion to grant the Home Occupation Special Exception as
84 requested. Mr. Sakati seconded the motion.

85
86 Mr. Lanphear spoke to his motion stating that the business would be secondary to
87 his home and conducted in the basement with no exterior sign or storage, no
88 customers to site as it is all online sales, will have no customers to the site and will
89 not produce any noise vibrations odors etc. Mr. Lanphear voted to grant.

90
91 Mr. Sakati spoke to his second noting that every criteria has either been satisfied or
92 simply does not apply, specifically that the business will be conducted in the
93 basement, that it is secondary to the residential use of the property, that there will
94 be no sign or exterior storage or noise, odors, heat or glare, that there will be no
95 traffic to the site as it is all online sales and therefore has no need for any
96 customers or parking required. Mr. Sakati voted to grant.

97
98 Mr. Martin voted to grant and noted that every criteria has either been satisfied or
99 does not apply. Mr. Dion voted to approve and grant the Home Office Special
100 Exception and noted that every criteria has either been satisfied or is not applicable.
101 Mr. Daddario voted to grant and stated that the Applicant has made it clear that
102 every criteria has been either satisfied or is not applicable.

103
104 Vote was 5:0. Home Occupation Special Exception granted. The 30-day Appeal
105 period was noted. Mr. Onoroski was thanked for his military service.

106
107 The meeting room was reopened. Question raised if there were more people present
108 that the meeting room has capacity for with regard to the third Case, how
109 would/could the meeting proceed. Board took a recess to confer with HCTV to see if
110 the possibility exists to broadcast the meeting in the overflow room. Meeting called
111 back to order at 7:36 PM. Mr. Daddario stated that ~~microphones-monitors~~ have
112 been set up in the overflow room so they will have the capacity to hear what is being
113 said and when the meeting is opened for public input, the public can be rotated.

114
115 2. **Case 157-059 (12-12-24):** Jeremy & Nicole Lyon, **28 Robin Dr., Hudson, NH**
116 requests a Home Occupation Special Exception to operate a home office for the
117 management and administrative needs of a handyman service business with all
118 services performed off-site. [Map 157, Lot 059, Sublot-000; Zoned Residential-
119 One (R-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations]

120
121 Mr. Sullivan read the Case into the record, noted that it is an existing non-
122 conforming lot of record and that no in-house review comments have been received.

123
124 Mr. Martin made the motion to defer the hearing to the January 9, 2025 meeting.
125 Mr. Lanphear seconded the motion. Roll call vote was 5:0. Motion carried.

126
127 3. **Case 211-067 (12-12-24):** George Hurd, Mgr., Tumpney Hurd Clegg, LLC, **72**
128 **Burns Hill Rd., Hudson, NH** requests a Variance for a proposed construction of
129 four (4) self-storage units totaling 18,950 SF in the rear portion of the vacant
130 24.816 acre lot previously zoned as General (G) but re-zoned to Residential-Two
131 (R-2) where this Industrial Use (E-13) is not permitted. Self-storage use is only
132 permitted in the Industrial (I) and General-One (G-1) Zones. [Map 211, Lot 067,
133 Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-
134 21, Table of Permitted Principal Uses]

135
136 Mr. Sullivan read the Case into the record, noted that the 24.816 acre site is vacant
137 and was once farmland and does have wetlands and is in close proximity to the
138 Town dump site and that the Associate Town Planner has noted that if the Variance
139 is granted, the Applicant will also need to go to the Planning Board for a Conditional
140 Use Permit as well as requiring Site Plan Review and approval.

141
142 Mr. Martin recused himself due to personal relationship with the Applicant.
143 Alternate McDonough appointed to Vote.

144
145 A head count was taken in the meeting room for compliance.

146

147 Atty. Colin Jean of Nashua NH introduced himself and Michael Grainger of MJ
148 Grainger Engineering and stated that they are representing the Property Owner
149 Tumpney Hurd Clegg, LLC and noted that George Hurd is also present in the
150 audience and available to answer any questions.

151

152 Atty. Jean stated that his client purchased the 25-acre parcel in July 2021 with its
153 frontage on Burns Hill Road that directly abuts the former and now capped Town of
154 Hudson Dump and other residential properties. At the time of purchase, the parcel
155 was in two (2) zones with the rear in the G Zone and the front in the R-2 Zone. Soil
156 assessment began in September 2021 and engineering and survey work began in
157 early 2022 and a site plan was designed in July 2023. Reference was made to the
158 Conceptual Site Plan dated 7/6/2023 prepared by MJ Grainger Engineering, Inc.,
159 that identified the original demarcation of the two (2) zones in the property and the
160 proposed access drive of approximately eight hundred feet (800') in length to the
161 proposed storage units and the elongated frontage on Burn Hill Road.

162 Unfortunately, the unforeseen and sudden death of Robert Clegg occurred August
163 2023 and caused suspension of the LLC's progress until reorganization and estate
164 related matters could be settled. Plans resumed in the beginning of October 2023
165 with the continued intent to develop the rear portion of the property in the G Zone
166 for the construction of a storage unit facility. The use of the remainder of the
167 property was placed on hold with the intent to pursue residential development at a
168 future date.

169

170 However, at the March 2024 Town Meeting Vote, Article 44 was passed re-zoning
171 certain areas in the G Zone to the R-2 Zone and that affected this property. The
172 storage facility, which was a permitted Use in the beginning of the project, is no
173 longer allowed in its new Zone without a Variance.

174

175 The Town of Hudson has two (2) active deep test wells on the property adjacent to
176 the former Town Dump. It has been the plan from day one to incorporate those
177 wells into the portion of the property designated for the storage facility. The adverse
178 effect of the Town Wells on the value of the land designated for the storage units
179 would be less impactful than on the sections designated for residential
180 development.

181

182 Atty. Jean stated that his client's intention is to construct four (4) storage units on
183 the rear portion of the 24.816-acre parcel which was originally in the G Zone but
184 changed to the R-2 Zone this past year (March 2024) and referred to the Conceptual
185 Site Plan dated July 6, 2023 prepared by MJ Grainger Engineering, LLC that shows
186 the twenty thousand square feet (20 SF) will be serviced by a private way with
187 frontage on Burns Hill Road and will be serviced by private septic and is well
188 forested on all sides.

189

190 Atty. Jean addressed the criteria necessary for the granting of a Variance and the
191 information shared included:

192

- 193 (1) *not contrary to public interest*
- 194 • The proposed variance is not contrary to the public interest because the
 - 195 portion of the property designated for use was historically in the G Zone and
 - 196 is in the rear of a very large 25 +/- acre parcel and would be out of view

197 from the public and therefore not alter the essential character of the
198 neighborhood

199 • There would be no threat to public health, safety or welfare as the facility
200 would service residential storage needs

201 • The presence of 2 Town of Hudson testing wells in this portion of site has a
202 negative impact which can be mediated with the inclusion of the historically
203 allowed storage units

204 • The intent is to surround the storage units with fencing and provide minimal
205 lighting with no electricity proposed inside the units

206 • Access to the storage units will be restricted to the hours of 7 AM – 7 PM

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

208 • The spirit is observed/met because the intended use is for residential
209 purposes

210 • The essential nature of the subject area has historically been in the General
211 Zone and is located at the rear of the property that directly abuts the
212 Town Dump and has two (2) Town of Hudson test wells - which is more
213 consistent for the designation of/in the storage unit portion of the
214 property than in the residential use portion of the property

215 • The proposed use will not alter the essential character of the neighborhood,
216 nor be a threat to public health, safety or welfare

217 • The proposed location is shielded with trees

218 (3) *substantial justice done*

219 • Substantial justice would be done to the property owner especially when
220 considering that when the property was purchased it was anticipated
221 that the General Zone portion of the property would remain as it was
222 intended to be used for the proposed use

223 • Due to circumstances beyond the applicant's control, the Zone of the
224 property has been changed

225 • The existence of two (2) Town owned test wells on the property has a
226 negative impact on the value of the property and the granting of this
227 variance would minimize the diminution in value of the property

228 • The benefit to the Applicant would not be outweighed by harm to the general
229 public as the granting of this variance would provide residential storage
230 options to the area and designation of the Town test wells in a secure
231 location

232 • The loss to the Applicant in not approving this Variance would far outweigh
233 any benefit to the general public

234 (4) *not diminish surrounding property values*

235 • The proposed use will not diminish the values of surrounding properties
236 because the type of use proposed, combined with the placement of the
237 storage units at the very rear of the property will be out of view from the
238 property's frontage and neighboring properties and the fact that it abuts
239 the former Town landfill and houses two (2) Town owned test wells

240 (5) *hardship*

241 • The special conditions are due to the change in Zone to the parcel that
242 occurred after the land was purchased and engineering work begun
243 rendering the intended use to now require a variance as it is no longer a
244 permitted use in its newly assigned Zone

245 • The other special condition is that the land houses not one but two Town-
246 owned test wells to monitor the abutting now capped Town landfill

- 247 • The original intent when the land was purchased was to include the storage
248 units in the area of the test wells and leave the remainder of the property
249 to be subdivided for residential purposes
250

251 Mr. Lanphear asked about the wetland on the property and Atty. Jean confirmed
252 that the proposed access drive goes around the wetland. Mr. Dion stated that the
253 future plans for the west side of the property included? Atty. Jean stated that the
254 change to eliminate the G Zone from the property came into effect this past March
255 which now required a variance for the placement of the storage units. Atty. Jean
256 stated that in combination with the untimely death of one of the Property Owner's
257 Members that have decided to initially pursue the variance for the storage units and
258 if granted then they would proceed with the design of the residential development.
259 Atty. Jean noted that if it were not for the need to pursue the variance, they would
260 have presented one complete comprehensive development application. Mr. Dion
261 asked if it is the intent to have the residential portion utilize the proposed access
262 way shown on the Conceptual Site Plan and after a quick confirmation with Mr.
263 Grainger, Atty. Jean stated that it would not necessarily be as there is ample
264 frontage on Burns Hill Road. Mr. Dion questioned the proposed security lighting
265 and asked if it would be illuminated all night. Mr. Grainger responded that the
266 proposed lighting would all be down cast and on all night and added that there
267 would be security fencing all around the storage units. Mr. Dion stated that the
268 proposed hours for access to the storage units were to be 7AM – 7PM and asked
269 how that would be controlled. Mr. Grainger stated that the security fence would be
270 equipped with automatic security locks for the opening and closing. Mr. Dion
271 questioned water. Mr. Grainger responded that there is a waterline that connects to
272 the Town water main line and noted that it will be extended to the storage units for
273 safety measures only as there is no water or electricity in the individual storage
274 units. In response to Mr. Dion's other question, both Atty. Jean and Mr. Grainger
275 responded that the intended uses for the units is for residential storage only so
276 there will be no commercial or industrial storage. In response to the current water
277 issues along Burns Hill Road, Atty. Jean confirmed that they will include some of
278 its solution when they design the residential portion of the project and present it to
279 the Planning Board.
280

281 Mr. Dumont suggested that the ZBA purview be clearly stated before opening up the
282 meeting for public testimony.
283

284 Public testimony opened at 8:04 PM. No one from either the overflow room or the
285 meeting room spoke in favor of the application. Mr. Daddario next opened the
286 meeting to anyone wishing to speak in opposition and, as suggested by Mr.
287 Dumont, explained the difference between the Zoning Board and the Planning
288 Board and noted that the Zoning Board has limited authority and is limited to the
289 *type of use*. Operation details fall in the Planning Board's purview.
290

291 Mr. Daddario noted that the time is now 8:09 PM and asked that everyone try to
292 limit their time to one to two minutes, to please not repeat prior testimony but can
293 just state whether they agree with it or not, that all communication is to be
294 addressed and directed to the Board only and that the overflow room has been set
295 up so they can hear what is being said in the meeting room, and that the public in
296 the meeting room will be able to address the Board first.
297

298 The individuals who addressed the Board included:
299

300 (1) Gretchen Whiting, 22 Glenn Drive, distributed packets of information and
301 stated that the parcel did get rezoned to Residential-Two (R-2) and abuts
302 the Residential-One (R-1) zoned, thanked the Town for having listened to
303 their concerns and passed the Warrant Article that rezoned from General
304 Zone to a Residential-Two Zone, expressed concern with bringing in
305 waterline from the Old Dump especially considering that on August 8,
306 1985 there was 103 55-gallon leaking drums found on the old dump
307 property with some determined to contain VOCs and other contaminants
308 and there were also reports of asbestos found up and down Burns Hill
309 Road from the time when it was sold as 'clean fill' and added that NH DES
310 (Department of Environmental Services) has found such contaminants at
311 12, 18, 34 & 52 Burns Hill Road. On April 6, 2002, the Board of
312 Selectmen held a public hearing on the Burns Hill landfill and arsenic on
313 the surrounding wells. It has been realized that even though it has been
314 capped, there is no lining and is only capped with two feet (2') of soil.
315 Concern was expressed with any digging/disturbing of the soil in the area
316 would release any contaminants that have settled. Traffic is also another
317 concern and would include commercial vehicles during its development
318 and currently there have been an increasing number of vehicle accidents
319 on Burns Hill Road and there are no sidewalks for pedestrian safety. The
320 water table would also be affected as water by nature flows down hill,
321 which means it would flow onto Glenn Drive. There is a lot of wildlife in
322 the area and would suggest that a wildlife study be conducted.
323

324 Mr. Sullivan stated that the water pipe would not be coming from the
325 landfill site but down the Right of Way of Burns Hill Road. Mr. Dillon
326 concurred/confirmed.
327

328 (2) Elmar Uniformeyankee (?), 2 Wildwood Terrace, stated that he has lived
329 there for eight (8) years, referenced the comments submitted to Mr.
330 Sullivan and wanted to cover the basic facts: where does the burden of
331 proof lie? The Applicant has stated that this project will not negatively
332 surrounding property values and they should be the ones to prove that,
333 not him or his neighbors. Relevant Case Law was supplied in his written
334 statement. Another point is the structure placement on the property and
335 their statement that it is "in the back" simply does not change the fact
336 that it is a commercial business in a residential neighborhood. Another
337 point made was that it would only impact his driveway is simply not true,
338 they will be traveling on roads in our neighborhood. Alteration of
339 neighborhood character will happen because this is all residences and
340 they are asking to introduce a business which also raises another concern
341 regarding public safety risks because it is common knowledge that break-
342 ins into storage facilities is on the rise and that cannot help but have
343 criminals spill into the neighborhood and noted that there are no dogs or
344 people for security, just some security lighting and a fence being
345 controlled electronically when to lock and unlock. Another factor to
346 consider is the "inapplicability of historical zoning" as it does not matter
347 what it was before, the Town has a Plan, the Town voted to change the
348 zone to match the neighborhood in March 2024. Another criteria is that

349 public harm out weighs the public right of the applicant and we all know
350 putting up storage units is cheaper than building homes and their
351 required infrastructure and needs. The argument presented on
352 unnecessary hardship is tough to swallow – the zone was changed so
353 more houses could be built in Town to address the housing shortage in
354 the State. The burden of proof lies with the Applicant.
355

356 Mr. Lanphear questioned whether the Board should consider reading the letters
357 received thus far into the record as that could help facilitate comments like
358 agreements versus restatements. It was noted that the previous speaker also
359 submitted written comments. Mr. Sakati questioned the time limit placed on the
360 speakers and stated that out of respect there should not be any time restrictions.
361 Mr. Daddario stated that the time limit suggested was out of respect for all the
362 people present who wish to address the Board and noted that this room is filled to
363 capacity as well as the overflow meeting room. Mr. Sakati stated that this meeting
364 ends at 11 PM so it would then seem reasonable that if people present did not get to
365 speak tonight, the meeting would be continued to next month.
366

367 (3) Robinson Smith, 48 Burns Hill Road which is on the corner of Burns Hill
368 Road and Glenn Drive, and has lived there for twenty years (20) and feels
369 his perspective should be considered and recognized. The property abuts
370 the old Town dump, which was never properly capped and lined and over
371 the years the rainwater has allowed leaching of the contaminants to seep
372 through their borders. NH DES has even found heavy metals seeping into
373 the swampy wetlands abutting the property. These contaminant reports
374 go back to the 1990's and neither the State nor the Town have been able
375 to remediate the ongoing contaminant issues. It should be noted that
376 these contaminant issues were fully disclosed to the Property Owner at
377 the time of sale. In his opinion, this also makes the new Property Owner
378 as responsible as the Town in dealing with this contamination while
379 bringing the levels to the NH DES Guidelines. Mr. Smith cited the Green
380 Meadow Golf Course now being converted as an example of why the Town
381 is revisiting this General zone and subsequent re-evaluation of such
382 parcels and why this Zone in this neighborhood was rezoned this past
383 March to match the spirit and character of the area/neighborhood. This
384 land should be developed for residences while mitigating the contaminant
385 issues in a responsible way. The proposed use does not fit in with the
386 character of the recognized neighborhood, would increase traffic with
387 potential of increased accidents especially considering its poor line of
388 sight and design, excessive noise, pedestrian accidents or fatalities along
389 Burns Hill Road, hazardous waste contamination issues and was
390 originally designed as a dead-end road stopping at the Town landfill and
391 then the Town extended the road linking it to Wason Road when the
392 Burns Hill fire station was built. It is unfortunate that the pollution
393 plume from the landfill has extended to surrounding properties that we
394 experience today. Mr. Smith stated that he opposes the storage unit
395 variance.
396

397 Mr. Daddario stated that Mr. Dion has found a timing application and has set the
398 timer for three (3) minutes and asked that, when heard, the speaker in good
399 conscience bring his/her points to a close.

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- (4) Monica Kiernan, 11 Wildwood Terrace, stated she has been here for twenty five (25) years, raised her family here and that if they are to welcome this industry to her neighborhood, this industry is not of the same value system and it will impact her property value and her neighborhood as her neighbors, like herself, are small homeowners who value respect and look out for one another and if this variance is granted, that amount of 'good neighbor policy' is jeopardized. This project does not maintain the small neighborhood we have cultivated.
- (5) Tom Crane, 27 Glenn Drive, stated that the proposed location of these storage units directly abuts the wetlands which impacts the beavers, the goose, the ducks, the turtles and all the wildlife he enjoys when he's out there kayaking; traffic on Burns Hill Road is horrible and he has stopped walking on it because it is scary; this is a residential area and allowing this deviation is just a bad idea and opens the door to ruining our neighborhood.
- (6) Michael LaBonte, 14 Glenn Drive, stated that he has rebuts many of the statements made by the applicant. The first one being whether it is contrary to public interest – of course it is contrary, the Town clearly voted to change the Zone to Residential in order to preserve is character and prevent commercial and industrial businesses into established neighborhoods. The second, the proposed use will observe the spirit of the Ordinance, it does not, the Town voted to change the Zone to protect the spirit of the Ordinance. The third, substantial justice would be done to the property owner – of course it would but it would at the expense to the neighbors and the neighborhood and let's keep in mind there are other alternative uses for this property that would not require a variance. Placing a commercial business into the neighborhood is dangerous to the neighbors. Mt LaBonte noted that the proposed facility will be lit at night, the road to it might be too and asked if there would be a sign at Burns Hill Road advertising this commercial entity in the neighborhood with up to perhaps 180 rental units and that business will definitely have a negative affect on the property values of his neighbors. With regard to the hardship, that criteria has also not been satisfied, the property was purchased in 2021 and regardless of the death of one of the partners, it still begs the question why there was such a delay in preparing plans for its development, especially knowing the change to the Zone was well known and why is only a small portion of the whole plan being presented.
- (7) Len Segal, Beechwood Road, stated that he has been in Hudson for five years now, has driven down this road once and will never drive it again as it is treacherous between the traffic and curvy road, and urged the Board to vote no on this request. The Land was purchased in 2021. In 2023 it was well known that a Zone change was being proposed and a preliminary plan could have been filed prior to the Zone change being put to the Town Vote, but they didn't. Death is regrettable, but it doesn't justify asking the neighborhood to bear this burden. Industrial just does not belong next to residential properties. They missed the deadline.
- (8) Ken Twining, 38A Burns Hill Road, stated that he agrees with all the statements and concerns his neighbors have made, and urged to Board to keep in mind that the change in Zone was put to a Town Vote and the

- 450 Town people voted to declare this area Residential. To approve this
451 variance will do nothing but erode the confidence of the Board.
- 452 (9) Pete Radziewicz, 49 Burns Hill Road, stated that he is in agreement with
453 his neighbors and added that it is irrelevant whether the change was
454 made this past year or two years ago, the fact to keep in mind is that we
455 do not want to move backward. His home was once in the G Zone before
456 it was changed to Residential and if this passes, what's to stop him from
457 tearing his home down and setting up storage units because everybody
458 knows how cheap they are to build and maintain – its easy income – and
459 there goes the neighborhood.
- 460 (10) Joan Radziewicz, 49 Burns Hill Road, stated that she too is in
461 opposition to this variance and agrees with the facts her neighbors have
462 presented, that she has lived on Burns Hill Road since 1979 and has seen
463 many changes to the road, increases in traffic that she has trouble
464 fathoming and that's just with residential development and sees no need
465 or use to introduce this commercial use into their residential area. Ms.
466 Radziewicz stated that the applicant made a point to note that the storage
467 units would be out of site down this long 800' driveway so it would be
468 'invisible' but then they state that the remaining area would be cleared to
469 build residential housing development and that leaves the question of
470 whether these storage units would be left with any screening.
- 471 (11) Sharon Scarvalas, 92A Wason Road stated that she has lived there for
472 thirty eight (38) years and noted that Wason Road is higher than Burns
473 Hill Road and would end up looking down at the proposed security lights,
474 and added that traffic on Wason Road and Burns Hill Road is very bad
475 especially with the new Golf course project, that the wildlife will be
476 impacted and probably will disappear, and is very concerned about what
477 will actually be stored in the storage units and could bring more
478 contamination to the area. Ms. Scarvalas stated that she also sent an
479 email.
- 480 (12) Amy Reese, 20 Saint Francis Hill Place, stated that she is in agreement
481 with the points raised, and stated that she recognizes that a lot of her
482 concerns would need to be presented to the Planning Board and has
483 concerns that the residents did vote to make this a residential area and
484 changing it back to an industrial use is just contrary and a slap in the
485 face to the residents. This will impact the traffic, the values of our homes,
486 and the lighting will impact the residents and asked the Board to deny.
487
- 488 Mr. Daddario asked if there were any other people in the Meeting Room who wished
489 to speak. No one approached. Mr. Daddario noted that the time was 8:49 PM, put
490 the Board in recess for five (5) minutes at 8:50 PM so that individuals could vacate
491 the Meeting Room to allow those in the adjoining room to enter and address the
492 Board. Meeting resumed at 8:57 PM.
493
- 494 (13) Edward Thompson, 22 Burns Hill Road, agreed with previous
495 statements, stated that he moved here thirty three (33) years ago with the
496 intention of being here five (5) years and prior to moving here he was told
497 Hudson has crazy Zoning laws but he has noticed that in the past few
498 years, residents have started standing up and changing the Zoning laws
499 and things are getting better. In his opinion, the Town voted change in
500 Zoning to this area is a move in the right direction – this is a residential,

501 and only residential area. Burns Hill Road is a very busy road, he lives at
502 the bottom of the road and it is very common for traffic to fly by going
503 forty to fifty (40-50) miles per hour, noted that per the Town Engineer
504 traffic has more than doubled in the last five (5) years, and doing quick
505 math, with four (4) buildings, assuming 10'x10' units, could yield
506 approximately ninety (90) units and bring that much more traffic to this
507 residential area. Mr. Thompson stated that he could speak to all five (5)
508 criteria that must be met, but they've been addressed by others - like
509 impact to the essential character of the neighborhood would be shot, the
510 difficulty inherent in enforcing what goes into storage units which creates
511 an attractive nuisance that far from the road - and added the hardship is
512 really to his neighbors and that this project should simply be a non-
513 starter and noted that the Table of Permitted Uses identifies a lot of other
514 Uses compatible with residences.

515 (14) Frank Yeschanin, 5 Wildwood Terrace, and has been his home for the
516 past thirty plus (30+) years, that he opposes the variance and agrees with
517 all the statements made thus far.

518 (15) Ed Lang, 3 French Drive, stated that he has been a resident of Hudson
519 for over fifty (50) years and watched this neighborhood go from a wood lot
520 to a growing neighborhood with roads and residential developments into a
521 tight residential neighborhood and should stay that way and is opposed to
522 this variance.

523 (16) Larry Martone, 8 Saint Anthony Drive, stated that he agrees with all
524 the statements made and is also opposed to this variance.

525 (17) Richard Ings, 82 Wason Road, stated that he is opposed and agrees
526 with his neighbors and added that if rezoning is allowed to the eastern
527 side of this lot to Industrial or General, then the southern portion could
528 possibly be developed and literally be in the eyesight of 82, 84, 86 Wason
529 Road.

530 (18) Nicole Champagne, 85 Burns Hill Road stated that she has been there
531 for about five (5) years now and has learned so much about her
532 neighborhood and neighbors at this meeting and encouraged the Board to
533 deny what she will be able to see from the end of her driveway.

534 (19) Paul Matthews, 52 Burns Hill Road, stated that has been there about
535 a year now but prior to that he lived at 50 Burns Hill Road since the
536 1970's, stated that his mom sold this land to them and neither supports
537 or opposes but does agree with the points his neighbors have made, that
538 he has spoken to his mother who is also neutral to this, and asked the
539 Board to think about it being your house/home right next door to them
540 (the storage units) and how it could be without consideration to improving
541 Burns Hill Road and putting in sidewalks, perhaps a traffic light, do
542 something about the speeding, that he has already lost two (2) dogs to
543 Burns Hill traffic flying by at fifty miles per hour (50 mph).

544 (20) Patricia McGrath, 80 Wason Road, and stated that what they look
545 down on is water and woods and in her opinion, that is how it should be
546 and should stay and to have to look down on the proposed facility will
547 definitely impact her neighborhood and is in agreement with all her
548 neighbor's concerns and points made tonight.

549
550 Being no one else to address the Board, public testimony closed at 8:59 PM.
551

552 Mr. Dion asked if there was to be any signage for the storage units. Atty. Jean
553 stated that he is not aware of any signage and Property Owner George Hurd, 13
554 Merrimack Street, added that he assumes that would be determined at the Planning
555 Board. Mr. Hurd stated that they had a plan on July 6, 2023, then his partner dies
556 in August and the Warrant Article came out in October and there was simply no
557 time to submit an application before October.
558

559 Mr. Dion inquired about the number of rental units being proposed. Mr. Hurd
560 stated that if all were 10'x10' there could be up to one hundred and eighty (180) but
561 there's a good possibility there will be some 10'x20' also available and he estimates
562 that there would be about a hundred and fifty (150) total. Mr. Dion asked if the
563 structures would be double stacked or single layer and Mr. Hurd confirmed they
564 would be single storage structures.
565

566 Atty. Jean stated that he has heard the concerns and stated that the parcel before
567 the Board is not the former dump, the former dump is still owned by the Town of
568 Hudson and is now capped; and the way water flows is downhill and this parcel
569 does not flow towards Glenn Drive on the other side of the dump closer to 52 Burns
570 Hill Road; and Burns Hill Road is a well traveled and busy road and with respect to
571 what this project may have on that is for the Planning Board to determine and can
572 require a traffic study if they choose and added that if one researched how often
573 people visit their storage units, with 100-150 units, there's about 25% that go once
574 a week, 50% go once a month and the remainder go once or twice a year; with
575 regard to impact on neighbors, there is really nothing for neighbors to see and with
576 a distance of about 400' to their rear neighbors there should be no impact regarding
577 light; and with respect to the hardship issue, it is a valid point that when the
578 property was purchased it was with the intention and knowledge that it was
579 partially rated in Zone G and the fact that it was changed after considerable
580 engineering investment should be considered with some merit because that was
581 unusual; and the placement of the units does not lend itself to threaten the
582 residential development intended for the front (roadside) of the parcel.
583

584 Mr. Dumont stated that what is before the Board is for a singular use and if in the
585 future an expansion is desired it would need to return to the Board for an
586 expansion of what may be granted tonight. Mr. Sullivan confirmed.
587

588 Mr. Lanphear stated that when dealing with a Zoning change, asked Atty. Jean how
589 he has seen this type of Case being handled in Court. Atty. Jean stated that the
590 majority of people who spoke tonight are not direct Abutters and, in his opinion,
591 does not directly relate to what the Applicant is seeking. Discussion arose. Mr.
592 Sullivan stated that he has not seen this type of scenario in Hudson but in other
593 communities and those fell into the 50/50 range. Mr. Dumont stated that it could
594 apply to the hardship criteria and the change in zone was not anticipated but was
595 imposed by the Town.
596

597 Mr. Dion asked if there is a reason why houses could not be constructed in that
598 portion of the parcel. Atty. Jean stated that it is not wide open land considering the
599 wetlands and that no plans have been finalized regarding the number of residences
600 but would estimate seven (7) or eight (8) along Burns Hill Road. Mr. Hurd added
601 that trying to sell homes in an area just designated Residential from the General

602 Zone in close proximity to the old Town Dump next to Town owned test wells
603 because of the proximity to the Old Town Dump would be a tough sell.

604
605 At 9:27 PM Mr. Daddario called the public hearing portion of the meeting to a close
606 and brought the matter before the Board.

607
608 Mr. Lanphear stated that single family homes, duplexes and even a big church are
609 Permitted Uses in the Residential Zone as is having a Christmas tree farm and
610 noted that there are some business aspects allowed.

611
612 Mr. Sakati stated that he believes the first four criteria have not been met but
613 questions the hardship criterion as it is really gray but it's still introducing a
614 business/industrial use into a residential neighborhood. Mr. Dumont agreed, it is
615 gray and that the change in Use should be considered as a factor. Other Members
616 noted other businesses in the vicinity.

617
618 An overview of the neighborhood was displayed and it was noted that it is all
619 residential. Discussion continued and focused on diminution of surrounding
620 property values and hardship created by a Zone change.

621
622 Mr. Sakati made the motion to deny the Variance request. Mr. Dion seconded the
623 motion.

624
625 Mr. Sakati spoke to his motion and stated that all five (5) criteria were not satisfied
626 as the request is contrary to the public interest and does alter the character of the
627 area as it would be the only industrial use in the vicinity of the residential
628 neighborhoods; that the spirit of the Ordinance is significant and the property can
629 be used for residential development; that the harm to the neighborhood is
630 significant and the property can be used for residential development; that an
631 industrial development within residential zoning will cause diminution of
632 surrounding property values; that the Applicant does not have to develop
633 conceptually as they have the ability to develop residentially; and that to develop
634 industrial projects within residential zoning is not reasonable. Mr. Sakati voted to
635 deny as all five (5) factors failed.

636
637 Mr. Dion spoke to his second and stated that it would alter and threaten the
638 character of the neighborhood as a storage facility does not fit with the
639 neighborhood; that the justice to the property owner will not harm the general
640 public; that its impact on surrounding property values should be neutral; that the
641 change in Zone causes the hardship and that the proposed use is a reasonable one.
642 Mr. Dion voted to deny having failed criteria 1 & 2.

643
644 Mr. Lanphear voted to grant the Variance citing that all five (5) criteria were
645 satisfied; that the use will not hurt or change the area being setback so far from the
646 road; that when the land was purchased that portion of the land was in the G Zone
647 that permitted this use and the passing of a partner in the business caused a long
648 delay in the development of the plan; that due to the area and property it will not
649 harm the public or individuals and is a good plan for the use; that it will not
650 diminish surrounding property values; that the hardship is caused by the change
651 from the G Zone to the R-2 Zone and that the proposed use is a good use for the
652 property.

653
 654 Mr. McDonough voted to deny the Variance stating that the criteria were not
 655 satisfied; that the Town voted to change the Zone and the proposed use would go
 656 against that purpose and change the character of the neighborhood; that the
 657 proposed use is completely against the Ordinance and would alter the character of
 658 the neighborhood and does not meet the spirit of the Ordinance; that the general
 659 public would be harmed by mistrusting the change to the Zone they voted on and a
 660 storage facility is not something the neighbors would expect in their R-2 Zone; that
 661 there is potential decrease in surrounding property values due to fears associated
 662 with storage units; that the hardship criteria is not met as the proposed use goes
 663 against the nature of the neighborhood and what the Town voted on to change; and
 664 that the proposed use is not in line with the neighborhood and the land could be
 665 developed as residential.

666
 667 Mr. Daddario voted to deny the Variance as it failed to meet four (4) of the criteria
 668 stating that the proposed use is not consistent with the surrounding area; that it
 669 does not comply with the Town's recent change in its Zone in order to maintain the
 670 character of the neighborhood; that the benefits to the owner do not outweigh
 671 altering the character of the neighborhood and that the property has multiple
 672 options for permitted uses; that the high volume of testimony received suggests
 673 surrounding property values would be less desirable and the Applicant did not show
 674 otherwise; and that the Zone change was not the fault of the Applicant and nor was
 675 it foreseen at the time of purchase.

676
 677 Vote was 4:1. Motion carried. Variance denied. The 30-day Appeal period was
 678 noted

679
 680 **VI. REQUESTS FOR REHEARING:**

681
 682 No requests were received for Board consideration.

683
 684 **VII. REVIEW OF MINUTES:** 11/14/2024 edited draft Meeting Minutes

685
 686 Mr. Lanphear made the motion to approve the 11/14/2024 Minutes as presented. Mr.
 687 Sakati seconded the motion. Vote was unanimous. Minutes approved.

688
 689 **VIII. OTHER BUSINESS:**

- 690
 691 • 2025 ZBA Meeting Schedule

692
 693 Board reviewed and made no changes

- 694
 695 • Tentative overflow ZBA Meeting on January 9, 2025. Member availability?

696
 697 Members checked their availability and four (4) confirmed they would attend. Mr.
 698 Sullivan reminded everyone to keep the Case packet in their meeting folder tonight for
 699 that meeting

- 700
 701 • Next regularly scheduled ZBA Meeting is Thursday, January 23, 2025
 702 • Reminder- Election of new ZBA Officers-January 23, 2025. *Per the Town of*
 703 *Hudson, NH ZBA Bylaws, Chapter 143 of the Town Code, § 143-5. A., B., & C*

704 *regarding Officers: A Chairperson, Vice-Chairperson and Clerk shall be elected*
705 *annually by a majority vote of the Board at the first meeting in the month of*
706 *January...*
707

708 So noted. Mr. Daddario stated that his term expires this month and he had thought
709 not to renew but in light of events in his life cannot guarantee completing this next
710 term and offered the Chairmanship to any who would like the challenge. Mr. Dumont
711 stated that on behalf of the Selectmen, they were pleased to see his submission for
712 reappointment to another term and are grateful for whatever time he can dedicate
713 because everyone knows volunteering is time consuming. Several Members extended
714 their appreciation for his dedication as well.
715

- 716 • 2025 ZBA Training/Workshops?

717
718 Mr. Sullivan stated that he is pursuing options and will advise on available options.
719

- 720 • ZORC – Zoning Ordinance Review Committee

721
722 Mr. Sullivan reported that there is one more meeting on the 17th where they hope to
723 finish up a few more items.
724

725 **IX. ADJOURNMENT:**

726
727 Mr. Landhear made the motion to adjourn the meeting. Mr. Sakati seconded the
728 motion. Vote was unanimous. The 12/12/2024 ZBA meeting adjourned at 10:10 PM.
729

730
731 Respectfully submitted,
732 Louise Knee, Recorder
733
734
735



TOWN OF HUDSON

Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

MEETING MINUTES – January 9, 2025 – ~~draft~~ **As Edited**

The Hudson Zoning Board of Adjustment met on Thursday, January 9, 2025, at 7:00 PM in the Hills Memorial Library building located at 18 Library Street, Hudson, NH.

An Attorney-Client Session, pursuant to RSA 91-A: 2-I.2(b) (Not open to the public) began at 6:00 PM. The regular meeting to begin immediately after the Attorney-Client Session.

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

Chairman Daddario called the meeting to order at 7:11 PM, invited everyone to stand for the Pledge of Allegiance and presented the Preamble (Exhibit A in the Board’s Bylaws) regarding the procedure and process for the meeting.

Acting Clerk Martin called the attendance. Members present were Gary Daddario (Regular/Chair), Tim Lanphear (Regular), Zachary McDonough (Alternate) and Normand Martin (Regular/Vice Chair/Acting Clerk). Also present were Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Dean Sakati (Regular) and Dillon Dumont, Selectman Liaison. Alternate McDonough was appointed to vote. Mr. Daddario noted that there would only be four (4) Voting Members where there would normally be five (5) and offered the Applicants the opportunity to defer their case to the next meeting in hopes there would be five (5) Members present.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. **Case 157-059 (01-09-2025) (deferred from 12-12-24):** Jeremy & Nicole Lyon, **28 Robin Drive, Hudson, NH** requests a Home Occupation Special Exception to operate a home office for the management and administrative needs of a handyman service business with all services performed off-site. [Map 157, Lot 059, Sublot-000; Zoned Residential-One (R-1); HZO Article VI: Special Exceptions; §334-24, Home Occupations]

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 12/3/2024, noted that the parcel is an existing non-conforming lot of record and

46 that the Town Engineer, Inspectional Services/Fire Department and Associate
 47 Town Planner has no comments or concerns.

48
 49 Jeremy Lyon and Nicole Lyon introduced themselves and sat at the Applicant's
 50 Table. Mr. Lyon stated that they moved to Hudson in 2022, that he works for DOD
 51 and that he and Nicole Lyon are the owners of the business named Patriot
 52 Cornerstone Solutions, LLC with a DBA of House Doctors, a home services and
 53 handyman business. House Doctors is a franchise that will be managed remotely
 54 from the office within their home.

55
 56 Mr. Lyon referred to his application that addresses the criteria for the granting of a
 57 Home Office Special Exception . The information contained included:

- 58
 59 (a) nature of home office business
 60 • to provide management and administrative needs of the handyman
 61 services performed off-site
 62 (b) is home occupation secondary to the principal use of a home
 63 • yes it is secondary to the address
 64 • both business owners reside at this home
 65 (c) will it be carried within residence or accessory structure
 66 • the Home Occupation business of management and administration
 67 will be carried on within the home
 68 • all services are provided off-site
 69 (d) no exterior display of the business
 70 • there will be no sign or exterior display of the business
 71 (e) no exterior storage unless screened
 72 • there will be no active services conducted on/at the property
 73 • there will be no exterior storage and no evidence of the property being
 74 used as a business
 75 (f) no objectionable circumstances such as noise, odors etc.
 76 • there will be no active services conducted on the property so there will
 77 be no disturbance – no noise, no vibrations, no dust or smoke, or
 78 electrical disturbances, no odors, heat or glare produced
 79 (g) traffic not to exceed volume in a neighborhood
 80 • there will be no client or customer presence at the property
 81 (h) parking to be off-street
 82 • no customer/client parking as they do not come to our home
 83 (i) home occupation to be conducted only by residents of dwelling
 84 • yes, husband and wife, both property owners and co-owners of the
 85 business
 86 (j) number of vehicles for business
 87 • there are no vehicles for just the business – use personal vehicles
 88 • all W-2 employees and W-9 contractors have their own vehicles and
 89 report to the jobsite
 90 • perhaps someday in the future they may consider a pick-up truck for
 91 the business
 92

93 Mr. Daddario opened the meeting for public comment. No one addressed the Board.
 94 Public testimony closed at 7:19 PM.

95 Mr. Daddario questioned the vehicle associated with the business. Mr. Lyon stated
96 that initially he and his wife will utilize their own (personal) vehicles, as do their
97 employees and contractors, but eventually they would like to purchase one, perhaps
98 a pickup truck or small van, for the business and when that occurs, their driveway
99 will easily accommodate parking.

100

101 Mr. Lanphear made to motion to grant the Home Occupation Special Exception as
102 requested. Mr. Martin seconded the motion.

103

104 Mr. Lanphear spoke to his motion stating that the criteria have all been satisfied, that
105 the proposed use is an administrative and management service operation on site, is
106 secondary to the principal use as a home, that all activity will be conducted within the
107 house, with no signage, no exterior storage, no change to the neighborhood, no change to
108 traffic and no customers to the site. Mr. Lanphear voted to grant.

109

110 Mr. Martin spoke to his second stating that the business is conducted off-site with the
111 administrative needs handled in the home office, that it is secondary to the main purpose of
112 a residence, that there will be no sign, be no outside storage, no noise, no traffic, no
113 customers to the site and currently no business vehicle. Mr. Martin voted to grant.

114

115 Mr. McDonough voted to grant stating that he too has determined that every criterion has
116 been satisfied as the proposed use is a service to management services for the business for
117 services performed off site, is secondary to the principal use as the residence, no exterior
118 signage or outside storage or excessive noise and only be conducted by the property owners.

119

120 Mr. Daddario voted to grant and stated that he agrees with the Board, that each criterion
121 has been satisfied, that it will be secondary to the primary use of the house as a home and
122 be carried out within the house, that there will be no sign, no exterior storage, no customers
123 to site, no business vehicle (currently), no parking, no traffic, no exterior lights, no evidence
124 that a business is being conducted on-site

125

126 Vote was 4:0 to grant the HO/SE. The 30-day Appeal period was noted.

127

128 2. **Case 165-021 (01-09-25):** Brendan and Julie Burke, 343R High St., Hingham,
129 MA request a Variance and reasonable accommodation for **12-14 Gambia St.,**
130 **Hudson, NH.** The application is to allow seven (7) unrelated individuals to live
131 together while recovering from substance use. The seven individuals share the
132 entire house, kitchen, bathroom facilities, etc. The use would not be permitted
133 per §334-21, Table of Permitted Principal Uses. [Map 165, Lot 021, Sublot-000;
134 Zoned Town Residence (TR); HZO Article V: Permitted Uses; §334-20, Allowed
135 uses provided in tables and §334-21, Table of Permitted Principal Uses.]

136

137 Mr. Sullivan read the Case into the record, referred to his Staff Report that provided
138 a time line of events, the reasoning behind the actions taken and that both the
139 Town Engineer and Inspectional Services provided comment and noted that should
140 the Variance be granted under 'reasonable accommodation' it would only be valid
141 while the Property Owner owns the property and should they no longer own it, the
142 Variance would no longer be valid.

143

144 Mr. Daddario asked if the Applicant desired to proceed with just four (4) Members
145 present or defer to the next meeting in hopes of having a full five (5) Member Board
146 present. Atty. Tine responded that he and his client desire to proceed.

147
148 Atty. Tine introduced himself as representing the Property Owners and **Mitch Cabral**
149 **Cabrell**, operator of the recovery home at Gambia Street. Both sat at the
150 Applicant's table.

151
152 Atty. Tine stated that they seek a Variance with reasonable accommodation to
153 continue and be allowed to operate the recovery home so that seven (7) unrelated
154 disabled individuals would be allowed to live together, share the entire house, share
155 the kitchen and bathroom facilities and noted that the residents are disabled, being
156 individuals in recovery from substance use. Atty. Tine stated that these individuals
157 generally come from a facility where they were treated for the abuse and are in need
158 of transitional housing as they transition into abstinence while attending AA
159 meetings and house meetings where they can proceed to independence living. The
160 residents practice abstinence and are subject to random drug/urine testing to
161 insure abstinence and living among a support group is essential to their recovery as
162 they strive to recover normalcy in their lives, like getting and holding onto a job,
163 reconnecting with their own family. The goal is to provide safe housing until they
164 are ready to be independent or they secure another place to live. The intent is to
165 provide a temporary housing opportunity with no defined 'end date' and why their
166 lease is on a week-to-week basis. The house has four (4) bedrooms and can
167 accommodate seven (7) unrelated disabled individuals and maintain that they do
168 not need to seek relief from this Board but because they received notice of violation
169 and were denied the administrative appeal, they are pursuing this variance but do
170 not waive their rights to the fact that they believe that the proper interpretation for
171 this Board would be that seven (7) individuals living together sharing an entire
172 home with a common thread in recovery supporting each other, eating, watching TV
173 socializing together is a single housekeeping unit, which is a definition of a family
174 under the Town's zoning code and that these individuals, simply because they are
175 disabled, should be treated just like any other group of unrelated people that may
176 want to live together and be considered a single housekeeping unit without having
177 to apply for additional relief of a variance from this Board. Under the Fair Housing
178 Act and ADA (Americans with Disabilities Act), it is incumbent upon this Board to
179 determine if there is any undue burden upon the Town and it is our position that
180 seven (7) people living together in a single family home could be characterized as
181 causing any undue administrative or financial burden to the Town simply because
182 they are unrelated and disabled.

183
184 Atty. Tine referenced his application and the criteria for the granting of a variance.
185 The information included:
186

- 187 (1) *not contrary to public interest*
- 188 • The definition of dwelling allows unrelated individuals to live together as a
 - 189 single housekeeping unit
 - 190 • The individuals live like a singly housekeeping unit at Gambia Street
 - 191 • to the extent that this board believes the occupancy differs from a single
 - 192 housekeeping unit, a reasonable accommodation is required under the Fair

- 193 Housing Act, the Americans with Disabilities Act and NH Rev Stat 354-A:11
 194 to allow these unrelated disabled individuals to live together
- 195 • Please see letter dated 11/13/2024 submitted in support
- 196 (2) *will observe the spirit of the Ordinance*
- 197 • What is being proposed is not a fundamental alteration to the Town' zoning
 198 scheme as it does allow housekeeping units
 - 199 • Unrelated individuals are allowed to live together in any numbers, as a single
 200 housekeeping unit in the TR zone, where this home is located
 - 201 • The occupancy is in line with the spirit of the ordinance
 - 202 • Reasonable accommodation is requested under state and federal law
- 203 (3) *substantial justice done*
- 204 • The impact to the neighborhood would be the same if this property were
 205 occupied by unrelated individuals who were not disabled, living as a
 206 single housekeeping unit
- 207 (4) *not diminish surrounding property values*
- 208 • To consider this factor in relation to this protected class is discriminatory
 - 209 • See 354-A:12
 - 210 • To argue housing values will be diminished by the presence of this protected
 211 class in the neighborhood is discriminatory and unsupported
 - 212 • The use will be comparable to any other family of similar size, whether
 213 related or unrelated
- 214 (5) *hardship*
- 215 • The denial of access to needed housing for individuals in recovery from
 216 substance use created a hardship
 - 217 • See NH Rev Stat 674:33-V no hardship required to be shown by disabled
 218 individuals as the use is in harmony with the intent of the Town's
 219 zoning
 - 220 • The use of the property is for disabled individuals
 - 221 • Unrelated individuals are permitted to reside at property as a single
 222 housekeeping unit

223
 224 Atty. Tine concluded his presentation stating that, in their opinion, they do not need
 225 a variance as they propose a single housekeeping unit and seek a reasonable
 226 accommodation, that the standard is not to become an undue burden to the Town
 227 as they do not pose a fundamental alteration and there is no reason to deny.
 228

229 Mr. Martin asked if the people residing there are disabled and how that is
 230 determined. Atty. Tine responded that every individual residing there is disabled,
 231 that there is a disclosure process that begins at intake where a worksheet is filled
 232 out to establish that there is a disability and that includes the types of medications
 233 they are on and noted that there are the urine drug tests performed, AA
 234 participation, house meetings – all of which a person would not normally subject
 235 themselves to if they were not disabled, and added that there is no medical
 236 treatment provided on site. Mr. Cabrae stated that 90%-95% of the residents come
 237 from a medical facility, either a detox center or a hospital, and part of the intake is
 238 their declaration of how long they have been sober, and all are informed that if there
 239 should be any relapse, they must leave and get treatment, and would be welcomed

240 back after treatment. Atty. Tine stated that the people who need this type of facility
241 are basically people who cannot, yet, take care of themselves.

242
243 Mr. Lanphear asked if any certification is required and Atty. Tine responded that no
244 certification is required, that the information is volunteered by the potential
245 resident so there is no HIPPA violation.

246
247 Mr. Lanphear noted that it is an LLC, which is a business, and asked if a copy of a
248 lease could be provided. Atty. Tine stated that it is not relevant and noted that
249 there are other properties, whether owned by an individual or LLC that rent out,
250 and that the individuals living there consider it as their home which we maintain
251 constitutes that they are a family. Atty. Tine stated that he understands that the
252 Board does not consider them a family so they seek reasonable accommodation as
253 they are protected under the Fair Housing Act and ADA. Atty. Tine noted that the
254 property is now owned by Brendan and Julie Burke, not an LLC or corporation, and
255 they have a lease agreement with the operator and the operator sublets to
256 individuals and then they get a bedroom have the ability to share the whole house
257 as that becomes their home. Atty. Tine stated that people in detox have usually lost
258 everything, when they go to detox they are not working and probably spent all their
259 money on their addiction and after release they need someplace to live with little
260 luck being able to secure a rental as they probably have no credit. The Sober House
261 does not do a credit check, will do a background check to insure they are disabled
262 and willing to participate in the household, and this is their opportunity so that
263 they do not have to live in the streets and that is why they lease a week at a time.
264 Atty. Tine stated that the people living there determine the use that is a
265 housekeeping unit

266
267 Mr. Lanphear inquired about the Rules of the House. Atty. Tine stated that it
268 includes such things as curfews and questioned whether he had already provided
269 the Board with a copy. No copy provided but is still desired. Mr. Lanphear inquired
270 about the lease and whether they could be provided a copy of that as well. Atty.
271 Tine agreed and stated that no services are provided. Mr. Lanphear asked if that
272 include electricity. Atty. Tine confirmed that the lease includes electricity, that the
273 housing being offered is all-inclusive.

274
275 Mr. Daddario stated that the Board previously inquired about available
276 documentation and now that there is an application before the Board there is still
277 the desire for the additional information before an informed decision can be
278 reached. Mr. Daddario stated that thus far copies of the lease agreement, the Rules
279 of the House, the Intake Form have been identified and Atty. Tine agreed to provide.

280
281 Mr. Daddario also asked for a definition of the business that is operating the house
282 and whether any licensing is required. Atty. Tine stated that it is a voluntary
283 program, that there is no licensing required to run a sober house or to rent out your
284 home, that NH Corps keeps track of Sober houses in the State, that the folks who
285 reside at 12-14 Gambia Street are disabled, and is why they seek reasonable
286 accommodation, and noted that all the residents have to provide is a clean drug
287 urine test that is scheduled twice a week and occasionally at random, and maintain
288 House Rules and attend House Meetings. In response to Mr. Lanphear's question,

289 Mr. Cabra~~e~~ll stated that the urine test is a twelve-panel test and that the
290 organization runs other facilities in other towns and the one in Hudson began about
291 seven to eight (7-8) months ago. Mr. McDonough inquired how the number of seven
292 (7) residents was achieved and Atty. Tine responded that it is based on the number
293 of available bedrooms and added that seven (7) is a smaller number than most
294 similar facilities as it is important to live among others to receive peer support.
295

296 Mr. Sullivan inquired about the trailer that has been recently placed on the property
297 and the usual length of stay for the residents and why the ownership was recently
298 changed from the LLC to Mr. and Mrs. Burke. Mr. Cabra~~e~~ll stated that the trailer
299 belongs to a neighbor who had asked permission to park it in their driveway and
300 that there is no "usual" length of stay as it is personal to the individual, some
301 needing just a week or two, others requiring months, all being encouraged toward
302 independent living. Atty. Tine stated that he has no idea why the change in
303 ownership occurred and noted that it is irrelevant to the application.
304

305 Mr. Daddario asked if relapses are tracked, whether records are maintained. Mr.
306 Cabra~~e~~ll responded that they are tracked only while they are residents because if
307 they relapse they are asked to leave and seek treatment, House Rules, and the
308 option for reentry remains a possibility and added that maybe there's a forty
309 percent (40%) lapse rate, which is not uncommon. Mr. Sullivan stated that the
310 State also keeps track of Sober Houses to insure that they are being properly run
311 and Atty. Tine stated that NH Corp does the tracking, the initial inspection, but they
312 are not a State organization even though they do receive State funding.
313

314 Mr. Sullivan asked if there was any staff beside Mr. Cabra~~e~~ll on site. Mr. Cabra~~e~~ll
315 responded that there is one 'staff' person on site, who does not get paid but is
316 responsible enough for him to trust to make sure the House Rules are followed
317 when he is not there and administers the drug tests. Mr. Sullivan asked and
318 received confirmation that the residents are all males. Mr. McDonough asked how
319 many sites in NH and Mr. Cabra~~e~~ll responded that there are two (2), one in Nashua
320 that is all females and this one in Hudson for only males.
321

322 Mr. Daddario asked if the residents also possess vehicles. Mr. Cabra~~e~~ll stated that
323 they could and again that is on another case-by-case basis because generally the
324 residents don't have or have lost their vehicles and/or licenses prior to entering a
325 facility before being released from a treatment center and added that the driveway is
326 sufficient enough for seven (7) vehicles to park. Mr. McDonough noted that there is
327 a garage on site and asked if it is being used. Mr. Cabra~~e~~ll confirmed that there is a
328 garage on site and that currently it is empty and he knows of no plans to convert it
329 otherwise. Mr. Sullivan asked how the residents could get to work in order to pay
330 rent or to AA meetings etc. if they do not have a vehicle. Mr. Cabra~~e~~ll responded
331 that they have options, like they can take a cab or call an Uber. Atty. Tine stated
332 that in addition to work, some can rely on family or grant or federal funding to help
333 pay for rent. Mr. Cabra~~e~~ll added that paying rent is one measure to regaining their
334 place in society, to being able to look out for themselves.
335

336 Mr. Daddario asked for clarification on another point previously made. Reasonable
337 accommodation pertains to disability and while they reside there they are

338 considered disabled, but the disability status is what? Atty. Tine stated that they
339 need a supportive living environment, that they are not yet capable to be living
340 alone having just come from a facility that provided 24 hour/7 days a week care
341 and they are trying to get their lives back together, finding employment, attending
342 AA meetings etc. Mr. Daddario stated that the Board is being asked to consider a
343 Reasonable Accommodation and that directly links to a disability and Atty. Tine
344 added that they can provide documents substantiating the disability of the
345 residents without violating HIPPA.
346

347 Mr. Daddario asked if there is a length of time a potential resident has to be “clean”
348 to be considered and Mr. Cabrae~~ll~~ responded that all that is required is a clean
349 urine or blood test and added that generally most come from a facility where they
350 have been “clean” for some time already.
351

352 Mr. Daddario recapped the documents to be received: In-take Form, House Rules,
353 Lease, Disability documentation.
354

355 Mr. Daddario opened public testimony for anyone wishing to speak in favor, in
356 opposition or neutrally on the application. The following addressed the Board:
357

- 358 (1) Jo-Ann Ellison, 20 Campbello Street, sent an email stating that she has
359 no complaints, has found the people there to be cordial and has no issues
360 with the safe house.
- 361 (2) Jackie Suter, 12 Campbello Street, stated that the person who sent the
362 email is the one that owns the trailer that is temporarily parked there and
363 wonders what type of arrangement was made, pleased that it will be
364 confirmed that the folks who live there are disabled and questioned if the
365 facility satisfies ADA requirements and noted that \$225 a week is high
366 and it is obvious they are running a business and it should be removed as
367 it is unfair.
- 368 (3) Jose Urrutia, 9 Campbello Street, stated that there was a business there
369 before and out of respect for that neighbor accepted it but we have been
370 clear that we do not want a business in the neighborhood, the vehicle
371 traffic is a danger to the children, there are many kids in the
372 neighborhood and we now have to worry if any of the residents are sex
373 offenders, that there is not enough supervision from the State or
374 otherwise, that this is a business to make money, to run a sober house.
- 375 (4) Shara Katsos, 7 Campbello Street, stated that this is very hard for her to
376 speak as she is afraid of retaliation, that she has pictures of tennis balls
377 that were thrown in her yard that had screws in it and is concerned for
378 fifteen children, with thirteen (13) children under the age of thirteen (13),
379 living in the neighborhood and yes she did file a police report, that she
380 has been in her profession for twenty five years with homelessness,
381 substance abuse and trauma history, and understands the needs for
382 housing programs, that they need permanent housing with Case
383 Management, therapeutic intervention and transportation, that peer
384 support is good to a point but not really enough. The sober house being
385 offered is for temporary housing with no Case support or therapy based
386 practices, as is evident of one of their residents knocking on her

387 neighbor's door seeking employment so he could pay his rent. There are
388 a number of qualified services in NH that provide services that include
389 needed services. No one knows who lives there, it is extremely transient
390 with week-to-week leases and just does not resemble a family. She
391 believes in recovery but this does not resemble a success story but an
392 agency looking to make a profit without concern for the neighbors or
393 Town regulations. ADA is intended to protect, not to be used as a
394 bullying tactic. Peer support is another term being bantered about, but
395 peer support generally involves individuals who have been in recovery for
396 at least a year, who go through a training program and get certified by the
397 State. Living with someone who is also new to recovery cannot be
398 considered "peer support". In recovery, the family concept is not
399 supported because if anyone relapses, they can often feel guilty about it.
400 Relapse is part of recovery, the average stay in a Sober House ranges from
401 166-254 days and they need Support Group and paying rent could easily
402 be considered counterintuitive to their recovery. Urine testing is not all
403 that reliable unless it is being watched as there is a means for them to
404 self-clean their urine to alter the result. She called the Police Department
405 to see if there were any registered sex offenders there and the response
406 she received was that they do not know because they do not know who is
407 living there. The recent change in ownership back to individuals is
408 concerning because it feels like they are trying very hard to slip through
409 some crack, trying to use empathy and sympathy and she does feel for
410 the residents and wishes she felt comfortable enough to go over there and
411 refer them to real services available in the State.

412
413 Mr. Lanphear asked Ms. Katsos how long she has been working as a
414 Social Worker and Ms. Katsos responded that she began in 1999 and
415 received her Masters Degree in 2000.

416
417 Mr. Daddario asked about "self-cleaning" of urine. Ms. Katsos stated that
418 there are various means with the most common one substituting "clean"
419 urine for your own.

420
421 Ms. Katsos stated that it is concerning that they are not keeping track of
422 relapses because if their program is not working they could adjust it
423 instead of adding trauma of eviction. Ms. Katsos stated that it is also
424 curious as to where their tenants are coming from, are they NH residents,
425 were they released from a medical facility or perhaps they were
426 incarcerated.

427 (5) Richard Sutter, 12 Campbello Street which abuts the property and the
428 variance is to allow seven (7) unrelated individuals to live together, and it
429 is not a permitted use in the Zoning Ordinance and requires a variance so
430 that should not be in dispute and the allowance of seven (7) individuals to
431 be considered a family unit and cannot be construed as living as a family
432 unit with seven (7) individual and weekly leases. The term 'reasonable
433 accommodation' comes from HUD regarding housing and refers to people
434 with disabilities as protected from ADA which also includes physical
435 modification like handrails and parking and does not magically override

436 zoning regulations to allow businesses to run in residential neighborhood
437 zones. It does conflict with the neighborhood. The police have been
438 called several times already. They were issued a cease and desist letter
439 on 5/8/2024 yet there are still in operation. The neighborhood was once
440 subject to a business in the neighborhood in that garage and the
441 neighborhood was “hornswoggled” then and we refuse to be again.
442 Please levy the fines outlined in the cease and desist order and close down
443 this illegal activity immediately.

444
445 Mr. Sullivan stated that the Town needs to go to court to execute the
446 Cease and Desist.

447
448 (6) Alyssa Cabezas, 11 Campbello Street, stated that she lives directly behind
449 the sober house, that her fence also touches their roof, that she has a
450 two-year old daughter and it is really uncomfortable having the sober
451 house in the neighborhood with all the children. Many of their residents
452 hang in their backyard and their faces keep changing, we don't know who
453 is living there. A while on a walk two of them stopped to pat the dog and
454 told her they were thinking of adopting a dog and shortly after, her dog
455 was in her backyard chewing on a tennis ball that was filled with screws
456 and sharp stones, which she gratefully managed to get it from him and
457 did call the cops to report it. She did approach them about it and was
458 told they were using it to throw onto the roof in hopes of adjusting their
459 satellite and it must have rolled off and into my yard. I think it would
460 have been respectful if they had approached me to let me know, but they
461 didn't. I fear for the children in the neighborhood with this sober house.

462 (7) Mr. Martin read email received from Derek Horne dated 1/9/2025 stating
463 that his feelings have not changed and that the sober house does not
464 belong in a residential neighborhood

465
466 Atty. Tine stated that part of their screening process includes the question of they
467 are a sex offender. Mr. Cabrel added that one of the reasons they don't pursue
468 licensing, like NH Corp, is that would take away their option of who is allowed and
469 they do not allow folks with domestic or violent or sexual crimes. Atty. Tine stated
470 that they do 'observed' urine testing, meaning the person is quasi watched, and
471 they use temperature cups and check it to insure it is in the correct range. Atty.
472 Tine stated that he keeps hearing that this is a program and that implies certain
473 facts that is not the case, there is no Case Manager on site, there are no services,
474 medical or otherwise, this is not a program, it is a Sober House, simply residential
475 housing – with rules that include the practice of abstinence and a curfew. Atty.
476 Tine reiterated that they will provide a copy of their Rules to the Board and that all
477 they are providing is housing as there is not enough housing being offered in the
478 State and made reference to what is being provided in Rhode Island and
479 Massachusetts and how funding, Federal funding is provided to install sprinkler
480 systems etc. in these Sober Houses.

481
482 Atty. Tine brought up the issue of finances, of the amount the sober house is
483 making off the residents, that the amounts cited are fictitious and should have no
484 bearing on the Board's decision, that people are allowed to rent, that \$900 a month

485 is a very reasonable (and cheap) rent when it includes all facilities like electric, heat,
486 cable and occasionally food. Mr. Daddario stated that the concerns were heard,
487 that the applicant has the option to respond. Discussion continued. Atty. Tine
488 stated that it is reasonable for any business to want to make money, doctors and
489 lawyers and Board Members do, everyone does. Mr. Martin stated that Board
490 Members do not get paid, they volunteer their service to which Atty. Tine thanked
491 the Board for their service.

492
493 Mr. Daddario stated that statements were made that people with violent offences,
494 sex offenders and questioned what the process is with regard to seeking that
495 information. Mr. Cabra~~e~~l responded that it can come from medical records provided
496 from treatment facilities, references, police reports or legal issues they may have
497 had and is a question they ask during screening.

498
499 Mr. Daddario offered an opportunity to respond to the tennis ball incident as he
500 heard two (2) things (1) that it happened and (2) that a police report was filed and
501 that it was the police who informed the neighbor that someone at the sober house
502 was using the ball in an attempt to adjust the satellite dish. Mr. Cabra~~e~~l stated
503 that he is alerted whenever the police are called, when there is a medical
504 emergency, complaints but he was not told of and nor did he hear anything
505 regarding it from any resident at the sober house. Mr. Sullivan stated that the
506 Town received pictures and a copy of the police report. Mr. Cabra~~e~~l apologized and
507 stated that he is certain there was no malicious intent.

508
509 Mr. Lanphear referenced the abutter who spoke with her masters degree who
510 seemed to have a good understanding of what is and should be involved and now he
511 is hearing a push from the applicant that seems more like a multifamily or boarding
512 house and nothing to do with disabilities, like ADA disability, and it is getting
513 confusing. Atty. Tine stated that recovery from substance abuse is considered a
514 disability under both FHA and ADA. Mr. Daddario asked Atty. Tine if the Board did
515 not grant the relief, would he then claim discrimination? Atty. Tine stated that the
516 statements from the residents display discriminatory intent, and does not feel the
517 same intent from the Board and should the Board deny, it is a breach of the Fair
518 Housing Act and ADA for considering reasonable accommodation. Discussion
519 continued. Mr. Daddario then asked if there is a point where a decision is made
520 that a sober house resident is well enough to be 'pushed out' and Mr. Cabra~~e~~l
521 responded that he would never push anyone out, encourage yes, push no, as it is
522 an individual decision and shared his own story through his recovery.

523
524 Mr. Sullivan and Atty. Tine debated the definition of 'dwelling' in the Zoning
525 Ordinance and without the Zoning Ordinance in front of him, Atty. Tine offered to
526 provide it to Mr. Sullivan.

527
528 Mr. Lanph~~e~~ar questioned the alternate sources mentioned that are available to the
529 tenants for paying their rent and Atty. Tine offered a few examples like
530 family/parents and grants and stated that he does not get involved in soliciting for
531 the tenants. Mr. Martin stated that cities and towns have Welfare Departments that
532 could help but the elephant in the room is that there is a business being operated
533 in a residential neighborhood and is seeking to under a 'reasonable

534 accommodation'. Atty. Tine stated that it is no difference than if it were rented to a
535 family. Mr. Daddario stated that if it were rented to a family, there would not be
536 separate leases for each family member.

537
538 At 9:20 PM Mr. Daddario redirected the meeting to public input.
539

540
541 ~~(9)~~(8) Jackie Suter, 12 Campbello Street, stated that separate individual
542 leases is not the standard for a single family home and the fact that they
543 were not aware of the tennis ball incident is concerning especially is
544 someone is 'managing' in some way what is going on at this property and
545 that they take exception with their attorney making comment that the
546 occupants from the neighborhood have issue with recovery because we
547 don't and this is running a business in a residential zone. We don't want
548 to get into the emotional facets of what recovery involves, many of us have
549 deep understanding of it and they can't assume that they know what we
550 have been through in our walk of life. We do have empathy. We do care
551 but this is a residential zone and this business and should be declined.

552 ~~(10)~~(9) Terry Katsos, 28 Campbello Street, stated that she is the recipient of
553 the tennis ball incident and her house does not abut this sober house and
554 she was part of the police report and that she too has her family and is
555 concerned and if this had a program she would be inclined to offer
556 support and services but it does not, what it offers are weekly leases like a
557 rooming boarding house, not a family unit. With regard to the attorney's
558 claim that the numbers are fictitious, we received that information from
559 him at the last meeting.
560

561 Mr. Daddario asked for more information regarding her involvement with the tennis
562 ball. Ms. Katsos stated that she found such a tennis ball in her yard which the
563 police confiscated. Mr. Daddario stated that there was more than one ball then.
564

565 ~~(11)~~(10) Gail Kazlouskas, 18 Kenyon Street, stated that her back yard is
566 across the street from the sober house and yet multiple times just in this
567 meeting their attorney keeps referencing that they are running a business
568 and have the right to make a profit, but the fact remains, by their own
569 testimony, they are running a business and businesses are not allowed in
570 this residential area.

571 ~~(12)~~(11) Joan Killingsworth, 28 Campbello Street, stated that back on
572 September 1, 2024 she was woken up at 1:24 AM by a lot of loud voices
573 and when she looked outside there were three men and a woman
574 standing on the corner of Kenyon and Campbello Streets just hollering at
575 each other and she called the police and apparently they disbursed before
576 the police arrived. Who pays for the Police calls? The Fire calls?
577 Ambulance calls? They claim unisex, but there were females living there.
578 And how are we to know if there are pediphafiles living there?
579

580 Mr. Martin stated that the Town funds the police and fire departments, that
581 ambulance charges revert to the one being transported, and if the sexual offender is
582 registered, the Town is notified.

583
584 ~~(13)~~(12) Ann Marie Lombardi, 22 Campbello Street, stated that she has
585 on film and ambulance coming to the sober house and took one of the
586 residents out on a stretcher.
587 ~~(14)~~(13) Tracy McMurray, 8 Kenyan Street, stated that at the last
588 meeting there was discussion regarding impact on property values, which
589 she did provide to Mr. Sullivan, and noted that there is generally a drop
590 from 8%-20% in surrounding property values so if she wanted to sell, she
591 would have to take the hit. She and her neighbors take pride in their
592 homes and their upkeep. There has been nothing done to this sober
593 house, nothing to upkeep it. Ms. McMurray stated that the ~~ire~~ use of
594 'disability' is offensive and overused and is being used for intimidation
595

596 Atty. Tine stated that what they have is residential housing, that's all.
597

598 At 9:39 PM the Board went into recess to consult with Town Counsel. Board
599 reconvened at 9:52 PM. Mr. Daddario called the meeting back to order.
600

601 In response to Mr. Daddario's question, Atty. Tine stated that he could provide the
602 material in two (2) weeks. Considering the time the Board would need to review and
603 consult with Town Counsel, the next available meeting would be March 6. By
604 setting the date, would negate the need to send out certified notices to the abutters.
605

606 Motion made by Mr. Martin, seconded by Mr. Lanphear and unanimously voted to
607 continue the hearing to March 6, 2025.
608

609 The documentation was listed as: lease agreement between the owner and operator,
610 lease agreement between the operator and the tenants, the House Rules,
611 information on the intake process and finance information. All information to be
612 submitted to Mr. Sullivan.
613

614 **VI. REQUESTS FOR REHEARING:** None
615

616 No requests were presented for consideration.
617
618

619 **VII. OTHER BUSINESS:**
620

621 No other business was addressed.
622

623 **VIII. ADJOURNMENT:**
624

625 Motion made by Mr. Lanphear, seconded by Mr. Martin and unanimously voted to
626 adjourn the meeting. The 1/9/2025 ZBA meeting adjourned at 10:00 PM.
627
628
629

630 _____
Louise Knee, Recorder
631



TOWN OF HUDSON

Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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

MEETING MINUTES – January 23, 2025 – as edited

The Hudson Zoning Board of Adjustment met on Thursday, January 23, 2025, at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH.

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

Chairman Daddario called the meeting to order at 7:06 PM, apologized for the delay, invited everyone to stand for the Pledge of Allegiance and presented the Preamble (Exhibit A in the Board’s Bylaws) regarding the procedure and process for the meeting.

Acting Clerk Martin called the attendance. Members present were Gary Daddario (Regular/Chair), Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair) and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Tristan Dion (Regular/Clerk) and Zachary McDonough (Alternate). All Regular Members voted, no Alternate was appointed to vote. Mr. Daddario noted that there would be only four (4) Members voting when there are normally five (5) and offered the opportunity to continue a hearing to the next meeting in hopes that there would be five (5) Members present.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. **Case 245-012 (01-23-2025):** Bradford Baker Sr., **23 Fairway Drive, Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow a newly built detached 41.3 ft. x 39.6 ft. metal garage on a cast-in-place concrete foundation to remain which encroaches both the side and front yard setbacks leaving 13 feet and 22.3 feet respectively where 15 feet and 30 feet are required. [Map 245, Lot 012, Sublot-000; Zoned Residential-One (R-1); 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 and noted that Inspectional Services/Fire Department supplied comments that noted that the structure was built without a Building Permit and that the Foundation Only Permit

46 clearly stated that a certified foundation plan is required prior to the issuance of a
47 Building Permit.

48
49 Bradford Baker of 23 Fairway Drive introduced himself, stated that he hired a
50 contractor to place the foundation and erect the building. The rebar and forms
51 were inspected and the foundation poured. Once the concrete cured we raised the
52 kit for the roof supports in order to get the material off the ground and the project
53 started. It was many months before he returned to do the rest. When I went to
54 print a copy of the permit I then realized I needed an as built certified plan and
55 immediately hired a surveyor only to reveal that this discrepancy occurred. It was
56 discovered well after the fact.

57
58 Mr. Baker stated that it is his belief that the contractor misread the plot point when
59 he measured and by all outward appearance of the form, the placement appeared to
60 be correct. The intent was to follow the proposed design meeting all setbacks. It
61 was an innocent mistake and only discovered with the as built plan and does not
62 cause a nuisance as the building is only a few feet from its intended position and
63 still within the property and won't change the building's appearance. Mr. Baker
64 stated that there will be no vehicles pulling into the garage from the street as the
65 garage doors will face backwards towards the Target industrial property and the
66 front of the garage will resemble a residential home. Mr. Baker stated that he
67 understands folks have taken issue with the current appearance of the structure
68 and offered the fact that it is not yet complete, there is to be siding on it, with
69 windows and will resemble a resemble a home, not an industrial building, and a
70 rendition was posted. Mr. Baker added that he basically lives on a corner and there
71 is very little traffic, that in fact there no reason for anyone to travel except to visit
72 his neighbor or himself.

73
74 Mr. Baker stated that to relocate the garage would be a total loss of the materials
75 used and expenses up until this point – approximately \$65,000 plus the demolition
76 cost and noted the negative impact that would result.

77
78 Mr. Baker also submitted an email dated 1/19/2025, from his direct abutter
79 Samantha King, 21 Fairway Drive, who has no issue with the placement and
80 supports his request. Mr. Dumont inquired about the proposed fencing she
81 mentioned and Mr. Baker confirmed there is no issue for either the plantings or the
82 fence.

83
84 Mr. Sakati asked for a recap of the timeline as it appears to him that it has lasted
85 for more than a year. Mr. Baker confirmed that it has been a long time, that this
86 contractor did not want to pour the foundation and he had to fine someone else
87 and he contacted many who just ended up ghosting him. Discussion ensued that
88 included alternatives to extending the foundation and moving the structure out of
89 the front setback by panels, if at possible. Discussion branched to other Cases the
90 Board has reviewed where the foundation was laid that violated setbacks.

91
92 Public testimony opened at 7:26 PM. The following individuals addressed the
93 Board:

94 (1) James Crowley, 4 Fairway Drive where he has lived for over thirty years
95 and submitted two (2) complaints, 12/21/2024 and submitted pictures
96 taken of the property. Mr. Crowley stated that his presentation would last
97 about ten (10) minutes and referenced his complaint. "It was discovered
98 too late" common since one does not take placement on a plan. "Need to
99 get material off the ground" just sets a sense of urgency where it could
100 just have been covered. Hard to believe he didn't know he needed a
101 certified plan when he pulled the foundation permit himself and he never
102 pulled a framing permit. It was not an innocent mistake. With regard to
103 "no nuisance", please see photograph 2 and 3 and see how it does not
104 resemble a single family home especially when one realizes that over 80%
105 of the driveways in the neighborhood have attached garages. And size
106 does matter, this is the largest and of you look at the pictures, there's
107 easily going to be a second floor. The burden of proof is upon the
108 applicant. With regard to the high correction cost, it is because the owner
109 did not do his job and demolition and removal would improve the
110 neighborhood

111
112 Mr. Martin noted that there are second floors on the pictures submitted. Mr.
113 Sullivan responded to Mr. Crowley's concern, that there will be inspection
114 during the building process so the Town will know if there is a second floor.
115 Discussion then led to roof types, and the definition of gambrel. Mr. Dumont
116 stated that the second floor is moot, just as is the "look" of it, and the Board
117 will always make the assumption that an applicant speaks truth. Mr.
118 Daddario concurred and noted that the applicant did pull a foundation
119 permit and Mr. Sullivan confirmed that the applicant stopped construction
120 until he came before the Board to seek and Equitable Waiver.

121
122 (2) Lynn Ashworth, 25 Fairway Drive, direct abutters, while the structure/
123 garage is non-compliant and the design does not fit the neighborhood – no
124 one ~~the in~~ the neighborhood has a quonset hut and this will impact
125 surrounding property values.

126 (3) Richard Speer, 22 Fairway Drive, across the street for about 25 years and
127 stated that he is not opposed to a garage but this building is very tall and
128 very wide. Mr. Sullivan stated that the original plan was for a much
129 larger structure. Mr. Speer correlated the proposed garage to an army
130 structure, commonly called a quonset hut, and this one looks like it will
131 accommodate 8 vehicles. It is too close to the road. And it will negatively
132 impact their property values and cited examples. And looking at the lot,
133 there seems to be enough land to place the garage to the back of the
134 house and there are two neighbors who had to move their sheds out of
135 their front setback, so what is being asked is not unusual.

136 (4) Rita Banatwala, 29 Fairway Drive, 300' away, noted that the structure is
137 very visible and because of it's height, the encroachment is huge, the
138 nuisance issuance issue does matter, it does not fit into the
139 neighborhood, and yes a mistake was made but then it sat there and sat
140 on the lawn for almost a year.

141

142 Mr. Dumont clarified his previous statement – the Zoning Board get to decide
143 on Use, not style or type of a structure. Mr. Daddario concurred and stated
144 that even though the Board appreciates hearing people’s concerns, they are
145 restricted in what they can consider. Mr. Lanphear noted that if the
146 structure had not violated the setbacks, he would not be in front of the
147 Zoning Board. Mr. Sullivan confirmed that there is no Planning Board
148 involvement for a garage within setbacks.

149
150 (5) Edward Thompson, 22 Burns Hill Road, stated that when he did his
151 garage, he had inspections along the way and would it have been flagged
152 then. Mr. Sullivan stated that only occurs when the certified as built plan
153 is prepared.- Mr. Thompson stated that the fact remains that it is a
154 commercial building in a residential zone and he is opposed to it.
155

156 Mr. Martin stated that if the foundation was laid out of the setbacks, the applicant
157 would not need to be in front of the Board. Discussion ensued. The intended Use
158 of the building is not in front of the Board. Mr. Sullivan stated that he has emails
159 that it is not intended for commercial Use.
160

161 (6) Jerome Bento, 7 Muldoon ~~(sp?)~~ Drive, and has lived there since 1988 and
162 echoes all the previous speakers and would like to also focus on the
163 ‘substantial justice’ to the homeowner and the negative benefits to the
164 neighbors
165

166 Mr. Daddario stated that the application before the Board is not for a Variance, that
167 there are only four (4) criteria when reviewing the validity of an Equitable Waiver of
168 Dimensional Requirements and that does not include looking at Hardship or
169 Impact/Substantial Justice.
170

171 Mr. Bento apologized. Mr. Bento stated that he is still opposed to the
172 project and does not see why the applicant does not go back to the
173 contractor or surveyor or whoever was involved for remediation. It is not
174 for the Town to endure this loss.
175

176 (7) Kerry Nevin, 3 Eagle Drive, stated that she has been a resident of Green
177 Meadow Estates for forty plus (40+) years and have had to deal with a lot
178 over recent years, like Amazon and Target, and should not have to deal
179 with this setback issue. She has never seen such a monstrosity
180 built/constructed built in the front yard and so close to the neighbor and
181 asked who would ever want to live with this right next door and assumes
182 many folks in Green Meadow feel the same and knows that several emails
183 have been sent in opposing this project. Ms. Nevin questioned the
184 purpose of this extremely large ‘garage’, is it going to be a business, either
185 parking of its equipment or storing of its materials – and if it is, this is not
186 the right location for it. It is the largest garage she has ever seen – and
187 the garages in the neighborhood are only about 500 SF and this one is
188 over 1,600 SF. This ‘garage’ is not compatible with the neighborhood and
189 noted that most garages in the neighborhood are in their backyards, not
190 the front yard and none are constructed out of steel. This will impact our

191 property values negatively and is concerned their front yard will be used
192 as a parking lot. The Owner simply did not comply. Ms. Nevin asked who
193 addresses the style of a structure that is allowed in Town?
194

195 There was some discussion regarding the size and the fact remains that there are
196 several garages in Town that are this large and in people's front yard and that the
197 Board has no say in the matter of size, just whether the size fits onto the property
198 and out of the setbacks.
199

200 (8) George Powell, 18 Par Lane, stated that he agrees with what his neighbors
201 have testified and if he was sitting on the Board he could not be happy to
202 approve this Equitable Waiver to it being where it is.

203 (9) Todd Boyer, 2 Merrill Street, stated that he does not live close to this
204 project but he has built structure in this Town before and explained the
205 process, the need for a certified plot plan and how that is intended to be
206 corrected and prevent a structure from being constructed in a setback.
207 The applicant stated that he had a surveyor do the survey and yes it will
208 cost some money to correct.
209

210 Being no one else to address the Board, Mr. Martin read the two (2) emails received.
211

212 (10) Email dated 1/19/2025 from Chris Mulligan, 23 Fairway Drive, who
213 has lived there for 30 years and voiced his opposition and stated it "will
214 establish a terrible precedent in the neighborhood and the town as it will
215 clearly suggest that you can build anywhere you want without regard for
216 town requirements, and as long as you build fast enough and there are
217 significant costs involved, you can simply ask for forgiveness."

218 (11) Email dated 1/21/2025 from Scott Wade, I Fairway Drive, in
219 opposition of the proposal and stated that it is not up to the Town to
220 rectify the property owner's mistake, innocent or not.
221

222 The Applicant was given the opportunity to address the comments just heard. Mr.
223 Daddario noted that the size and design do not factor in the criteria nor the Board's
224 decision; however, several concerns were raised regarding and asked Mr. Baker to
225 comment. Mr. Martin objected to hearing about the Use, it is intended for personal
226 Use for the parking of vehicles and if it is not, then that would become a Code
227 Enforcement issue. Mr. Martin left the room. Mr. Dumont stated that the only
228 reason he mentioned it was that it adds, to his mind, whether or not it is a nuisance
229 or not, and the reason for Zoning pertains to safety and health, not architecture.
230 Mr. Sakati concurred, that it would not factor into his decision and he is curious.
231

232 Mr. Baker stated the intended Use is purely residential, that they have fairly
233 sizeable property right on the river with a lot of landscaping in the backyard and
234 that have a lot of agricultural equipment like tractors that they use to maintain
235 their property and he owns six (6) vehicles registered to him. Mr. Baker stated that
236 he runs a business, has a separate building in Town, larger than this one with a ten
237 (10) year lease. Mr. Martin returned to the meeting room.
238

239 Mr. Martin thanked Mr. Crowley for all the information he provided and commented
240 on the other garages in the neighborhood and over time and noted that the State
241 has changed the requirements from having to satisfy one of the criteria to having to
242 satisfy every criteria. Mr. Martin stated that in his mind, this has satisfied two_(2)
243 and did not satisfy two (2).
244

245 Mr. Dumont questioned which criterion was not satisfied. Mr. Martin responded
246 “discovered too late”. Discussion ensued on the process. Mr. Dumont commented
247 that the Board has heard many such cases based on the result of a certified plot
248 plan and maintained that it may be different but the process is the same. “Innocent
249 mistake” is also debatable. Mr. Martin noted that an Equitable Waiver used to
250 apply to something “old”, that has existed for over a decade and to his way of
251 thinking, the property owner should have applied for a Variance, not and Equitable
252 Waiver.
253

254 At 9:04 PM, public input closed and the matter before the Board.
255

256 Mr. Lanphear asked if it were possible to add conditions of approval to an Equitable
257 Waiver and specifically okaying the two-foot side setback intrusion but not the
258 seven-foot front setback. General consensus was both setbacks as a package deal
259 as that is what is before the Board.
260

261 Mr. Sakati asked Mr. Sullivan to speak to the purpose of setbacks. Mr. Sullivan
262 stated that one purpose is to allow access to the backyard and that there is
263 separation between neighbors.
264

265 Mr. Martin made the motion to deny the Equitable Waiver of Dimensional
266 Requirement. Mr. Sakati seconded the motion.
267

268 Mr. Martin spoke to his motion and stated that it was not discovered too late, would
269 have been discovered sooner if the process was followed and before the structure
270 was assembled, that it was not an innocent mistake on part of the contractor, that
271 it is a nuisance to the neighborhood as per the testimony received but perhaps not
272 as a finished product when it would resemble a house and that is a high correction
273 cost. Mr. Martin voted to deny.
274

275 Mr. Sakati spoke to his second, that it wasn't an innocent mistake, it was installed
276 without a building permit and there was a failure to inquire, that it is a nuisance to
277 the immediate neighbors and is too close to the street but almost thirty percent
278 (30%). And the size creates an imposition. There is a high correction cost. It was
279 discovered too late but it could have been avoided. Mr. Sakati voted to deny.
280

281 Mr. Lanphear voted to deny. It was discovered too late, the process was not
282 followed, it may have been an innocent mistake on part of the homeowner but not
283 the contractor, that it is a nuisance to some, perhaps not others, and there is a high
284 correction cost and even though the cost to correct should fall on the contractor it is
285 the Property Owner who is responsible to correct.
286

287 Mr. Daddario voted to grant the Equitable Waiver. It was discovered too late – it is a
288 metal arch, the applicant got a surveyor, hired a contractor pulled a permit and
289 only discovered after he got an as-built plot plan created. It was an innocent
290 mistake as the owner has been dealing with the Town toward a correction. With
291 regard to being a nuisance, he understands the neighbors do not like the looks of it
292 but the no nuisance criteria does not pertain to the architectural aspect but the
293 dimensional violation and whether that poses a nuisance and noted that every
294 property owner has the right to build what he wants within his building envelope
295 and he believes that moving it a few feet will not remedy the problems the neighbors
296 asserted out of the setbacks. With regard to the high correction cost, and without
297 factoring in the metal arch, -it has no basis on the arch, there is a high correction
298 cost even for just the concrete foundation.

299
300 Vote was 3:1. The Equitable Waiver of Dimensional Requirement not granted. The
301 30-day Appeal period was noted.

302
303
304

305 **VI. REQUESTS FOR REHEARING:** None

306
307
308

No requests were presented for Board consideration.

309 **VII. REVIEW OF MINUTES:**

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311
312

12/12/2024 edited draft Meeting Minutes

313 The edited version was not included in the Supplemental Folder. The spelling of an
314 Abutter name was questioned. Mr. Lanphear made the motion, seconded by Mr.
315 Martin and unanimously voted to defer review.

316
317

VIII. OTHER BUSINESS:

318
319
320

Election of Zoning Board of Adjustment Officers

321 Discussion initially focused on Mr. Daddario being able to complete his next term and
322 the end of the discussion was to allow the natural sequence to unfold, that when/if
323 the Chairman resigns midterm, the Vice Chair becomes Chair and the Clerk becomes
324 Vice.

325
326
327
328

Motion made by Mr. Sakati, seconded by Mr. Martin and unanimously voted to
appoint Mr. Daddario as Chairman.

329 Motion made by Mr. Lanphear, seconded by Mr. Daddario and unanimously voted to
330 appoint Mr. Martin as Vice Chairman.

331
332
333
334

Motion made by Mr. Lanphear, seconded by Mr. Martin and unanimously voted to
appoint Mr. Dion as Clerk.

335 Mr. Sullivan stated that the Town is still seeking Alternates for the Board

336

337 **IX. ADJOURNMENT:**

338

339 Mr. Martin made the motion, seconded by Mr. Lanphear and unanimously voted to
340 adjourn the meeting. The 1/23/2025 ZBA meeting adjourned at 9:36 PM

341

342

343 Respectfully submitted,

344

345 _____
Louise Knee, Recorder

346

ASEDITED

§ 334-24. Home occupations. [Amended 3-13-2007 by Amdt. No. 3; 3-10-2009 by Amdt. No. 3]

Home occupations are defined by the Zoning Ordinance as "any activity carried out for gain by a resident in their dwelling unit, and such activity is a secondary use to the residence." The intent of providing a home occupation special exception is to allow for growth and development of a small in-home business while maintaining the character of residential areas. The applicant acknowledges that if the business grows and no longer meets the listed requirements, the business shall be moved to an appropriately zoned location such as Business, General or Industrial. Home occupations which include sales or service operations for wholesale goods produced or services provided on-site shall be permitted only as a special exception. The Zoning Board of Adjustment must find any such home occupation application to be in full compliance with the following requirements prior to approval of such special exception:

- A. The home occupation shall be secondary to the principal use of the home as the business owner's residence.
- B. The home occupation shall be conducted only by the residents of the dwelling who reside on the premises. If the applicant is the owner, the owner must sign an affidavit, stating he/she is the owner, and the residents of the dwelling are the only individuals conducting the activities associated with the home occupation. Said affidavit shall also state that the owner is responsible for any violations of this chapter. If the applicant is a renter, the owner of the dwelling must sign an affidavit, stating he/she is the owner, and shall acknowledge that the home occupation for the premises shall only be conducted by the current renter(s), who shall be identified on the application. The owner shall also acknowledge that he/she, as the owner of the dwelling, is responsible for any violations of this chapter conducted at said dwelling. Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.
- C. There shall be no employees or "for hire" staff conducting the home occupation activities, unless the employee(s) also resides on the premises.
- D. With the exception of day-care businesses, which are allowed to have outdoor activity, the home occupation business shall be carried out within the residence and/or within a structure accessory to the residence, such as a garage. **[Amended 3-8-2022 by Amdt. No. 5]**
- E. The requested special exception shall be for an occupation which is consistent for what is routinely and/or typically done in a home environment such as a day care, direct office billing, or other activities that are generally service-oriented or produce goods for wholesale purposes.
- F. On-site retail sales are an expressly prohibited home occupation special exception use.
- G. No more than 50% of the finished living space of the dwelling unit shall be used in connection with the home occupation.
- H. Other than the sign(s) permitted under Article XII, there shall be no exterior display nor other exterior indication of the home occupation, nor shall there be any variation from the primarily

residential character of the principal or accessory building.

- I. Exterior storage may be permitted only by special exception, granted by the Zoning Board of Adjustment, and 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. In 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.
- J. Objectionable circumstances, such as, but not limited to, noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare, shall not be produced.
- K. No traffic shall be generated by the home occupation activity that will be substantially greater in volume than would normally be expected in the neighborhood.
- L. Parking.
 - (1) Parking for the home occupation shall be provided off-street and shall not be located in the front yard or within the required setbacks from the side and rear lot lines. Only the existing driveway may be used for the parking of customers. Customer parking shall be limited to a maximum of two vehicles at any one time.
 - (2) Parking of vehicles used in commerce:
 - (a) One registered vehicle used in commerce may be parked at the principal or accessory structure, and further provided that personal vehicles used in commerce are excluded from this provision.
 - (b) In the B, I and G Zones (pertaining only to the home occupation activity), one registered vehicle used in commerce may be parked at the principal or accessory structure, provided that there are no heavy commercial vehicles which exceed a weight of 13,000 pounds (gross vehicle weight) and the screening requirements of § 334-24I are met, and further provided that personal vehicles used for purposes of commerce are excluded from this restriction.
- M. Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.
- N. The Community Development Director/Zoning Administrator reserves the right to revoke the home occupation special exception if all conditions of the special exception are not maintained.

§ 334-67. Home occupation signs.

Except as otherwise permitted in this chapter, each home occupation may have no more than one exterior sign subject to the following requirements:

- A. Maximum size. The maximum sign area is three square feet.
- B. Maximum height. Freestanding pole or ground signs may not exceed eight feet in height.
- C. If the home occupation is carried out in an accessory structure which is set back more than 100 feet from the nearest public right-of-way, an additional sign of two square feet or less may be attached to the accessory structure.
- D. Signs which are not attached to a building must be set back from the right-of-way a minimum of 15 feet.