

1                   **HOOKSETT ZONING BOARD OF ADJUSTMENT**  
2                               **Tuesday, April 9, 2024**  
3                   **HOOKSETT MUNICIPAL BUILDING**  
4                               **35 Main Street**  
5                               **Meeting Minutes**  
6                               **6:30 pm**

7  
8    **CALL TO ORDER**  
9

10 Anne Stelmach (Chairman) called the regular meeting to order at 6:30 pm.

11    **PLEDGE OF ALLEGIANCE**  
12

13    **ATTENDANCE:** Anne Stelmach (Chairman), Richard Bairam (Vice-Chairman), Gerald Hyde,  
14 Timothy Stewart, and Roger Duhaime (Town Council Representative)

15    **ALTERNATES:** Thomas Chesnard, Matt St. Pierre, and Mary Ecklund

16    **EXCUSED:** Alex Glennon and Colin Merritt (Alternate)

17    **NOT PRESENT:** Phil Denbow (Alternate)

18    **STAFF:** Dana Pendergast (Code Enforcement Officer)

19 M. Ecklund will be a voting member.

20    **APPROVAL OF MINUTES: March 12, 2024**

21    *G. Hyde motioned to approve the minutes of the March 12, 2024 ZBA meeting. Seconded by R.*  
22 *Bairam.*

23  
24    *G. Hyde rescinded his motion.*

25  
26    *Line 688 should read - Vote of 5-0.*

27  
28    *G. Hyde motioned to approve the minutes of the March 12, 2024 ZBA meeting, with*  
29 *amendment. Seconded by R. Bairam. Motion carried unanimously with a vote of 5-0.*  
30

31    **UNFINISHED BUSINESS**

32    None.  
33

34    **CONTINUED PUBLIC HEARING**  
35

36    **\*\*SILVER CITY NH LLC #Z20-12**  
37    **39 Hackett Hill Road, Map 13 Lot 51**  
38    **COM**

39 **APPLICATION FOR EXCAVATION PERMIT:**

40 **\*\*Case pending with Supreme Court. Written request to continue to July 9, 2024.**

41  
42 ***G. Hyde motioned to continue the application for excavation permit for Silver City NH LLC,***  
43 ***#Z20-12, 39 Hackett Hill Road, Map 13 Lot 51 until July 9, 2024. Seconded by R. Bairam.***  
44 **Motion carried unanimously with a vote of 5-0.**

45  
46 **NEW BUSINESS**

47  
48 **Elaine O'Donal #Z24-07**  
49 **149 West River Road, Map 24, Lot 40**

50 **COM**

51 **APPLICATION FOR VARIANCE: from Article 10 Section A of the Zoning Ordinance to**  
52 **permit the construction of a single-family home on the property which is currently zoned**  
53 **for commercial use.**

54  
55 ***G. Hyde motioned the application for variance from Article 10 Section A of the Zoning Ordi-***  
56 ***nance to permit the construction of a single-family home on the property which is currently***  
57 ***zoned for commercial use for Elaine O'Donal #Z24-07, 149 West River Road, Map 24, Lot 40,***  
58 ***COM does not have the potential for regional impact. Seconded R. Bairam. Motion carried***  
59 **unanimously with a vote of 5-0.**

60  
61 Elaine O'Donal (213 Burham Road, Gorham, Maine): I grew up on the farm and inherited part  
62 of it. I would like to come back to the farm and farming the land. It is zoned commercial and we  
63 would like to put a retirement home on it.

64  
65 Jeffrey O'Donal read the application into the record.

66  
67 T. Chesnard: You inherited part of the land?

68  
69 E. O'Donal: Yes. My parents divided the property up.

70  
71 R. Duhaime: This has been a farm since I can remember. We are looking for commercial, but  
72 not in this area. When you get down to the river there is not much commercial, it is residential.  
73 This falls in line with what we are looking for in town.

74  
75 E. O'Donal: How many farms are there in town?

76  
77 R. Duhaime: Not many. That is the problem.

78  
79 E. O'Donal: I am paying taxes in Maine and NH and would rather pay taxes here. We want to  
80 keep this in the family. We have spoken to our grandson and he wants to fish in the river.

81  
82 M. St. Pierre: Is this in the upper section?

83  
84 E. O'Donal: The land slopes and levels down and slopes down again. It would be in that area.

85

86 A. Stelmach: There is difference in acreage? Is the difference the piece that was absorbed by the  
87 development? Are you going to try to resolve that?

88

89 E. O'Donal: No, they are nice neighbors.

90

91 M. St. Pierre: Are you going to demolish the gas station?

92

93 E. O'Donal: Yes. we are waiting for the lead and asbestos to be dealt with.

94

95 Open public hearing.

96 Open public comments.

97

98 Marcel Dupuis (12 Sunrise Boulevard): I am an abutter, have been living here for 23 years, and  
99 have no problem with these people. I have known them for a long time. They are good people  
100 and I see no problem. I would rather see residential over commercial.

101

102 Close public comments.

103 Close public hearing.

104

105 **Criteria 1 & 2 - The variance will not be contrary to Public Interest & the Spirit of the Or-**  
106 **dinance will be observed.**

107 It was a board consensus that the variance will not be contrary to public interest & the spirit of  
108 the ordinance will be observed.

109

110 G. Hyde stated that if this was developed as commercial it would change the neighborhood there  
111 is a distance to find anything that even looks commercial. R. Duhaime stated this will keep in  
112 line to what is already in the neighborhood.

113

114 **Criteria 3 (Substantial Justice is done)**

115 It was a board consensus that the variance will not harm the general public and substantial justice  
116 is done.

117 A. Stelmach stated that this benefits the neighborhood.

118 **Criteria 4 (The value of surrounding properties will not be diminished)**

119 It was a board consensus that the variance will not diminish the value of surrounding properties  
120 and if this was commercial that would negatively impact the values of surrounding properties.

121

122 **Criteria 5 (Literal enforcement of the provisions of the ordinance would result in an Un-**  
123 **necessary Hardship)**

124 It was a board consensus that there is a hardship because of: 1) spot zoning; 2) surrounded by  
125 residential; 3) the slope; 4) next to a cemetery; 5) long rectangular lot; 6) with anything commer-  
126 cial there would have to be frontage; 7) this is going to be in the back; and 8) this lot is larger  
127 than everything around it.

128

129 It was also a board consensus that the use is reasonable and the lot hasn't been used in over 30 or  
130 more years as commercial.

131

132 Findings of Fact:

133 1) The variance would not be contrary to public interest given the nature of surrounding proper-  
134 ties;

135 2) Every other surrounding property is MDR and this property no longer fits in with a commer-  
136 cial zone;

137 3) Substantial justice is done as this use benefits the public;

138 4) Property values would go down if this was commercial;

139 5) Every other use around this is residential;

140 6) Not allowing the variance is a hardship in and of itself;

141 7) This being located next to a cemetery is a special condition;

142 8) This has not been used as commercial for a significant amount of time; and

143 9) This lot is much larger than the other surrounding lots.

144

145 ***G. Hyde motioned to approve the application for variance from Article 10 Section A of the***  
146 ***Zoning Ordinance to permit the construction of a single-family home on the property which is***  
147 ***currently zoned for commercial use for Elaine O'Donal #Z24-07, 149 West River Road, Map***  
148 ***24, Lot 40, COM. Seconded by R. Bairam. Motion carried unanimously with a vote of 5-0.***

149

150 **COMMUNICATIONS & MISCELLANEOUS**

151

152 D. Pendergast informed the board about an updated zoning ordinance, zoning training, and that  
153 legislature is proposing to allow a second detached ADU on all residential properties that will  
154 not have to meet dimensional requirements only setbacks; this has passed the House and is going  
155 to Senate.

156

157 **MOTION TO ADJOURN:**

158

159 ***G. Hyde motioned to adjourn at 7:20 pm. Seconded by R. Bairam. Motion carried unani-***  
160 ***mously with a vote of 5-0.***

161

162 Next meeting May 14, 2024 application deadline April 17.

163

164 Respectfully submitted by:

165

166 /s/ AnnMarie Scott

167 AnnMarie Scott

168 Recording Clerk