



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, March 22, 2022 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**  
**North Hampton, NH 03862**

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

**In attendance:** Robin Reid, Vice Chair; Members Rick Stanton, Audrey Prior, and Larry Miller; Alternate Member Dennis Williams; and Recording Secretary Rick Milner.

**I. Preliminary Matters.**

Vice Chair Reid called the meeting to order at 6:35pm.  
Mr. Williams seated for Mr. Clifford.

**II. Organizational Meeting of the Board.**

**1. Election of Chair and Vice Chair.**

Ms. Prior nominated Robin Reid to serve as Chair. No other nominations were made.

**Ms. Prior moved that the ZBA appoint Robin Reid as Chair for a one year term. Second by Mr. Stanton. The vote was unanimous in favor of the motion (5-0).**

Mr. Miller nominated Bill Clifford to serve as Vice Chair. No other nominations were made.

**Mr. Miller moved that the ZBA appoint Bill Clifford as Vice Chair for a one year term. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).**

**2. Alternate Member appointment.**

Ms. Reid informed the Board that Mr. Williams' term as an alternate member of the Board was due to expire. Mr. Williams stated that he was willing to continue as an alternate member of the Board.

**Ms. Reid moved that the ZBA appoint Dennis Williams as an Alternate Member of the ZBA for a three year term. Second by Mr. Stanton. The vote was unanimous in favor of the motion (5-0).**

Ms. Reid presented the minutes of the February 22, 2022 meeting.

**Mr. Stanton moved that the ZBA accept the minutes of the February 22, 2022 meeting as written. Second by Ms. Prior. The vote was 4-0-1 in favor of the motion with Mr. Miller abstaining.**

**II. Old Business.**

**1. Case #21:07:A – Applicant: Millie Bauer, LLC, 50-52 Lafayette Road, North Hampton, NH 03862.** The Applicant requests variances from Town of North Hampton Zoning Ordinance Section 202.2 Permitted Uses in R-1 High Density District to allow commercial storage use (granite blocks and fuel shed) in the R-1 High Density District and from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow placement of granite blocks and fuel shed within the minimum structure setbacks from lot lines on the Map/Lot 008-024-000 property. Property Owner: Millie Bauer, LLC,

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

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## ZBA Meeting Minutes

16 Woodknoll Drive, North Hampton, NH 03862. Property Location: 50-52 Lafayette Road; M/L: 008-024-000; Zoning Districts: I-B/R, Industrial – Business/Residential District, and R-1, High Density District.

In attendance for this application:

Greg Bauer, property owner; Tim Phoenix, attorney; and John Chagnon, engineer.

Mr. Phoenix addressed the Board. Mr. Phoenix presented a site plan showing the various buildings, storage areas, vehicle parking locations, and landscaping/structural features on the site and detailing the various commercial and residential uses on the site. Mr. Phoenix stated that the 50-52 Lafayette Road (M/L 008-024-000) property contains approximately 4.74 acres of land with approximately 306.8 feet of frontage along Lafayette Road and Fern Road. The property lies within both the Industrial-Business/Residential (I-B/R) and R-1 High Density (R-1) Zoning Districts. A mixed use development with workforce housing and commercial business uses currently exists on the site. The current development includes the following:

- a. a one-story building containing four apartments and a barber shop in the I-B/R section of the property,
- b. a two-story building used for a construction/excavation business and its associated mechanical servicing activities in the I-B/R section of the property, and
- c. a two-story residential duplex home in the R-1 section of the property.

Mr. Phoenix presented photos of trash and debris on the site prior to Mr. Bauer's ownership of the Map/Lot 008-024-000 property and explained how Mr. Bauer has made significant improvement to the conditions of the property. Mr. Bauer has added plantings and other types of landscaping to screen the business activities on the site from the adjoining residential neighborhood. Mr. Bauer has also removed construction materials and small sheds associated with his business from the wetlands areas and wetlands buffer zone after a site walk and discussions with the Town Administrator and the Building Inspector.

Mr. Phoenix stated that the applicant is requesting variances to allow the previously installed commercial fuel shed prohibited use to remain in its current non-conforming location within the R-1 section of the property on a permanent basis and to allow the previously installed granite block storage prohibited use to remain in its current non-conforming location within the R-1 section of the property for a period of one year and also to allow the structures associated with these non-conforming uses to be located within the minimum structure setbacks along the lot lines. Mr. Phoenix indicated on the site plan the current non-conforming locations of the fuel shed and the granite block storage in the R-1 section of the property and the proposed location for future storage of the granite blocks in the I-B/R section of the property.

Mr. Phoenix recognized the concerns expressed by residents of the adjoining neighborhood in previous meetings and correspondence submitted to the Board regarding noise associated with these commercial uses proposed to be located within the residentially zoned section of the property. However, most of the noise emanates from the commercially zoned section of the property during a limited amount of time at the beginning of the work day. In consideration of residents' concerns regarding noise and adverse visual aesthetics, Mr. Bauer has withdrawn his request for other proposed uses within the R-1 section of the property. Also, most of the closest neighbors abutting the property have submitted letters supporting the variance requests.

Mr. Phoenix addressed the five criteria for granting a variance identified in the State of NH RSA's.

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

2. The spirit of the ordinance is observed.

The requested relief is consistent with the purpose of promoting the health, safety, and general welfare of the community in that the commercial storage use in the residential zone is reasonable because the area cannot be reasonably used residentially and can only be accessed from the abutting Industrial-Business/Residential (I-B/R) zoning district. Abutting neighbors consent to the use. The neighborhood is already affected by the permitted commercial uses in the vicinity of the neighborhood. Allowing commercial storage on a residential portion of the lot screened from residences and accessed from the commercial section of the lot neither alters the essential character of the locality, nor threatens public health, safety, or welfare.

3. Granting the variance will not diminish surrounding property values.

The proposed storage on the residential lot can be seen only by a few property owners and is screened by granite blocks and shrubs/trees. Abutting property owners have provided letters of support, demonstrating that they do not believe that their property values will be diminished.

4. a. Special conditions distinguish the property from others in the area.

The lot is large and already developed. There are significant wetlands in the rear of the property. The lot is bisected by the line dividing the I-B/R and R-1 zones. The residential section of the lot for which the variance is requested cannot reasonably be used for residential purposes and can only be accessed from the portion of the lot upon which commercial activities exist.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Residential zone permitted uses are typically intended to protect residences from more significant activities of commercial uses. Since there is no reasonable residential use for the residential section of the property for which commercial storage is proposed and the only affected neighbors support the proposal, there is no reason to prohibit the storage associated with the commercial use permitted in the neighboring zoning district. The applicant will incur harm in that he will be unable to store the granite and fuel.

c. The proposed use is reasonable.

Mr. Stanton asked who decided to move the fuel storage shed from its Planning Board approved location in the I-B/R zoning district to the non-conforming location in the R-1 zoning district.

Mr. Phoenix stated that Mr. Bauer decided to move the fuel storage shed to allow for better access around the maintenance building on the site. Mr. Phoenix acknowledged that the applicant is seeking an 'after the fact' permission for placing the fuel storage shed in its current non-conforming location without first receiving the appropriate permissions.

Mr. Stanton asked if there were locations within the I-B/R section of the property where the fuel storage shed could be located.

Mr. Phoenix and Mr. Milner suggested possible alternate locations within the I-B/R section of the property for placement of the fuel storage shed.

Ms. Reid asked for public comments regarding the variance requests.

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Jane Morse addressed the Board. Ms. Morse stated that the proposed changes to the Map/Lot 008-024-000 property will adversely affect the rural character and quality of life in the residential neighborhood adjoining the property.

David McGilvary addressed the Board. Mr. McGilvary stated that the noise emanating from the Map/Lot 008-024-000 property has not slowed down.

Deb Sillay addressed the Board. Ms. Sillay stated that she was opposed to the proposed expansion of the commercial activities into the residential section of the property. If the applicant desires a larger commercial business, then he needs to find another property. The current site next to an adjoining neighborhood should only support a smaller amount of commercial business activities with scheduled hours of operation and be restricted to the I-B/R section of the property.

Mr. Phoenix read letters of support from closest neighbor to the property, Jerrod Patten. Mr. Phoenix further stated that, if the variance were granted to allow the granite storage to remain in its current location for one year, the eventual movement of the granite over time would be less impactful on the neighbors than if the movement was done immediately.

Mr. McGilvary and Ms. Sillay stated they preferred immediate removal of the commercial storage from the R-1 section of the property.

Ms. Reid asked what type of trucks would use the fuel shed.

Mr. Bauer stated that larger and smaller trucks would use the fuel shed. Due to the current location of the fuel shed in the R-1 section of the property immediately adjacent to the zoning district line, trucks will park on the I-B/R section of the property. A hose would be pulled from the fuel shed across the zoning district line and load fuel onto the trucks in the I-B/R section of the property. The fueling operations would most likely occur around 3:30pm in the afternoon. Mr. Bauer also stated that no construction activities would occur on the site during daytime hours.

Ms. Reid closed the public hearing at 7:56pm.

Mr. Williams stated that noise associated with the business operations on the site is happening in the afternoon, not the morning. Other potential locations for the fuel shed within the I-B/R section of the property may create more noise in closer proximity to the adjoining neighborhood.

Mr. Stanton stated that he did not like the idea of a commercial fuel storage area within a residential section. The fuel shed should be located in the I-B/R section of the property. There are locations for the fuel shed that meet zoning requirements within the I-B/R section of the property.

Mr. Miller agreed with Mr. Stanton's comment.

Ms. Reid stated that the variance request does not meet the criteria for granting a variance identified in the State of NH RSA's. Ms. Reid stated her reasons for not granting relief for the commercial storage activities in the R-1 zoning district as requested by the applicant. Mr. Miller suggested that Ms. Reid's notes explaining reasons for not granting relief for the commercial storage activities in the R-1 zoning district as requested by the applicant be added to the official record of the proceedings. No objections were raised to Mr. Miller's suggestion. (See Appendix A attached to these minutes for Ms. Reid's notes)

Mr. Stanton moved that the Zoning Board of Adjustment grant variances from Town of North Hampton Zoning Ordinance Section 202.2 Permitted Uses in R-1 High Density District to allow commercial storage use (granite blocks and fuel shed) in the R-1 High Density District and from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow placement of granite blocks and fuel shed within the minimum structure setbacks from lot lines on the Map/Lot 008-024-000 property. Second by Ms. Prior.

The vote was unanimous in opposition to the motion (0-5).

Mr. Phoenix and Mr. Milner suggested that the Board consider taking a vote to deny the variance request with reasons for the denial in order to comply with State of NH RSA's.

Ms. Reid moved that the Zoning Board of Adjustment deny the request for variances from Town of North Hampton Zoning Ordinance Section 202.2 Permitted Uses in R-1 High Density District to allow commercial storage use (granite blocks and fuel shed) in the R-1 High Density District and from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow placement of granite blocks and fuel shed within the minimum structure setbacks from lot lines on the Map/Lot 008-024-000 property. Second by Mr. Williams. The vote was unanimous in favor of the motion (5-0).

Summary For The Majority's Decision:

See attached Appendix A for reasons supporting the decision of the Zoning Board of Adjustment.

**2. Case #21:07:B – Applicants: Millie Bauer, LLC, and Scott Prince, 50-52 Lafayette Road, North Hampton, NH 03862.** The Applicants request a Special Exception as required by Section 202.4 of the Town of North Hampton Zoning Ordinance to allow motor vehicle service facility use on the property. Property Owner: Millie Bauer, LLC, 16 Woodknoll Drive, North Hampton, NH 03862. Property Location: 50-52 Lafayette Road; M/L: 008-024-000; Zoning Districts: I-B/R, Industrial – Business/Residential District, and R-1, High Density District.

In attendance for this application:

Greg Bauer, property owner; Scott Prince, applicant; Tim Phoenix, attorney; and John Chagnon, engineer.

Mr. Phoenix addressed the Board. Mr. Phoenix presented a site plan showing the various buildings, storage areas, vehicle parking locations, and landscaping/structural features on the site and detailing the various commercial and residential uses on the site. Mr. Phoenix explained that Mr. Prince currently performs mechanical work on vehicles associated with Mr. Bauer's construction/excavation business on the site. Mr. Prince is seeking to obtain approval to sell, install, and maintain snow plows and perform mechanical work on other private vehicles on the site. Mr. Phoenix indicated locations on the site plan for snow plow inventory storage and parking.

Mr. Phoenix further explained that there will be a minor increase in the amount of motor vehicles serviced on the site. There will never be more than one to three vehicles awaiting service or snowplow installation. All service or installation work will be performed indoors and within the confines of the I-B/R section of the property.

Mr. Phoenix addressed the criteria for granting a special exception identified in the Town of North Hampton Zoning Ordinance.

1. The proposed business will not diminish the value of the surrounding properties. Mr. Phoenix noted that the closest abutting neighbors have submitted letters supporting the special exception application.

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238 2. The proposed business will not adversely affect the public interest, safety, health , or welfare in that  
239 the minimal expansion of the motor vehicle service facility use is controlled as to the proposed number  
240 of vehicles, area used, and relative location to the surrounding neighborhood. There will be no adverse  
241 impact on any water resources in the area. The business activities will occur indoors on the I-B/R section  
242 of the property where similar business activities currently operate.  
243

244 Mr. Phoenix stated that the distance of the proposed business activities from the adjoining  
245 neighborhood and the landscaping screening features installed on the property will protect neighbors  
246 from any adverse noise or visual impacts.  
247

248 Mr. Milner asked if the applicant had considered additional parking requirements for vehicles to be  
249 serviced and vehicles associated with other uses on the site.  
250

251 Mr. Chagnon stated that the site plan provides an adequate amount of parking spaces for customer  
252 vehicles and vehicles associated with the business uses on the property.  
253

254 Mr. Stanton suggested that, if the special exception request was approved, the ZBA add a condition of  
255 approval which required Planning Board approval of the site plan to ensure that outstanding issues  
256 regarding locations of storage areas, parking, and aquifer protection are addressed.  
257

258 Ms. Reid asked how many snowplows will be stored on the site.  
259

260 Mr. Prince stated that approximately 60 to 80 crates stacked five crates high would be stored on the  
261 site. The crates would be moved with a forklift. Mr. Bauer stated that approximately 25-30 snow plows  
262 would be stored inside the maintenance building.  
263

264 Ms. Reid asked if the forklift would have a beeping noise.  
265

266 Mr. Prince stated that the forklift would beep when travelling backwards.  
267

268 Mr. Miller asked how many employees would be associated with this business.  
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270 Mr. Prince stated that 1 to 2 employees would be associated with this business. There would be at most  
271 two truck deliveries during any business day.  
272

273 Ms. Reid asked for public comments regarding the special exception request.  
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275 Ms. Sillay stated her concern that there is some ambiguity regarding the details of the business  
276 operations such as the exact number of vehicles to be serviced and hours of operation. More details  
277 regarding the business operations need to be added to the application in order to understand the full  
278 scope of the business operations.  
279

280 Mr. Phoenix stated that the proposed business operations are a small expansion of commercial activities  
281 that already occur on the site. The commercial storage uses are permitted by the zoning ordinance. The  
282 Planning Board will review the site plan to ensure that parking and aquifer regulations are addressed.  
283

284 Avril LeBeau addressed the Board. Ms. LeBeau asked if trucks associated with the snowplow installation  
285 business or delivery trucks will beep.

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Mr. Bauer stated that some of the trucks will beep. However, the great majority of the trucks will not have a beeping mechanism when travelling backwards.

Mr. Phoenix stated that this noise is a natural consequence of activities that occur on a commercial lot in the I-B/R zoning district which lies next to a residential zone.

Ms. Reid suggested that the applicant explore ways to mitigate noise emanating from the commercial site.

Mr. Bauer and Mr. Prince agreed to explore ways to mitigate noise emanating from the commercial site.

Mr. Milner read a letter from resident Susan Hutchinson which opposed the previous variance request application and the special exception application.

Ms. Reid closed the public hearing at 9:15pm.

Ms. Prior stated her opinion that the proposed business will cause only a minimal increase in the existing commercial activities which occur on the site. There will be no substantial increase in noise on the site as the result of this proposed business use. She sees no problem with granting the special exception request.

Ms. Reid suggested that a condition establishing hours of operation for the proposed business could be added as a condition of approval.

Mr. Williams stated that it would not be appropriate to limit the hours of operation for the proposed business due to the nature of the business. Many times, snowplow installation or vehicle repair of Mr. Bauer's trucks or snow plow trucks may be necessary during irregular hours due to storm conditions and the need for the vehicles to respond to a situation in a timely manner. As long as the maintenance or repair activities occur inside the maintenance building, the activities should not adversely affect the neighborhood.

**Mr. Stanton moved that the Zoning Board of Adjustment grant a special exception to allow a motor vehicle service facility use on the property located at 50-52 Lafayette Road as represented in the application presented to the Board subject to the condition that the use receive all other required Town of North Hampton approvals. Second by Ms. Prior. The vote was 3-2 in favor of the motion with Mr. Stanton, Ms. Prior, and Mr. Williams in favor; Ms. Reid and Mr. Miller opposed.**

**II. New Business.**

**1. Case #22:03 - Applicant: Chris Atwood, Otter Creek Homes, 21 Redden Street, Dover, NH 03820.** The Applicant requests a special exception as required by Section 202.4 of the Town of North Hampton Zoning Ordinance to allow a light manufacturing use (woodworking shop) on the property. Property Owner: Sabbia, LLC, 2 Walnut Hill Park, Suite 4, Woburn, MA 01801; Property Location: 198 Lafayette Road, North Hampton, NH 03862; M/L: 021-026-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Joe Surianello, property owner; Chris Atwood, applicant; and John Chagnon, engineer.

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Mr. Chagnon addressed the Board. Mr. Chagnon stated that the applicant intends to move his residential construction and interior design business into the remodeled Unit #1 within the front building on the site. The proposed business will include an office, conference room, storage, and woodworking shop. The zoning ordinance requires that the light manufacturing woodworking shop use receive a special exception from the ZBA.

Mr. Chagnon addressed the criteria for granting a special exception identified in the Town of North Hampton Zoning Ordinance.

1. The proposed business will not diminish the value of the surrounding properties in that the commercial activities will occur within the I-B/R zoning district adjacent to other commercial business sites. Utility and building appearance improvements will enhance the value of surrounding properties.

2. The proposed business will not adversely affect the public interest, safety, health, or welfare in that the proposed woodworking activity will occur indoors with proper ventilation. The woodworking shop use does not create any harmful or noxious substances. Noise will not be detectable beyond the walls of the unit. Sawdust will be swept regularly and disposed in an appropriate manner.

Mr. Chagnon stated that the conversion from an auto repair shop use to a woodworking shop use is an improvement on the site that will greatly reduce any adverse impacts on the surrounding neighborhood and the local aquifer.

Mr. Williams and Mr. Stanton noted that the remodel activities on the site have improved the site aesthetics.

Ms. Reid asked for clarification regarding the nature of the business and the number of employees.

Mr. Atwood responded that there will be four employees in the office and four employees in the field. The woodworking shop will only produce items intended for the company's specific home design projects. Two to three of the field employees will work two to three days per week in the shop.

Ms. Reid asked for clarification regarding solvents use and dust control associated with the woodworking shop operations.

Mr. Atwood responded that no solvents would be used. Products would be sent out to other locations for most finishing tasks. Only small amounts of water-soluble finishes would be used at the site. Also, dust collection systems would be used in the shop.

Mr. Miller asked if the proposed business would have customer hours on the site.

Mr. Atwood responded that customer traffic would be limited to appointment only traffic.

Ms. Reid asked for public comments. No comments were made. Ms. Reid closed the public hearing at 9:41pm.

Mr. Stanton, Mr. Williams, and Ms. Reid stated that they were in favor of the application. This type of business is good for the Route 1 business corridor.



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Mr. Williams moved that the Zoning Board of Adjustment grant a special exception to allow a light manufacturing use (woodworking shop) on the property located at 198 Lafayette Road as represented in the application presented to the Board. Second by Mr. Stanton. The vote was unanimous in favor of the motion (5-0).

**2. Case #22:04 - Applicant: Theodore F. Horwath, III, Portside Fine Cabinetry, 4 1/2 Swetts Hill, Amesbury, MA 01913.** The Applicant requests a special exception as required by Section 202.4 of the Town of North Hampton Zoning Ordinance to allow a light manufacturing use (cabinetry and milled building products fabrication) on the property. Property Owner: Sabbia, LLC, 2 Walnut Hill Park, Suite 4, Woburn, MA 01801; Property Location: 198 Lafayette Road, North Hampton, NH 03862; M/L: 021-026-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Joe Surianello, property owner; Theodore F. Horwath, III, applicant; and John Chagnon, engineer.

Mr. Chagnon addressed the Board. Mr. Chagnon stated that the applicant intends to move his fabrication business into the remodeled Unit #3 within the front building on the site. The proposed business space will be used to construct custom cabinetry and other milled building products such as doors, tables, and wood tops. The zoning ordinance requires that the light manufacturing use receive a special exception from the ZBA.

Mr. Chagnon addressed the criteria for granting a special exception identified in the Town of North Hampton Zoning Ordinance.

1. The proposed business will not diminish the value of the surrounding properties in that the commercial activities will occur within the I-B/R zoning district adjacent to other commercial business sites. Utility and building appearance improvements will enhance the value of surrounding properties.

2. The proposed business will not adversely affect the public interest, safety, health, or welfare in that the proposed fabrication activity will occur indoors with proper ventilation. The shop use does not create any harmful or noxious substances. Noise will not be detectable beyond the walls of the unit. Sawdust will be swept regularly and disposed in an appropriate manner.

Ms. Reid asked for clarification regarding the nature of the business and the number of employees.

Mr. Horwath responded that there will be two general contractors and five employees associated with the proposed business. Two employees will be working in the shop at any one time. The fabrication activity is simply cutting wood and putting it together. There may be client walkthroughs on an infrequent basis.

Ms. Reid asked for clarification regarding dust control and solvents use associated with the shop operations.

Mr. Horwath responded that a dust control system will be used in the shop. No solvents will be stored on the site. Products are painted at the customer installation location.

Mr. Williams moved that the Zoning Board of Adjustment grant a special exception to allow a light manufacturing use (cabinetry and milled building products fabrication) on the property located at 198

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428 Lafayette Road as represented in the application presented to the Board. Second by Mr. Stanton. The  
429 vote was unanimous in favor of the motion (5-0).

430 Ms. Prior moved to adjourn the meeting at 9:51pm. Second by Ms. Reid. The vote was unanimous in  
431 favor of the motion (5-0).

432  
433 Respectfully submitted,

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437 Rick Milner  
438 Recording Secretary

In my opinion it does not meet the HARDSHIP Criteria

Hard ship must arise from a special condition peculiar to the parcel of land.  
A hardship created by the owner does not constitute a hardship.

If fact you have other locations within your IB/R property that could accommodate this fuel shed and the granite blocks. Your land has no unique or special conditions that couldn't or wouldn't accommodate this fuel shed or the granite blocks.

The R1 lot and IB/R lots existed when you purchased the property – and nothing has changed in terms of the town rules or zoning since you purchased the property.

1. Unnecessary hardship – Literal enforcement of the provisions of the zoning ordinance will not result in an unnecessary hardship. The applicant voluntarily chose to place the fuel shed and the granite block storage in the R-1 zoning district in violation of the zoning ordinance regulations without first obtaining the proper zoning relief. As evidenced by a previous site plan approval and a site plan page in the current application submitted by the applicant, alternate locations for the fuel shed and the granite block storage within the I-B/R zoning district in conformance with the zoning ordinance regulations are available.

2. Unnecessary hardship –The Town has allowed the applicant reasonable use of both the I-B/R and the R-1 sections of the property by approving multiple site plan applications involving multiple applicant initiated amendments to the uses on the property. Special conditions of the property which the applicant notes in his application are creations of the applicant, not unique circumstances created by the Town or special conditions which existed prior to the applicant's voluntary construction and land use activities. Other structure placements and land use activities voluntarily constructed by the applicant in non-conformance to previously approved site plans should not be used as a reason to allow relief for requested non-conformities. The current layout/conditions of both the I-B/R and R-1 sections of the property are the result of proposals/projects created by the applicant's voluntary actions.

### Substantial Justice

- The applicant's contention that no reasonable use is available for the remaining vacant portion of the R-1 section of the property is not valid. Accessory uses associated with the duplex home that are in conformance to the zoning ordinance regulations may be allowed in the R-1 zoning district. The expansion of the applicant's business activities beyond what the I-B/R section of the property may sustain is not a valid reason for granting a variance which may adversely affect the welfare of the surrounding neighborhood. The boundaries of the allowed uses were known prior to the applicant's ownership of the property.

Substantial justice - No taking of the applicant's property rights has occurred or will occur as the result of a variance request denial. The zoning district boundaries and uses allowed in each zoning district existed in their current status prior to the applicant purchasing the property. The Town has accommodated the applicant with approval of multiple construction and land use applications on both the I-B/R and R-1 sections of the property. The applicant has received significant and reasonable use of the R-1 section of the property with approval of his original single family home proposal and later approval of his revised duplex home proposal. The applicant had the opportunity to propose a conforming use for the entire section of the R-1 section of the property prior to construction of the duplex home and associated rock border, but voluntarily chose a different plan of action which resulted in the current layout of the R-1 section.

So I disagree with your last paragraph on page 7 or 8 that says – "allowing the residential portion of the lot to be used for commercial storage where the area cannot reasonably be used for residential purposes and is accessed only from the permitted business on the lot" You choose to configure this lot this way and you obtained approvals from the town to configure the lot and building the way you requested.

Substantial justice – The applicant's contention that a property owner is entitled to use their property as he sees fit is not valid. I would take deference to you statement on page 7 or 8 of your memorandum

"Property owners are constitutionally entitled to use of their properties as they each see fit"

This is NOT the wild wild west of land use- we have zoning districts and rules within those districts and when you live in a community you need to adhere to those rules. Your client has been permitted reasonable use of their land. Those rules were known at the time he purchased the property and those rules have not changed.

NH RSA 674:16 grants municipalities the power to regulate and restrict land uses for the purpose of promoting public health, safety, and welfare. There is a fair and substantial relationship between the intent of the zoning ordinance and its application to the subject property as evidenced by comments opposing the application. Encroachment of commercial uses within residential districts adversely affects the public's welfare.

The town has approved at least 4 different site plans granting you access to your land and buildings. You have chosen to configure your land in the way you see fit and the town has allowed your plans. No way is the town taking your right away.

The R1 district should act as a buffer and that ensures the health and safety of the abutter to minimize noise dust and light.

Have a fuel shed and granite blocks located in the R1 district is not a permit use of this district. Keeping the R1 District focused on residential activities is essential to the Zone character.

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**Contrary to the public interest and spirit of ordinance not observed** – As evidenced by several letters submitted by residents opposing the variance request, the essential character of the R-1 zoning district will be altered. Commercial uses within the R-1 zoning district as proposed by the applicant create conditions, such as noise, light, and dust, which adversely impact the public welfare. These conditions travel beyond the borders of the immediate abutting properties into the surrounding neighborhood and adversely impact the neighbors' enjoyment of their land. The R-1 zoning district border on the subject property provides a buffer zone which restricts encroachment of commercial uses and their impacts into the residential neighborhood.

3 of 3