



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member

**Hopedale Zoning Board of Appeals
Meeting Minutes
July 20, 2022**

Chairman Christopher P. Hodgens called the Zoning Board of Appeals (ZBA) public meeting and public hearing to order on July 20, 2022, at 7:00 pm. Meeting was held in the Town Hall Draper Room, streamed live via Zoom and on Hopedale Cable Access. Participation was made available through the following Zoom link:

Join Zoom Meeting

<https://us02web.zoom.us/j/89428044314?pwd=SUFVVmo3V2UydVRoN014a3cyT2tHZz09>

Meeting ID: 894 2804 4314

Passcode: 439560

Recorded meeting can be found on the Town of Hopedale website under meeting videos.

Members that were present: Christopher P. Hodgens, Chairman
Nicholas A. Alexander
Sandra E. Biagetti
Scott M. Savage

Mr. Hodgens introduced the members who were present. He said that Lou Costanza had called to say that he would not be available for the meeting tonight. Mr. Hodgens announced that the ZBA had a quorum. Mr. Hodgens reviewed the agenda for the benefit of those present and waiting to speak on zoom. He said that the ZBA would address the following: (1) Patriots Custom Auto / Mauricio Oliveira, (2) Nicholas and Amber Valente, (3) Sunshine Sign, (4) Triple Step Realty, and (5) correspondence received.

Mauricio A. Oliveira and Patriots Custom Auto, Inc. (Case # 2-2022)

Mr. Hodgens called the case of Mauricio Oliveira and Patriots Custom Auto, Inc. Mr. Hodgens provided a summary of the prior proceedings. Mr. Alexander executed a form certifying that he had reviewed the audio/video recording of the public hearing of March 30, 2022. Mr. Hodgens read from Article 3 of the Special Town Meeting Minutes of November 14, 2006. Through that article, Town Meeting accepted the provisions of G.L. c. 39, § 23D, which permits an absent board member to review an audio/video of a prior meeting to enable that member to vote on an issue.

No one appeared on behalf of the applicant. No members of the public or those notified as abutters voiced any objections to the application.

ZBA members continued to discuss the application as well as conditions that may be imposed to address concerns that had been raised. Mr. Savage made a motion to approve the application with the following conditions: (1) hours of operation Monday through Friday from 10 a.m. to 4 p.m.; (2) compliance with applicable state and federal law; (3) no outdoor display of vehicles for sale; and (4) no auto repairs. Sandra Biagetti seconded the motion.

A roll call vote on the motion followed:

Scott Savage	yes
Nicholas Alexander	yes
Sandra Biagetti	yes
Christopher Hodgens	yes

Mr. Hodgens declared the motion had passed unanimously, and the special permit would issue.

Nicholas and Amber Valente (Case # 3-2022)

Mr. Hodgens called the case of Nicholas and Amber Valente, opened the public hearing, explained the process, and outlined the procedural posture of the application. Mr. Hodgens invited the applicants to make a presentation.

Mr. Valente said that they intend to demolish the existing deck and provide better access from the side yard to a staircase. Nicholas Alexander referenced the sketch provided with the application and asked for clarification of the deck and staircase location. Ms. Valente added that they are seeking extra space for a toddler. She added that it is a great neighborhood, and they have the best neighbors.

The applicants submitted a petition with comments from their neighbors. Mr. Hodgens said that they read his mind because the first question he was going to ask is whether they had discussed the project with their neighbors. Mr. Hodgens read the petition into the record as follows:

“Lisa and Michael Pedroli have no objections to Amber and Nick putting a deck on the back of their house. We think it will be a nice addition to the back of their yard. 184 Hopedale Street.”

“Michelle and Terry Alves of 164 Hopedale Street have no objection to the residents of 176 Hopedale Street building a deck.”

“Scott Vanbuskirk and Maddie Parsons 9 Nelson Street. We are perfectly fine with Amber and Nick building a deck.”

“Larry and Teri Fremault 10 Nelson Street are OK with Nick and Amber building a deck.”

“Madeline and George Parker 188 Hopedale Street. We have no issue with a deck for Nick and Amber!”

“Mike and Cathy Julian 2 Cook Street have no problem with them building a deck.”

“Janice Doyle at 178 Hopedale Street has no objection to the Valente family building a deck at 176 Hopedale Street.”

“Ashley Metz 170 Hopedale Street, Hopedale, MA 01747. I don’t disagree with them having a deck.”

Mr. Hodgens clarified that the property is directly across the street from Sacred Heart Church. Mr. Hodgens asked the applicants to identify the owners of the surrounding properties. The applicants described the closest neighbors. Looking at the property to the right would be Ashley

Metz, and to the left would be Janice Doyle. Scott Vanbuskirk and Maddie Parsons are to the rear right, and Larry and Teri Fremault are to the rear left.

Scott Savage asked about the lot lines because the sketch did not indicate the location. Ms. Valente said there is a wall between the property to the right. Mr. Valente said that they also own the empty lot in the rear of their property. Mr. Hodgens noted there is a tree line between the front lot and the rear lot. The applicants said the tree line would remain.

Mr. Savage asked about the lot line on the left side of the property. Mr. Valente said they have a garage and shed on that side of the property. Nicholas Alexander noted that the deck would only be close to the right side of the property (Ashley Metz). The applicants agreed.

Mr. Hodgens said that he was inclined to grant relief, but for the purposes of writing up the variance and providing direction to the Building Commissioner, dimensions would have to be noted with specificity. Mr. Hodgens then outlined the set-back requirements of the Hopedale Zoning By-Laws: 15 feet for side set back and 35 feet for rear set back. Mr. Valente said that they would like relief for the full amount. Mr. Hodgens said that he was not sure that would be advisable to build right up to the property line and suggested a 3-foot set back. Mr. Valente asked about a 2-foot set back. The applicants said that Ashley Metz did not have a problem with building close to the line, and they said that the Metz residence is actually on the other side of that lot. Sandra Biagetti confirmed that the neighboring residence was not in close proximity to the Valente property line.

Mr. Hodgens emphasized that the focus on the set back is not designed to make the project more difficult. Instead, the focus is to help the Building Commissioner understand where the structure can be placed on the property. The applicants said they understood.

Mr. Alexander noted that the deck calls for 14 feet by 14 feet at its maximum. He suggested perhaps the applicants could shorten the dimensions. Ms. Biagetti emphasized that the dimensions need to be accurate, or there may be problems later. Mr. Savage asked about the proximity to the sidewalk. Ms. Valente explained the layout of the residence in connection to the deck. Mr. Valente added that they are looking to extend the deck about 3 feet from the side of the residence so that access can be gained by means of stairs and a gate.

Mr. Hodgens asked if a variance of 2 feet on the right side would be sufficient to achieve what the applicants are trying to accomplish. The applicants said that would be sufficient on that side. Ms. Biagetti asked about the dimension in the rear. The applicants did not have an exact dimension. Mr. Savage asked if 8 feet on the rear would be sufficient. The applicants said that it would be sufficient. Mr. Hodgens added once again that the need for specificity is not designed to give anyone a hard time, but is intended to assist the Building Commissioner in determining whether there is compliance with the variance. He also said that some level of specificity is needed because the variance that issues is going to reference the sketch provided by the applicants. The applicants said they understood. Mr. Hodgens summarized that relief would be granted for a variance up to 2 feet on the right and 8 feet in the rear. He asked the applicants if that would work, and Mr. Valente said that it would. Mr. Hodgens asked about the left side, but the applicants said they did not need relief on that side due to ample space. Mr. Alexander suggested that if the applicants find the estimates are off by a small amount, the simple solution is to just reduce the size of the deck by that small amount. Mr. Hodgens said that the variance provides only a maximum. If the applicants find during the course of construction that they do not need to build up to the maximum, they are not required to do so. Mr. Hodgens said relief will also be required for the 75% open space requirement. He said that he will not require the

applicants to estimate that amount in the absence of a precise, scaled drawing. Mr. Hodgins asked if all the ZBA members agreed with that. All agreed.

Ms. Biagetti inquired about the person building the deck. The applicants said the work would be done by Mike Pedroli

Mr. Hodgins then read from the Hopedale Zoning By-Laws regarding the requirements for a variance. Mr. Hodgins said that the ZBA will make a specific finding that “owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, to the petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this by-law.” All ZBA members expressed satisfaction with that finding.

Mr. Hodgins asked if anyone wished to be heard further. No one expressed an interest in being heard.

Mr. Hodgins entertained a motion with respect to the application.

Mr. Savage moved to approve the application and grant a variance for the right set back at 2 feet, the rear set back at 8 feet, and a corresponding variance for the 75% open space requirement. Mr. Alexander seconded the motion.

Mr. Hodgins once again asked if any member of the public or town official had any comment. No one expressed any interest in being heard. Mr. Savage tested the Zoom connection by asking someone to respond if the Zoom connection was working. A person on the Zoom connection responded that it was working.

Mr. Hodgins closed the public hearing.

Mr. Hodgins restated the motion as made and seconded for a variance for the 8 foot rear yard set-back, 2 foot right yard set-back, and a variance from the 75% open space requirement, all for the purpose of constructing a deck in according with the sketch provided by the applicants.

A roll call vote on the motion followed:

Scott Savage	yes
Nicholas Alexander	yes
Sandra Biagetti	yes
Christopher Hodgins	yes

Mr. Hodgins declared the motion had passed unanimously, and the variance would issue.

Sunshine Sign Company (Case # 4-2022)

Mr. Hodgins called the case of Sunshine Sign Company. He opened the public hearing, explained the process, and outlined the procedural posture of the application. Mr. Hodgins invited Megan Bradley to present the application.

According to Ms. Bradley, Aspire is a subsidiary of Seven Hills and offers educational programming at this location and wants to construct a freestanding, single-sided sign for identification purposes so that people can find them. Ms. Bradley said that the sign will conform to the sketch and plot plan submitted with the application.

Mr. Hodgens outlined the restrictions on general business district signs as set forth in the Hopedale Zoning By-Laws § 7.4: (1) one sign for the property; (2) area must be less than 40 square feet; (3) no dimension can exceed 8 feet; (4) must be 20 feet from property line; (5) no rotating, pulsating, or flashing signs; (6) no lights from 12 a.m. to 8 a.m.; and (7) must be structurally sound and maintained.

Sandra Biagetti asked about ground clearance to insure that drivers and others can see. Ms. Bradley said the sign will be 3.5 feet above the ground level and will reach a height of 5.5 feet. The width of the sign will be 2 feet. The sign will also be at the end of the access road. Ms. Bradley assured the ZBA that the sign will never block any line of sight in connection with traffic concerns.

No members of the public or abutters offered any comment or objections.

Scott Savage moved to approve the freestanding sign according to the dimensions indicated in the materials submitted. Ms. Biagetti seconded the motion. Mr. Hodgens reminded the applicant that all other requirements of the by-laws must be followed. Therefore, there was no need to add those requirements as conditions.

A roll call vote followed on the motion:

Scott Savage	yes
Nicholas Alexander	yes
Sandra Biagetti	yes
Christopher Hodgens	yes

Mr. Hodgens declared the motion had passed unanimously, and a special permit would issue.

Triple Step Realty (Case # 5-2022)

Mr. Hodgens called the case of Triple Step Realty. He opened the public hearing, explained the process, and outlined the procedural posture of the application. Mr. Hodgens invited the applicant to make a presentation. Attorney David Bertonazzi and Tracey Liberatore appeared for the applicant.

Attorney Bertonazzi said that the property is currently under a purchase and sale agreement between Triple Step Realty and the Mallards (current owners). The sale is contingent on obtaining zoning relief. The property is adjacent to the highway shed behind the town hall. The original residence on the property was enlarged when a legion hall was moved and joined to the structure. Although the property is a single-family home, it is configured as a three-family home with separate kitchens and bathrooms. One family has always occupied the residence. Triple Step would like to use the property as a three-family residence. There will be no enlargements to the residence and no structural changes. There will be esthetic changes and parking improvements.

Aaron Richardson, agent for the sellers, also appeared and spoke. Mr. Richardson noted that the property is clearly a three-family layout that has been used that way for years. Tracey Liberatore also explained the general layout and discussed the parking plans at the request of Nicholas Alexander. Mr. Alexander expressed some concern about the number of spaces and the location of the spaces. Ms. Liberatore indicated that parking will be created for 6 to 8 cars on one side with additional parking on the other side. A discussion followed about the size of parking spaces.

Mr. Hodgins read from the Hopedale Zoning By-Laws and clarified that parking spaces must be 9 feet wide by 19 feet long. He indicated that he viewed the property today and noticed an unpaved driveway that leads to the house. Ms. Liberatore said that the unpaved driveway is actually a town road. Ms. Liberatore added that she intends to work with an engineer on laying out the property, but there was simply not enough time to hire one and have a plan drawn up. Attorney Bertonazzi also said that the rudimentary drawing was necessary due to the time constraints they faced.

Mr. Hodgins outlined the reason for a special permit requirement. The property is zoned Commercial. Due to the zoning classification, residential properties are not allowed. The existing residence, however, predated the zoning by-laws and is a non-conforming use under section 4. The applicant is seeking relief under section 4.1. Mr. Hodgins said the by-laws appear to contemplate granting relief in this situation, but the language is not entirely clear. Mr. Hodgins said that relief under section 4.5 may be more appropriate. Under section 4.5, a change of use may be allowed by special permit "if in the judgment of the Board of Appeals the proposed use is no more detrimental or offensive to the neighborhood than the existing non-conforming use." The question is whether increasing the non-conformity would be detrimental. Mr. Hodgins noted that this is a very unusual property. It is abutted by a railbed, highway salt shed, public housing, and residences on Hopedale Street. Mr. Hodgins asked if there has been any effort to speak with the Hopedale Street residents. Ms. Liberatore said she spoke with Tracey Philips (who appeared through Zoom).

Mr. Hodgins invited Ms. Philips, or any other abutters, to speak if they wished. Ms. Philips asked to clarify the parking and the access. Ms. Liberatore said that access would be through the road in the front. There would be no parking in front of the building. Mr. Philips (also on the Zoom call) asked about a shed being taken down. Ms. Liberatore indicated that the parking would be closer to the location of the shed. Mr. Hodgins verified that Tracey Philips lives at 82 Hopedale Street. Mr. Hodgins asked Ms. Philips if she is satisfied with the request for the special permit. Ms. Philips replied that she is satisfied as long as Tracey Liberatore is running the project. Mr. Hodgins also noted that the property is very unusual and looks like it is from the 1800's with a rolling hill and dirt road. Mr. Richardson said that the residence is currently vacant, and the owners are not able to maintain it anymore.

Mr. Hodgins said the request seems pretty straightforward. If the property were somewhere else in town, Mr. Hodgins might have some reservations about it because we would be increasing a nonconformity. The unique nature of the property and the lack of any opposition from abutters most impacted by the project appears to justify granting zoning relief. Mr. Hodgins concluded that the request for zoning relief does not appear unreasonable, and he invited other ZBA members to comment if they chose to do so. Scott Savage said that his only concern is the parking issue. He expressed concern about 6 to 8 parking spaces in the location suggested. Sandra Biagetti asked if the sheds would be taken down. Ms. Liberatore said the sheds would be taken down. Ms. Liberatore said that she would be willing to take additional sheds down along the railbed and create parking in that location. Mr. Savage emphasized that additional parking is

likely to be needed. Mr. Alexander asked about parking for visitors. Mr. Alexander said that he does not want to see neighbors upset by cars being parked randomly.

Mr. Hodgens read from section 18 of the Hopedale Zoning By-Laws. He cautioned that under section 18.2(b), 10 parking spaces is the “magic” number that will trigger site plan review. Ms. Liberatore asked if avoiding 10 spaces would be preferable. Mr. Hodgens said that he never discourages site plan review because it really benefits everyone. Mr. Hodgens emphasized that if 10 spaces are contemplated, then site plan review will be required with an engineering plan showing exactly where spaces will be located. Mr. Hodgens also emphasized that there is almost 40,000 square feet of land available for parking cars in an unobtrusive way. Mr. Hodgens said that in his judgment the ZBA could approve the special permit without micromanaging the project at this point. Ms. Liberatore said that she is not anticipating a need for more than 8 parking spaces. Ms. Liberatore said that her objective is to be a good neighbor. Attorney Bertonazzi said that the applicant is open to taking direction from the ZBA as far as the number of spaces required. Mr. Hodgens reiterated that he does not believe the ZBA has to micromanage the project at this point. Mr. Hodgens urged the applicant to simply follow the zoning by-laws going forward.

Mr. Hodgens invited public comments and comments from the ZBA. No additional comments were offered.

Mr. Hodgens invited a motion on the application. Mr. Savage moved to approve the application changing the use from single-family use to three-family use. Ms. Biagetti seconded the motion.

A roll call vote on the motion followed:

Scott Savage	yes
Nicholas Alexander	yes
Sandra Biagetti	yes
Christopher Hodgens	yes

Mr. Hodgens declared the motion had passed unanimously, and the special permit would issue.

Mr. Hodgens addressed correspondence received by the ZBA.

Mr. Hodgens said that on June 23, 2022, the ZBA received an email from Board of Health (BOH) Chairman Walter Swift with a three-page letter attached. Mr. Swift wrote that he had attended the June ZBA meeting regarding the GFI project on Plain Street. At that time, Mr. Swift realized that the ZBA had not had an opportunity to review the project during site plan review before the Planning Board. Specifically, the BOH did not review the Ground Water Protection District issue. Mr. Swift wrote that he hopes the Planning Board and the developer will provide all necessary information to the BOH as soon as possible so that the BOH may review. Mr. Hodgens noted that the GFI application is back on the ZBA agenda for next week (July 27), and he would like to reach out to counsel for the applicant to let him know that the letter has been received from the BOH. Ms. Biagetti agreed. She said that we must let the applicant know that we received the letter and give the applicant a chance to settle matters with the BOH before the ZBA proceeds. Mr. Alexander asked why the BOH had been bypassed in the Planning Board proceedings. Mr. Hodgens responded that the letter does detail what happened, but he did not want to get into the dispute between the BOH and the Planning Board. Both boards have different views as to what occurred. Mr. Hodgens said the issue is that the BOH has not had a chance to review the matter and would like to do so. Ms. Biagetti said the

BOH letter indicated that the Planning Board claimed it notified the BOH, but the BOH disagreed. Mr. Hodgens said that he would like to hear from the BOH and would notify counsel for GFI to save the applicant the time and expense of appearing at a meeting next week for no reason. Mr. Hodgens said that he does not want anyone to be blindsided. Mr. Savage suggested a joint meeting with the BOH. Mr. Hodgens said that he does not favor joint meetings because it hinders independent review by individual boards. All members agreed to let GFI counsel know what is happening. Mr. Hodgens then announced to anyone watching on zoom that there would be no vote by the ZBA next week on the Plain Street matter. He said that he is also trying to put all information on the ZBA website but there have been some delays due to information technology issues surrounding changing the settings for authorization.

Mr. Hodgens said the ZBA also received an email from Michael Hyland. Mr. Hodgens said that whenever the ZBA receives an email, he acknowledges it, indicates it will be forwarded to other members, and forwards the email. Mr. Hyland's email was dated July 18, 2022, and was very lengthy. Mr. Hyland raised a number of issues and said that he is opposed to the Plain Street project. Mr. Hyland also thanked the ZBA for its patience and for allowing residents to speak. Mr. Hyland commended the ZBA for its "professionalism" and "sensitivity."

Mr. Hodgens said the ZBA received an email from Julie Guido dated July 20, 2022. It was a lengthy email expressing opposition to the Plain Street project for a number of reasons including pollution and traffic.

Mr. Hodgens concluded by saying that he received an email from legal counsel, Attorney Robin Stein. Attorney Stein indicated that High Hopes was no longer interested in pursuing its appeal of a ZBA decision and would be entering into a stipulation dismissing the case. Mr. Hodgens reminded everyone that the ZBA amended a special permit because a condition that was approved by the ZBA was inadvertently not included in the written permit. High Hopes appealed that decision to the Land Court. High Hopes has now decided to dismiss the appeal. The condition in the amended special permit stands.

Mr. Savage moved to adjourn, and Mr. Alexander seconded the motion. Mr. Hodgens said that all voted in favor, and the meeting adjourned.

The meeting adjourned at 8:25 p.m.