

**Zoning Board of Adjustment
Fuller Public Library
HILLSBOROUGH, NH
January 21, 2025**

DATE APPROVED: 2/10/25

TIME: 6:03 p.m. – p.m. 7:10 pm

CHAIRPERSON: Larry Baker

VICE CHAIRPERSON: Keith Cobbett

MEMBERS: Lucy Pivonka, John Segedy, David N. Fullerton

PLANNING DIRECTOR: Robyn Payson

ALTERNATES:

EXCUSED:

Public Present: Dennis Roberts Jr.

CALL TO ORDER:

Chairman Larry Baker called the meeting to order.at 6:03pm

This hearing is continued from the Site Walk held on January 20th 2025.

Public Hearing

Chairman Larry Baker asked if there were any questions from the site walk.

Lucy Pivonka said she wanted to know if the building was another stall for the body shop or if it would be storage.

Mr. Roberts said it would be a space to take parts off of vehicles and re-sell them.

John Segedy asked about access for the forklift. He asked if Mr. Roberts would be averse to putting lattice-work up to discourage any employees from going that way.

Mr. Roberts said he was not in favor of that.

John Segedy asked what the size of the roof section would be.

Mr. Roberts said it would be 120 ft x 90 ft

John Segedy said he was talking about the part that would be closest to the 75ft mark. He went on discussing his concern that an employee would find this an easy access around the building.

Mr. Roberts said someone would have much larger issues by going into that space where it could be soft. He went on to describe the area. His employees will be instructed not to use the area.

Chairman Larry Baker said there was no public present so there would be no public comment.

Variance

16 Antrim Road (Map 11K Lot 323)
Dennis Roberts Jr. Hillsborough Ford

A. Granting the proposed Variance will not be contrary to the public interest because:

John Segedy said the Conservation Commissions comments applied to this criteria.

Chairman Larry Baker asked the Board members if they had read the Conservation Commission's comments. They indicated that they had.

John Segedy asked Mr. Roberts if he had any response to their concerns.

Mr. Roberts said when he read it, it didn't seem to line up with what he was doing. He spoke about the details he has already addressed. He said he didn't think they had looked at the property to see what they had done with it. He said he is adding this overhang, but they don't realize that the water goes across pavement, now. The water will be going across a roof and then two feet on pavement. The rainwater will be going into the same place that it goes right now.

Chairman Larry Baker asked for clarity, where this building is going is already on impervious paved surface, it's not like you are increasing the impervious surface at all.

Mr. Roberts said that his intent is to stay on the impervious surface.

Lucy Pivonka read a part of the letter from the Conservation Commission.

"The applicant equates impervious surfaces with the construction of an addition to the body shop. The two are not equivalent. Indeed, as is noted by the applicant, while impervious surfaces alone were not prohibited in 1998, buildings, including the proposed open shed type storage area, were prohibited."

Lucy Pivonka said, you could put the impervious surface down but not the shed.

John Segedy said they got that from Mr. Roberts' summary of the past. They were interpreting it differently by saying they are not the same. He said he is a little confused about the location of the 75' on the map and the pavement lines. Mr. Roberts reviewed the map with him.

John Segedy said there will be two sections that will be dripping on to the dirt.

Mr. Roberts said it would be about 3 inches in two places.

John Segedy said over time there could be a little ditch running down there.

Mr. Roberts said it shouldn't be concentrated; it should be the same as it is now.

There was further discussion about the water that may be dripping on to the dirt.

David Fullerton said he agreed with the applicant and if there is water coming off the roof now, you are going to have water coming off the roof then. It's all going into the river, it's not a big deal.

Lucy Pivonka asked about when the dealership had been flooded.

There was discussion about flooding in the past.

John Segedy asked if Mr. Roberts would consider on those two corners, putting a diverter piece of gutter.

Larry Baker said that is getting into Site Plan.

Robyn Payson said what the ZBA needs to be careful about is recommending specific actions. There is no one on the Board who is an expert on drainage and is qualified to suggest specific actions for mitigation.

John Segedy said he still thought they could make a recommendation that diversionary measures be taken to prevent runoff directly on to dirt. He said he thought that would be a good condition.

Findings of Fact (Indicated by bullet points throughout the document)

- The applicant is not increasing the amount of impervious surface
- The two corners on the southeast side pitch of the overhang appear on the drawing provided by the applicant to end right at the edge of pavement.

John Segedy said he wasn't clear on whether or not there would be work done in the addition.

Mr. Roberts said there would be no work done there.

John Segedy asked if he would object to a condition stating that it would be for storage.

Chairman Larry Baker said it would be non-chemical storage.

B. Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because:

Chairman Larry Baker read the applicants response to the criteria.

The relief sought by the applicant would merely allow the replacement of one “grandfathered” non-conforming use with another non-conforming use of equal impact, and there is no evidence to suggest that the existing uses have resulted in violations of the objectives of the ordinance cited above.

Lucy Pivonka said she wanted to point out that the applicant said it’s going to “allow them to replace one grandfathered non-conforming use with another non-conforming use of equal impact.” This is contrary to what the Conservation Commission has said. They said they are not equivalent.

C. Granting the proposed Variance will do substantial justice because:

Substantial justice is done when the granting of a variance would not a) cause a harm to the general public that outweighs the benefit to the property owner, and b) if the proposed use is consistent with the present use of the surrounding area.

- Chairman Larry Baker said the surrounding area is the applicant’s property and is consistent with the surrounding area.

John Segedy said the other surrounding area Town owned conservation land on the other side of the river. So it is not consistent with that area. He said the Conservation Commission did not attend the site walk. He notified the Chairman that the site walk was happening. They did not know that area was already being used for storage.

Larry Baker said the change will improve conditions because they will be contained.

Dave Fullerton said it will look better.

Chairman Larry Baker said one of the Conservation Commissions concerns is runoff. If there is something under a covered area it won’t.

Lucy Pivonka said she didn’t think they had evidence one way or another.

- The benefit to the applicant is not outweighed by a loss to the public.

D. Granting the proposed Variance will not diminish the values of the surrounding properties because:

The proposed variance will not change the present use of the property, which is commercial. Also, the proposed does not expand the present use of the property in terms of impact on the North Branch River, since one impervious use will simply be replaced by another.

Chairman Larry Baker said he had no problems with the response.

Lucy Pivonka said she would go back to what the Conservation Commission said that it was adding impervious surface with those few inches where it might go over.

John Segedy said that was not the Conservation Commission, it was he that said that.

Lucy Pivonka said that when the Conservation Commission said that what is there now is not equivalent to building a shed, and it doesn't sound like the impervious surface is exactly the size of what's intended.

E. Literal enforcement of the provisions of the ordinance will result in an “unnecessary hardship” because:

Chairman Larry Baker read:

(1). Owing to special conditions of the property that distinguish it from other properties in the area: (i) 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 (ii) The proposed use is a reasonable one because:

The special conditions of the subject property that distinguish it from other properties in the area is the fact that it is relatively small in the area for an automobile dealership, is bordered on three sides by the North Branch River, and was developed prior to the 2015 amendment of the town's Stream and Shoreland Protection ordinance.

- i. While the general public purpose of the ordinance is to protect the water quality of the North Branch River, applying that restriction in this case would have no beneficial effect, since the area in question is presently impervious, and the proposed use will not intensify its impact on the river; and
- ii. The proposed use is a reasonable one because (a) it is a commercial use in a commercial zone; (b) it replaces one non-conforming use with another non-conforming use with no demonstrable negative effect on the water quality of the North Branch River.

Lucy Pivonka said on the “no negative effects on the water quality”; we don't have any evidence of that.

Chairman Larry Baker said there is no evidence it will be impacted either way.

John Segedy said it's not the Board's job to find evidence, it's the applicant's job to prove to us that it's a reasonable use.

Dave Fullerton said he thinks it's just common sense that the roof is not going to change it.

Chairman Larry Baker said he thinks it's going to improve it because anything that may be on that equipment won't be washed into the river each time it rains.

Kieth Cobbett made a motion to approve the variance submitted by the applicant. David Fullerton seconded the motion.

John Segedy brought up conditions. He wanted to see a condition which stated “reasonable effort be made to divert rainwater from the two south ease corners of the overhang”

Chairman Larry Baker asked the Board for their opinion because he wasn't sure this should be a ZBA condition.

Kieth Cobbett said that would be a Planning Board issue because now you are talking about development, you aren't talking whether it's in the 75 feet or not.

Lucy Pivonka said she agreed with Keith.

Dave Fullerton said Dennis feels the water is going to be on the pavement within two feet. He said John is looking at a map that is scaled 1" = 40 ft. He said he has seen these maps before, this line that is put on there, to be able to say there is two feet there or there isn't two feet there - you are clutching at straws.

Chairman Larry Baker asked if he thought conditions were needed.

Dave Fullerton said no.

Chairman Larry Baker said the consensus was that no conditions were necessary. He called for a vote on the motion on the floor to approve the application as presented. The motion carried unanimously, and the variance was granted

Minutes

1/13/25 Larry Baker made a motion to approve the minutes as amended. Keith Cobbett seconded the motion. The motion carried unanimously.

Work Session

2025 Meeting Schedule.

The 2025 Meeting Schedule was reviewed by the Board John Segedy made a motion to approve it. Larry Baker seconded the motion. The motion carried unanimously.

There being no other business, Larry Baker made a motion to adjourn. Keith Cobbett seconded the motion.

Meeting adjourned at 7:10 pm

Respectfully Submitted,
Robyn Payson, Planning Director