

**Zoning Board of Adjustment  
Fuller Public Library  
HILLSBOROUGH, NH  
February 10, 2025**

**DATE APPROVED: 3/10/25**

**TIME:** 6:00 p.m. – 6:45 pm

**CHAIRPERSON:** Larry Baker

**VICE CHAIRPERSON:** Keith Cobbett

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

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:**

**EXCUSED:**

**Public Present:** Patty Gregg, Maggie and Nate Van Camp, Hunter Payeur, Jed Schwartz, Don and Marilyn Jost, Nick Cashorlai, Tim Lacey

**CALL TO ORDER:**

Chairman Larry Baker called the meeting to order.at 6:00 pm

**Pledge of Allegiance**

**Public Hearings**

**Special Exception**

55 Kimball Hill Road

Margaret Van Camp/Maggie's Happy Hens

Margaret Van Camp introduced her application for a home daycare with a potential for 16 children. The potential mix is 4 infants, 12 children ages 3-5 and before and after school care for up to 5 elementary students.

David Fullerton asked how many adults would be supervising the children.

Ms. Van Camp said there would be two full-time adults, herself and one other person.

**A. The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Table 4 Chart of Uses:**

This use is allowed by Special Exception in the Table 4 Chart of Uses.

**B. The requested use will not create undue traffic congestion or unduly impair pedestrian safety:**

Ms. Van Camp said the daycare will be small and will not produce an overwhelming number of cars travelling on the road.

John Segedy asked if they had parking spaces for the cars that would be coming to the daycare.

Ms. Van Camp said they have a really long driveway and huge fields around their house so anyone that came in would not be parking on the road.

**C. The requested use will not overload any public or private water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.**

Ms. Van Camp said 55 Kimball Hill Road is on a private well and septic so no impact to any public water or sewer would occur.

**D. The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services.**

Ms. Van Camp said there is no impact on police, fire, or schools, or waste disposal services for the daycare as these services are unrelated to the daycare business.

**E. Any requirements and standards for the specific use as set forth in the Zoning Ordinance are fulfilled.**

Ms. Van Camp said the use is allowed in the Rural zone by Special Exception. Obtaining the Special Exception satisfies the requirements of the Zoning Ordinance.

**F. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to or out of character with the adjacent neighborhood.**

Ms. Van Camp said there is no expected impact of the home daycare on the neighborhood in general. The house is set far back from the road and away from other homes.

**G. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan**

Ms. Van Camp said the daycare is allowed by Special Exception in the Rural zone. Obtaining the Special Exception is in the spirit and intent of the Zoning Ordinance.

Chairman Larry Baker opened the public hearing.

Tim Lacey asked if this was a daycare or a school.

Ms. Van Camp said it was a daycare with mostly 3–5-year-olds and possibly after school care.

Mr. Lacey asked if there would be any new buildings.

Ms. Van Camp said it would all be within the home.

There being no other comments or questions Chairman Larry Baker closed the public hearing.

Chairman Larry Baker asked if the Board had any further discussion.

Chairman Larry Baker said that this approval will be conditional on Planning Board approval.

John Segedy suggested there being a condition that the applicant be in compliance with all local, state and federal rules, laws, ordinances and regulations.

John Segedy made a motion to grant the Special Exception as presented with the following conditions:

This approval will be conditional on Planning Board approval.

The project shall be in compliance with all local, state and federal rules, laws, ordinances and regulations

Dave Fullerton seconded the motion. The motion carried unanimously.

### **Findings of Fact**

1. The use is allowed by Special Exception in the Rural zone in the Table 4 Chart of Uses.
2. More daycare for children is needed in Town.

### **Variance**

295 Sleeper Road (Map 1 Lot 5)

Hunter Payeur/Donald and Marilyn Jost

Hunter Payeur, who is a land consultant for New England Forestry Consultants Inc., presented the application to subdivide Map 1 Lot 5 into 2 lots without any road frontage in Hillsborough. The proposed lot will be divided from the north end of the 91-acre parent lot and will be approximately 20+/- acres. The property is located on a class VI road, abutting the Washington town line. He said there are no wetlands on the property, and pointed out that the property across the road was subdivided on the Class VI road as well

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

Mr. Payeur said the use of the property will continue to be limited to those of a woodlot on a Class VI Road for uses of recreation and forestry. If someone wished to build a house on the lot, then this would align with the mixed use of residential/woodland neighboring properties.

John Segedy said, so you say it is limited to a “wood lot” but then you talk about wanting to build a house on it. You can’t stop someone from building a house when they subdivide it but they would need to get a Class VI Road Waiver to build a house.

Keith Cobbett said you take that risk with any Class VI property.

Robyn Payson said the Building Department requires a Class VI Road waiver.

Mr. Payeur said he only put that in there to show it is consistent with the other properties in the area. The Jost's are only interested in selling 20 acres of woodland.

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

Mr. Payeur said the new lot will far exceed minimum acreage requirements, allowing it to continue to be enrolled in current use. Since there are no proposed use changes at this time there is no additional threat to health or natural resources that do not already exist.

Lucy Pivonka asked if they were subdividing it to sell it to a forestry company.

Mr. Payeur said not necessarily. Just someone who wants to own 20 acres of woods.

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

Mr. Payeur said the rural character of woodland and house lots will be upheld while allowing the owner to reduce the amount of acreage under their ownership and management.

Lucy Pivonka asked if most of this property was in current use.

There was a brief discussion about current use and Robyn Payson said that they would need to talk to the assessing clerk for the details.

Dave Fullerton asked if the wood lot was oak, pine or maple.

Mr. Payeur said it was primarily pine.

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

Mr. Payeur said the proposed use of the property will not change.

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

(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:

Mr. Payeur said this property is anywhere from 1.4 to 14.2 times the size of their neighbors along Sleeper Road and the new lot would still be larger than a majority of these, including the Iadonisi subdivision across the road. The owner's remaining property would continue to be one of, or the largest property along this portion of Sleeper Road.

Larry Baker said the lack of frontage on the Hillsborough side would be the hardship.

Robyn Payson said none of the lots have frontage on a Class V road.

Lucy Pivonka said these are all substantial pieces of land. So they are saying that this property is larger than most of the properties in the area. Is that the special condition?

Keith Cobbett said the proposed use is a reasonable one.

There was a brief discussion about what the "special condition" of the property was.

John Segedy said it was the size of the lot.

Larry Baker polled the Board and the majority thought criteria E1 has been met.

Larry Baker opened the public hearing.

Jed Schwartz, is an abutter to the property on the Washington side. He said he has around 85 acres on the Washington side of Sleeper Road. He said he had a couple of things. First Hunter came to the Washington ZBA to propose that they get access granted to this property from the Washington side via Bear Hill Road. This concerned him and other neighbors, and that access is an extraordinarily steep road that in his 40 plus years living there he has seen washed out dramatically. They were also concerned about the long-term plan for that property. Why would they be asking for access if there is no plan for future development. Hunter mentioned the development across the street which was the owner of the property taking out two acres for his son to build a house and the rest of it is being kept wild. It was never any kind of big development or subdivision. It's very high property it is classic for development these days on the top of the hill to sell it for top dollar. We are concerned about the very little amount of development we have seen up there has dramatically changed the runoff on this property coming down Bear Hill. Even the Iadonisi house changed with the snowmobile trail that cuts across from the Ekhardt field to Sleeper Road and the development up there has dramatically washed out sections of that snowmobile trail, they have to build a new bridge. He said he is concerned. He doesn't know what the requirements for acreage are in Hillsborough for a dwelling but with 20 acres that could be a number of houses up there. He wondered if anyone from the Conservation Commission was here and had any comments on this.

Robyn Payson said if this goes to the Planning Board the Conservation Commission will be copied on the whole application.

Hunter Payeur said the only reason he went to the Washington Planning Board was he was told that he would need permission to use Bear Hill Road for access. It wasn't for any purpose for

the property per-se it was because that was going to be our access to the property so we need permission from the Town of Washington to go in there.

Larry Baker said for clarity there are no future plans for the property other than dividing this into 20 acres.

Mr. Jost said the 20 acres he is selling off is for their retirement. He said he does not want to sell the rest of the acreage he wants to be a steward for it. The gentleman who is buying it parks on his property and walks down the hill, he's been doing it for 9 years. He doesn't even come up from Washington. He parks on our property and walks through the woods. He has been hunting there for nine years. That is why he went for this. He was so scared about who is going to get in there, what are they going to do. Are they going to subdivide it he said that would break his heart. He said he loves his woods. He said he was very careful with what he wanted to do. He said you can't even get to that property by Sleeper Road because the road is so washed out.

John Segedy asked if Washington approved.

Mr. Payeur said it got kicked back and they wanted to think more about it but they also wanted to know if he got the proper procedure so he got back with Robyn and she checked with the Town attorney.

Robyn Payson said she is going to have to go back to the Town attorney because it is between the two towns and that there are going to be some approvals needed from Washington. She said she is not exactly sure yet.

Larry Baker said to Mr. Schwartz that once it gets to the Planning Board he would be notified.

Mr. Jost said from the end of his property the only other access is snowmobile trail, in the summer-time its horses and in the summer it's the Jeeps that come up the hill and walkers and bicyclists. That's why he wants it to remain all woods.

There being no other comments Chairman Larry Baker closed the public hearing.

Keith Cobbett said it's understandable that if you buy a piece of property that large you sell off a chunk for retirement.

Chairman Larry Baker said all the Board is dealing with is the frontage issue. He said this is another application that would be conditioned on approval by the Planning Board

John Segedy said this should also be conditioned to follow all laws, ordinances rules and regulations. He also suggested that the Planning Board might consider this a Development of Regional Impact.

John Segedy made a motion to approve the application with the following condition:

Granting this variance is contingent upon approval by the Hillsborough Planning Board's and the Boards in the Town of Washington

Keith Cobbett seconded the motion.

Lucy Pivonka wanted to point out that what the neighbors did, does not impact this application and thinking about what may or may not happen down the road shouldn't be on anybody's mind either. We have to deal with the present and what is before us now.

Chairman Larry Baker called for a vote on the motion.

The motion carried unanimously.

#### Findings of Fact

1. The lot has a special condition because it is larger than surrounding properties.

#### **Meeting Minutes**

01/20/25-Site Walk John Segedy made a motion to approve. David Fullerton seconded the motion. The motion carried unanimously.

1/21/25 Chairman Larry Baker made a motion to approve the minutes. Dave Fullerton seconded the motion. Because John Segedy needed to point out two errors in the minutes the motion to approve and second were withdrawn.

John Segedy pointed out two errors in the minutes.

Chairman Larry Baker made a motion to approve the minutes as amended. Keith Cobbett seconded the motion. The motion carried unanimously.

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

Meeting adjourned at 6:45 pm

Respectfully Submitted,  
Robyn Payson, Planning Director