



# Town of Hopkinton

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## HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION MARCH 4, 2014

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on Tuesday, **March 4, 2014, at 6:30 PM** in the Hopkinton Town Hall, 330 Main Street, Hopkinton, and made the following decisions:

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### I. Application(s).

#2014-1 Jennifer M. Balkus Variance to permit the owner/operator of a proposed Bed and Breakfast Inn at 11 Hopkins Green Road to reside off-premises. The property is located in the R-4 district, owned by John and Jennifer Balkus, shown on Tax Map 251 as Lot 14. The application was submitted in accordance with Zoning Ordinance subsection 2.1.B.2.b and Table of Uses 3.6.B.3.

Gregory McLeod, seconded by Toni Gray, moved to **APPROVE** application #2014-1 as presented with the following conditions:

1. Approval of the Variance shall expire upon transfer (sale) of property located at 11 Hopkins Green Road (Tax Map 251, Lot 14) and/or property located at 13 Hopkins Green Road (Tax Map 251, Lot 15). See conditions of Application #2014-2.
2. Applicant shall prepare and record at the Merrimack County Registry of Deeds a document outlining the above condition.

Motion carried unanimously (Gray, McLeod, Rinden and Krzyzaniak). The Applicant satisfied all requirements to be granted a Variance in accordance with Section 15.8.3 of the Zoning Ordinance.

Reasons for approval as follows:

1. The proposed use would not diminish surrounding property values. *There was no evidence that any of the surrounding property values would diminish. The owner/operator owns two residences that are adjacent to one another. One residence will be utilized as the Bed and Breakfast Inn and the other as the main residence for the owner/operator. Due to the close proximity of the residences, the impact of granting the Variance with the above conditions is believed to be no greater than as if the owner/operator were to reside at the Inn.*
2. Granting the variance would not be contrary to the public interest. *The proximity of the Bed and Breakfast Inn from that of the owner/operators' residence (represented as approximately 89 steps, utilizing the same driveway) with the conditions imposed will not be contrary to the public interest.*

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*Notice of Decision is subject to review and approval.*

3. By granting the variance substantial justice would be done. *There was no evidence that the granting of the Variance would injure the rights of others. Granting of the Variance would allow the owner/operators to remain in their residence while allowing the integration of the two properties (Bed and Breakfast Inn and adjacent residence) in a manner that would continue to maintain the safety and general welfare of the public. The elevation of the property of the owner/operators' residence and close proximity appears to provide a much better view of the grounds than if the owner/operators were actually to reside at the Inn.*
4. The spirit and intent of the Ordinance will not be broken by granting the variance. *The use of the owner/operators' property as a single family residence is permitted and the use of the adjacent property for a Bed and Breakfast Inn is permitted by Special Exception. Therefore, the uses are consistent with the intent of the Ordinance. While the owner/operators will reside in the adjacent residence and not physically in the Inn, the owner/operators will be at the Inn on a regular basis preparing breakfast and attending to the needs of their guests. Furthermore, imposing the condition that the Variance shall expire upon transfer (sale) of property located at 11 Hopkins Green Road (Tax Map 251, Lot 14) and/or property located at 13 Hopkins Green Road (Tax Map 251, Lot 15) will ensure that the owner/operators must reside at the property in order to operate the Inn.*
5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. *But for the fact that the properties are located adjacent to one another and the condition that the Variance shall expire upon transfer and/or sale of either property, the Variance would not have been granted. The continued use of the property by the owner/operators as a single family residence is a permitted use. Both properties (inn and residence) were once located on the same parcel with both residences being utilized as part of a large farm. The main residence (Bed and Breakfast Inn) was once known as the farmhouse with the adjacent residence (owner/operators' residence) known as the bunkhouse. The history of the uses of the residences, including their proximity, distinguishes the properties from others in the area; therefore, it is believed that it would not be reasonably feasible to have the owner/operators move from their residence into the Bed and Breakfast Inn.*

#2014-2 Jennifer M. Balkus Special Exception to permit the operation of a Bed and Breakfast Inn at 11 Hopkins Green Road. The property is located in the R-4 district, owned by John and Jennifer Balkus, shown on Tax Map 251 as Lot 14. The application was submitted in accordance with Zoning Ordinance subsection 2.1.B.2.b and Table of Uses 3.6.B.3.

Toni Gray, seconded by Dan Rinden, moved to **APPROVE** application #2014-2 as presented with the following conditions:

1. Bed and Breakfast Inn shall be limited to no more than six (6) bedrooms;
2. All conditions of Zoning Ordinance subsection 3.7.6 (Bed and Breakfast Inn) shall be adhered to prior to operation of the proposed use;
3. Approval of the Special Exception shall expire upon transfer (sale) of property located at 11 Hopkins Green Road (Tax Map 251, Lot 14) and/or property located at 13 Hopkins Green Road (Tax Map 251, Lot 15). In any case, if the Applicant (owner/operators) no longer resides at 13 Hopkins Green Road, the Special Exception to operate the Bed and Breakfast Inn at 11 Hopkins Green Road shall expire.

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4. Applicant shall prepare and record at the Merrimack County Registry of Deeds a document outlining the above condition.

Motion carried unanimously (Gray, McLeod, Rinden and Krzyzaniak). The Applicant satisfied all requirements to be granted a Special Exception in accordance with Section 15.8.2 of the Zoning Ordinance.

## **II. Review of the Minutes and Notice of Decision of December 3, 2013.**

Toni Gray, seconded by Dan Rinden, moved to APPROVE the Minutes and Notice of Decision as presented. Motion carried unanimously (Gray, McLeod, Rinden and Krzyzaniak).

## **III. Adjournment.**

With no further business to come before the meeting, motion was made by Greg McLeod, seconded by Toni Gray, to adjourn the meeting at 8:07 PM. The next regular scheduled meeting of the Board is Tuesday, April 1, 2014, at 5:30 PM in the Town Hall.

Karen L. Robertson  
Planning Director

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Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply to the Zoning Board of Adjustment for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.