



# Town of Hopkinton

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## HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES NOVEMBER 27, 2018

Members present: Chairman Daniel Rinden, Toni Gray, Charles Koontz, and Alternate Jonathan Eck. Absent: Seth Greenblott and Jessica Scheinman. Staff present: Planning Director Karen Robertson.

**I. Call to Order.** Chairman Rinden called the meeting to order at 5:30 PM in the Hopkinton Town Hall. At that time, the Applicants were given an opportunity to post-pone review as there were only four members present. Since there were no requests for postponement, Chairman Rinden noted that a tie-vote will require further deliberation.

### **II. Applications.**

**#2018-9 Joseph Grogan** addressed the Board to request a Special Exception to operate an electrical business as a Home Business at 351 Park Avenue. The property is owned by 351 Park Ave, LLC, and is located in the R-1 district, shown on Tax Map 222 as Lot 70. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.H.16.

Mr. Grogan explained his intentions in constructing an addition to the residence; however, prior to making the investment, he wants to be sure that his electrical business would be allowed.

Mr. Grogan's response to the criteria for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

- 1. Standards provided by this Ordinance for the particular use permitted by Special Exception.** A home business is permitted by Special Exception per Zoning Ordinance subsections 2.1.H.1, 3.7.3 and Table of Uses 3.6.H.16.
- 2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** There will be no hazardous materials stored at the property. Electrical supplies will be the only material stored.
- 3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** The business will not negatively affect neighboring property value. There will no exterior changes to the property because of the business. All materials will be stored inside, and associated vehicles will be parked in the rear of the property or inside the barn.

*Subject to review and approval*

4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** There will be no significant increase in traffic as the business requires all work to be performed offsite.
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** There will be increase in demand for water or sewer services. A private service will remove all waste, and police and fire services will be used in the case of an emergency.
6. **No significant increase of storm water runoff onto adjacent property or streets.** There will be no increase in stormwater runoff.
7. **An appropriate location for the proposed use.** The location is appropriate for a personal business within a residence.
8. **Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.** Storing inventory would not pose a health risk to neighbors, and the use would not affect adversely the development of neighboring property.
9. **In the public interest and in the spirit of the ordinance.** Operating the home business would not change the overall residential feel of the property and the neighborhood.

Mr. Eck inquired about changes to the property, other than the construction of an addition to the residence. Mr. Grogan responded that there would be no changes.

At Mr. Eck's request, Mr. Grogan further address item 7 of the Special Exception criteria. Mr. Grogan explained how the location is appropriate because most of his work is done locally. It would be convenient to be able to live and operate his business in the same location. Furthermore, the location provides easy access to Concord.

Mr. Eck asked if there were other home businesses in the vicinity. Mr. Grogan replied yes, noting that there are other contractors in the area.

Mr. Eck asked about parking, signage and outdoor lighting. In response, Mr. Grogan said that, at times, there will be a work vehicle and an employee's vehicle at the property. There will be no change to the existing exterior lighting, and there will be no signage.

In reviewing the photographs included with Mr. Grogan's application, Chairman Rinden asked whether the photographs of the interior of the barn that is on the property. Mr. Grogan replied yes, stating that he has owned the property for a little over two-years.

Chairman Rinden opened the public hearing to public testimony.

John Wuellenweber of 102 Fieldstone Road spoke in favor of the application. Mr. Wuellenweber is also contractor. He suggested that the proposed use is consistent with uses of other properties and noted that he has his business vehicle parked at his residence.

Chairman Rinden noted that the Board was in receipt of an email from Mr. Grogan's abutter, Lester Cressy, speaking in favor of the application.

Chairman Rinden declared public testimony closed. At this time, Board members began deliberations.

Mrs. Gray, seconded by Mr. Koontz, moved to **APPROVE** Application #2018-9 as presented. Motion carried in the affirmative (Eck, Gray, Koontz and Rinden). The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

**#2018-10 56 Maple Street, LLC** Attorney Maria Dolder of Hebert & Dolder, on behalf of the Applicant, addressed the Board to request a Special Exception to convert the building at 56 Maple Street into a five (5) unit residential building. The property is located in the VR-1 district, shown on Tax Map 102 as Lot 44. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.A.3.

Colored renderings of the façade of the building and large-scale drawings of the site plan were presented. It was noted that the plans were the same as had been submitted for Planning Board review.

The property abuts other multi-residential buildings and a mixed commercial/residential building. The Applicant proposes a lot line adjustment with the neighboring property owned by Shawn McClusky. The lot line adjustment will increase the density of Lot 44 by 4,462 SF. In doing so, the Applicant will meet the density requirements for five (5) residential units.

The Applicant had received a permit from NH Department of Transportation for the relocation of the existing driveway. Additionally, there is enough area to provide onsite parking for ten (10) vehicles. Carports will be constructed over the parking area.

The Applicant's response to the criteria for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

1. **Standards provided by this Ordinance for the particular use permitted by Special Exception.** A residential multi-family dwelling, with a maximum of eight (8) units, is permitted by Special Exception in the VR-1 district per Zoning Ordinance Table of Uses 3.6.A.3. The Applicant is proposing five (5) residential units.
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** There will not be storage of hazardous or toxic materials on the property. There are no known existing toxic materials. The property will be used for residential purposes.
3. **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** The building, as sits, is in a state of disrepair. Rehabbing of the property will be a significant improvement to the values in the vicinity. The building is preexisting, and there will be no changes to its size, therefore, it will have no

impact to the essential characteristics of the neighborhood. There are other buildings that are multi-residential, and one building that it used for commercial and residential purposes. The proposed use is consistent with the abutting properties. Furthermore, the location of the parking will abut another parking area that is on an adjacent property that is used for multi-residential purposes.

Attorney Dolder provided letters in support of the application.

4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** The residential use of the property will not create a traffic safety hazard or substantial increase in the level of traffic congestion. There will be adequate onsite parking to meet the requirements of the Zoning Ordinance. In addition, the units will be one to two bedrooms, servicing a limited number of occupants and related traffic. New Hampshire Department of Transportation has approved the relocation of the existing driveway to allow better access to the property and to eliminate potential conflicts with Prospect Street.
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** Converting the building into five (5) residential units will not create an excessive demand on services. A private trash collection area will be provided.
6. **No significant increase of storm water runoff onto adjacent property or streets.** There will be no increase in stormwater runoff as all runoff will go to an on-site detention area.
7. **An appropriate location for the proposed use.** The use is permitted by Special Exception and is consistent with other uses within the neighborhood. There are multi-family buildings that abut the property, as well as a mixed commercial and residential use across the street. The location is within proximity to the downtown.
8. **Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.** Again, the property abuts other multi-family buildings and a mixed-use building. The required on-site parking will be provided and the driveway location will be improved. The use will not affect the health and safety of the residents in the area, nor will it be detrimental to surrounding properties.
9. **In the public interest and in the spirit of the ordinance.** The applicant intends to rehabilitate the property and supply needed residential housing near downtown. The Zoning Ordinance allows up to eight (8) dwelling units; however, the Applicant is proposing five (5) units.

Mrs. Gray asked about the location of the trash disposal area. Mrs. McCourt referred to the site plan showing a fenced area for storage of trash barrels for private pick-up.

Mr. Eck asked if the units will be condos or rentals. Attorney Dolder responded that the Applicant is planning on condominiums.

Mr. Eck inquired about other multi-residential units in Hopkinton. Attorney Dolder explained the location of three (3) buildings that abuts the property. In one case, the building is being used for commercial and residential purposes.

Mr. Eck questioned the location of the four (4) unit multi-residential building that is reference as part of the application. John Wuellenweber of 56 Maple Street, LLC responded that the building is located after the property in question, towards downtown.

Mr. Eck asked the number of parking spaces per unit. Mrs. McCourt responded that she had designed the site so that there will be two (2) parking spaces per unit, which is in conformance with the parking standards in the Zoning Ordinance.

Mr. Eck inquired about the proposed on-site detention area. Mrs. McCourt explained that the design and location of the proposed detention area is necessary because of the increase in impervious area. McCourt explained how any added runoff will be directed into detention area, which is a low area on the property.

Mr. Eck inquired concerning the design of the carports in relation to drainage and the detention area. Mrs. McCourt responded that the carports will slope away from the opening of the driveway. She explained how any runoff will flow into the detention area.

Mr. Eck asked whether there had been comments from abutters, beyond what was received in writing. Attorney Dolder replied no, not beyond what was submitted.

Chairman Rinden inquired as to the sizes of the proposed decks shown on the site plan. Mrs. McCourt responded that they are patios, rather than decks, that are 10' x 10' or 12' x 12'. When preparing the drainage calculations, Mrs. Court had included the patios as impervious area.

Chairman Rinden asked about the entryways to each unit. Mrs. McCourt referred to the site plan, showing the sidewalks to the entrances, including access to the carport. All units will have their own entrance from the east side of the property.

At this time, Chairman Rinden opened the public hearing portion of the meeting.

Abutter Shawn McClusky of 76 Maple Street addressed the Board in favor of the proposal. Mr. McClusky discussed the condition of the building and the changes that he believed will bring more people to the downtown.

There being no further public comment, the public hearing was closed. At this time, the Board began its deliberations.

Mr. Eck stated that the proposal is consistent with the character of the neighborhood and is reasonable. The potential for runoff was appropriately addressed as the increased paved area was taken into consideration. Mrs. Gray concurred, stating that the residential units will benefit the community.

Mr. Eck, seconded by Mrs. Gray, moved to **APPROVE** Application #2018-10 as presented. Motion carried unanimously in the affirmative (Eck, Gray, Koontz and Rinden). The Applicant

successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

### III. Minutes and Notice of Decision.

Mrs. Gray, seconded by Mr. Koontz, moved to **APPROVE** the Minutes of August 7, 2018 as presented. With four members voting, three voted in favor (Gray, Koontz and Rinden) and one voted in abstention (Eck).

Mrs. Gray, seconded by Chairman Rinden, moved to **APPROVE** the Notice of Decision of August 7, 2018 as presented. With four members voting, three voted in favor (Gray, Koontz and Rinden) and one voted in abstention (Eck).

Mr. Eck, seconded by Mrs. Gray, moved to **APPROVE** the Minutes of September 5, 2018 as presented. Motion carried unanimously in the affirmative (Eck, Gray, Koontz and Rinden).

Mrs. Gray, seconded by Mr. Eck, moved to **APPROVE** the Notice of Decision of September 5, 2018 as presented. Motion carried unanimously in the affirmative (Eck, Gray, Koontz and Rinden).

**IV. Adjournment.** Mr. Koontz, seconded by Mr. Eck, moved to **ADJOURN** the meeting at 6:25 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Thursday, January 3, 2019, at the Hopkinton Town Hall.

Karen Robertson  
Planning Director

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Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."