



Town of Hopkinton Planning/Building Department

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES MAY 5, 2026

Members present: Chair Daniel Rinden, Jessica Scheinman, Andy Locke, Eric Buck, and Kristen Cummings. Staff present: Planning Director Karen Robertson.

I. Call to Order/Roll Call.

The meeting of the Zoning Board of Adjustment was called to order at 5:30 PM in the Hopkinton Town Hall by Chair Dan Rinden, who welcomed attendees and outlined the hearing procedures. He explained that applicants would present their proposals and address the applicable criteria, followed by comments from abutters and subsequent Board deliberation.

II. Applications.

#2026-3 Starfish Suites, LLC/Dan Hynes Request for a Special Exception to permit the conversion of a single-family detached dwelling into a two-family attached dwelling, pursuant to Table of Uses 3.6.A.5 of the Hopkinton Zoning Ordinance. The property is located at **470 Jewett Road**, Tax Map 256, Lot 14.1, in the R-3 District.

Mr. Hynes explained that no exterior structural changes were proposed and that the building would remain residential in character. Exterior work would be limited to separating utilities, including the addition of a second propane tank and a second electrical service. He stated that no additional bedrooms were proposed and that the existing septic system would remain unchanged, noting his belief that occupancy levels would not increase beyond what could already occur in a single-family dwelling.

Mr. Hynes proceeded to review the special exception criteria in detail, stating that the use is specifically permitted by special exception under the zoning ordinance. He asserted that the proposal would not create hazards to the public, produce environmental impacts such as noise or odors, or result in a detrimental effect on surrounding property values. He further stated that the conversion could increase the value of the property and thereby contribute positively to the tax base. With respect to traffic and safety, he noted that the property already has an existing driveway, shared easement access for a short portion, and sufficient parking, including a two-car garage and additional driveway space. He described the structure as consisting of multiple “pod-like” sections and explained that the proposed division would occur internally without altering the exterior footprint.

Mr. Hynes’ written response to the criteria for granting a Special Exception, as outlined in Section XIV of the Zoning Ordinance, was as follows:

Subject to review and approval.

- 1) **Standards provided by this Ordinance for the particular use permitted by special exception:** “A two-family is specifically authorized by special exception.”
- 2) **No hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.** “No hazard would exist to the public upon conversion to a two family residence.”
- 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 pollutants, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** “The property would increase in value. This unique property can be difficult to fairly sell. Converting the property to a two-family residence would increase the demand as there isn’t a huge demand for a five bedroom property. There would be more demand for a three and two unit property.

Conversion could increase value of surrounding properties, but at a minimum would not decrease their value. It would not change the characteristics of the neighborhood as it wouldn’t make any pertinent exterior changes or otherwise significantly increase population or demand on town resources. No additional parking spots are being proposed as the property presently has enough parking.”
- 4) **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** “The request would not create a hazard or substantially increase traffic.”
- 5) **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** “The request would hardly increase any demand on town services. At most it would likely add the potential for a few more town residents.”
- 6) **No significant increase of stormwater runoff onto adjacent property or streets.** “No increase in stormwater is likely.”
- 7) **An appropriate location for the proposed use.** “The location is appropriate as it is a large enough parcel, no green space is being removed, and no significant external modifications are proposed.”
- 8) **Not adversely affect 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.** “It will not adversely affect others or be detrimental for the reasons spelled out throughout the proposal.”
- 9) **In the public interest and in the spirit of the Ordinance.** “It is in the public interest and consistent with the intent of the ordinance for the reasons spelled out throughout the proposal.”

Board members asked questions regarding septic capacity and regulatory requirements with Mr. Hynes indicating that he would need to follow up with the state. Karen Robertson reported that she had contacted the New Hampshire Department of Environmental Services, which indicated that the proposal constitutes a change of use

and would require septic approval. She explained that even where bedroom counts do not increase, the State evaluates total unit count and considers two-family configurations similarly to condominium arrangements. She noted that this requirement would be addressed at the building permit stage and did not need to be a condition of approval by the Board.

Additional questions were raised regarding parking, with Mr. Hynes confirming that the site could accommodate multiple vehicles without modification. The Board also discussed building and fire code requirements, including the need for proper separation between units, and Ms. Robertson confirmed that inspections for framing, electrical, plumbing, and life safety would occur as part of the permitting process.

Abutter Margaret Lewis addressed the Board, expressing concern about increased traffic on the shared driveway and uncertainty regarding maintenance responsibilities as usage increases. Board members explained that driveway maintenance and cost-sharing is a private matter between property owners. Ms. Lewis sought clarification on the meaning of a special exception and whether exceptions applied to her property. Board members explained that the use is permitted but requires review against specific criteria to ensure it is appropriate. Mr. Hynes responded that he was willing to work cooperatively with neighbors regarding shared driveway maintenance and cost allocation.

Further discussion occurred regarding the possibility of limiting the number of vehicles associated with the property. The Planning Director noted recent legislative changes limiting the ability of municipalities to require more than one parking space per dwelling unit and questioned whether imposing a vehicle limit per residential unit would be enforceable or consistent with those requirements. The Board discussed that a single-family dwelling could already generate similar levels of occupancy and traffic, depending upon the number of people residing at the residence, and that enforcement of such a condition would be difficult. Ultimately, the Board concluded that the proposal would not result in a substantial increase in traffic beyond what could reasonably occur under the existing use.

Following deliberation, a **MOTION** made by Andrew Locke, seconded by Eric Buck, to **APPROVE** the application for a Special Exception to permit the conversion of a single-family detached dwelling into a two-family attached dwelling. Motion carried in the affirmative by roll call vote of Locke, Scheinman, Buck, Cummings, and Rinden.

FINDINGS OF FACTS: Based upon the application materials, testimony presented, and the Board's deliberation, the Board found that the application satisfied the criteria for granting a Special Exception under Section XIV of the Hopkinton Zoning Ordinance, determining that the proposed conversion of the existing single-family detached dwelling into a two-family attached dwelling is a use specifically permitted by Special Exception within the R-3 Zoning District. The Board found that the proposal would retain the residential character of the property, as no significant exterior structural changes or expansion of the building footprint were proposed, and that the use would remain compatible with the surrounding neighborhood. The Board further found that the proposal would not create hazards to the public or adjacent properties, adversely affect property values, generate excessive traffic, overburden municipal services, or create significant environmental or stormwater impacts. In

reaching its decision, the Board considered testimony that the property contains sufficient parking and that occupancy levels would remain generally consistent with the existing residential use. The Board also acknowledged that applicable building, fire, and septic system requirements, including approval by the New Hampshire Department of Environmental Services, would be addressed during the permitting process. Based on the evidence presented, the Board concluded that the proposal represents an appropriate residential use of the property and is consistent with the spirit and intent of the Zoning Ordinance.

#2026-4 Higginson Land Services (Applicant), Karen & Michel Florentino (Owners)

Request for a Variance from the provisions of Section 11.9 of the Hopkinton Zoning Ordinance to permit the construction of a residence within the wetland buffer setback. The property is located at **150 Kearsarge Avenue**, Tax Map 101, Lot 43, R-1 District.

Mr. Higginson explained that the existing structure is an older mobile home with multiple additions that has become difficult to maintain, and that the proposal involves replacing it with a new residence of similar scale. He described the lot as constrained, with limited options for siting the new structure, and explained that shifting the house slightly to the north would improve driveway access, which is currently narrow and constrained by the existing structure and a neighboring fence. He acknowledged that the proposed shift would move the structure slightly closer to the wetland buffer.

Mr. Higginson further described the site as already heavily altered, with maintained lawn areas extending into the buffer with limited undisturbed vegetation remaining. He explained that the proposal would not expand disturbance beyond the existing lawn area and would incorporate stormwater mitigation measures, including crushed stone drip edges to promote infiltration and reduce direct runoff into the wetland. He stated that the existing conditions currently allow untreated roof runoff to discharge directly toward the wetland and that the proposed improvements would provide an overall net benefit. He further explained that removal of the existing detached garage would reduce impervious surface area and that the overall development footprint would remain generally consistent with existing conditions.

Mr. Higginson's written responses to the criteria for granting a Variance, as outlined in Section XV of the Zoning Ordinance, were as follows:

- 1) **The proposed use would not diminish the surrounding property values because:** "The lot is currently developed with a single family home. This is both the existing and proposed use of the lot, given there is no change of use there will be no change to the value of the surrounding properties."
- 2) **Granting the variance would not be contrary to the public interest because:** "The proposed use is the same as the existing use, therefore there will be no change in need for public infrastructure or town services and thereby will not be contrary to the public interest."
- 3) **By granting the variances would do substantial justice:** "Substantial justice is done when the value to the owner outweighs the negative impact to the general public. Granting this variance will allow the owner to construct a new residence on a

lot that is currently developed with an older home with no negative impact to the general public.”

- 4) The spirit and intent of the ordinance will not be broken by granting the variance because:** “The spirit of the ordinance is to protect wetlands with a 50 foot buffer. In this case, prior to the ordinance being established there was minimal buffer on the lot. The existing buffer will not be impacted and all development is proposed in an area that is currently altered as lawn. The wetland will be protected by installing stone drip edge to infiltrate roof runoff.”
- 5) Literal enforcement of the ordinance results in unnecessary hardship:**
- a. For purposes of this subparagraph, “unnecessary hardship” means that, 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 provisions and the specific application of that provision to the property:** “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. Because the purpose of the ordinance is to provide a buffer to protect wetlands. In this case there is no existing buffer because the property is already developed within the buffer area.”
 - ii. The proposed use is a reasonable one:** “The proposed use is a reasonable one because the existing and proposed uses are the same and the proposed house and lawn will have substantially the same impact to the buffer as the existing house and lawn currently do.”
- b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

Board members questioned the extent of the proposed encroachment. It was noted that the proposal would place the structure approximately four feet closer to the wetland and increase the area within the wetland buffer by approximately 230 square feet. Questions were raised regarding whether the structure could be relocated further from the wetland or reoriented on the lot. Mr. Higginson explained that shifting the structure in other directions would create access challenges, particularly for vehicles and emergency services, due to the narrow driveway and the proximity of a neighboring fence. He further stated that the house design is based on prefabricated dimensions, limiting flexibility in reducing its size.

Chair Rinden read into the record a memorandum from the Hopkinton Conservation Commission recommending that wetland encroachment be minimized and that the proposed new residence not be located closer to the wetland than the existing residence. The memorandum also recommended removal of the existing garage as a mitigating measure. Discussion followed regarding the interpretation of wetland buffer requirements, with clarification provided that, although the area is currently maintained as lawn, it still remains within the regulated wetland buffer. Mr. Higginson expressed the opinion that the proposal represented a reasonable balance between the site constraints and environmental protection objectives and emphasized that the proposed mitigation measures would improve existing site conditions.

Abutter Ron Klemarczyk spoke in favor of the application, noting that the property has long been developed and that the buffer area has already been disturbed. He stated that the proposed improvements would not significantly impact the wetland and would result in an overall improvement to the property. He further commented that situations of this nature were anticipated when the wetland ordinance was developed and that similar requests are likely to arise in the future. No abutters spoke in opposition.

During deliberations, the Board discussed stormwater management in detail, noting that the proposed infiltration measures would improve conditions relative to the existing uncontrolled runoff. The Board considered whether additional mitigation measures should be required for the driveway in addition to roof runoff and agreed that extending stormwater management controls to both areas would be appropriate. The Board also discussed the timing of the garage removal, with the Planning Director noting the importance of establishing a clear timeframe to ensure compliance. Members agreed that removal within one year of issuance of a certificate of occupancy would be reasonable.

MOTION made by Andrew Locke, seconded by Jessica Scheinman, to **APPROVE** the application for a Variance with conditions requiring implementation of stormwater management measures for both the house and driveway and removal of the existing garage within one year of issuance of a certificate of occupancy. Motion carried in the affirmative by roll call vote of Locke, Scheinman, Buck, Cummings, and Rinden.

FINDINGS OF FACTS: Based upon the application materials, testimony presented, and the Board's deliberation, the Board determined that the criteria for granting a Variance under Section XIV of the Zoning Ordinance were satisfied. The Board found that the unique conditions of the property, including the existing development, including constrained layout, and access limitations, justified the granting of the Variance. The Board determined that the proposal would not diminish surrounding property values, would not be contrary to the public interest, and would provide substantial justice by allowing reasonable use of the property while incorporating improvements to stormwater management.

III. Review the Minutes and Notice of Decision of April 7, 2026.

Following a roll call vote on the approval of the April 7, 2026 meeting minutes and Notice of Decision, three members (Scheinman, Locke, and Rinden) voted in favor, while two

members (Cummings and Buck) abstained. The April 7, 2026 meeting minutes and Notice of Decision were approved as presented.

IV. Other Business.

Brief discussion occurred regarding the interpretation of wetland buffer requirements, specifically how buffer distances are determined when wetlands extend beyond property boundaries. Clarification was provided that buffer measurements are based on wetlands located on the subject parcel, as property owners cannot trespass onto adjoining properties to determine location of wetland and buffer setback.

V. Adjournment. Chair Rinden declared the meeting adjourned at 6:39 PM. The next scheduled meeting is at 5:30 PM on Tuesday, June 7, 2026.

Karen Robertson
Planning Director

Ordinance §14.9 "Representations made at the public hearing or material submitted to the Zoning Board of Adjustment by an applicant shall be deemed conditions of any approval."