



## ZONING BOARD OF ADJUSTMENT FINDINGS OF FACT

In accordance with NH RSA 676:6

For: Appeal of Selectboard Decision: Denial of Zoning Redesignation of Map 4 Lots 79, 82 & 89

The ZBA's role in an appeal under RSA 676:5 is limited to determining whether the Selectboard's decision was made in error, was unreasonable, or was unlawful, and not to substitute its own judgment for that of the Selectboard.

**Hearing held at:** Hart's Location Town Hall – 979 US Route 302 Hart's Location, NH

**Date:** Monday February 2, 2026 at 5:00pm

**Applicant/s:** Diana Dwyer-Bergeron (Owner) Gary Bergeron (Agent)

**Property:** 765 US Route 302

**Map:** 04 **Lot:** 079, 082, 089

**Request:** The appellants are appealing the Selectboard's decision to deny the requested zoning redesignation of their properties noted above from Residential to Commercial.

### FINDINGS OF FACT

1. The ZBA finds that the Selectboard reviewed the appellants' request for zoning redesignation under the applicable provisions of state law governing zoning amendments and Article I (Zoning District), bullet point 2 of the Zoning Ordinance, which identifies existing commercial and non-conforming properties and provides that, if such a use is discontinued or abandoned for more than six (6) years, any subsequent use of the land or buildings shall revert to residential status. The ZBA further finds that this provision recognizes existing uses but does not grant authority to amend zoning classifications outside the Town Meeting process.
2. The ZBA finds that the Selectboard determined it lacked authority to amend the Zoning Ordinance or rezone property outside the Town Meeting process.
3. The ZBA finds that this determination is consistent with RSA 675:2 and RSA 674:16–18, which reserve authority for zoning amendments to the Town's legislative body.
4. The ZBA finds that the Selectboard's decision was reasonable and lawful because it correctly applied state law to the request presented.
5. The appeal request was filed in a timely manner in accordance with RSA 676:5.
6. The ZBA has jurisdiction over the appeal per RSA 676:5 of the decision of the administrative officer (Board of Selectmen).

7. Notice of the appeal public hearing was given in accordance with RSA 676:7.
8. The original decision was denied because the Selectboard does not have the authority to unilaterally amend the Zoning Ordinance or change the zoning designation of property. Pursuant to RSA 675:2 and RSA 674:16–18, amendments to zoning ordinances and zoning districts may be adopted only by the Town’s legislative body. Under RSA 49-B:2, the legislative body of the Town is the Town Meeting, which is the sole authority empowered to approve such amendments.
9. The ZBA reviewed the following materials:
  - a. Application and supporting documentation
  - b. The written decision of the Selectboard
  - c. Relevant provisions of the State laws
  - d. Written appeal and supporting arguments
10. The ZBA’s review of this appeal was limited to determining whether the Selectboard’s decision was made in error, was unreasonable, or was unlawful, and the ZBA did not substitute its judgment for that of the Selectboard.
11. The ZBA finds that the subject properties are currently located in the Residential zoning district and that no zoning amendment affecting these properties has been adopted by Town Meeting.
12. The ZBA conducted a duly noticed public hearing and considered testimony and evidence presented before deliberating and voting.



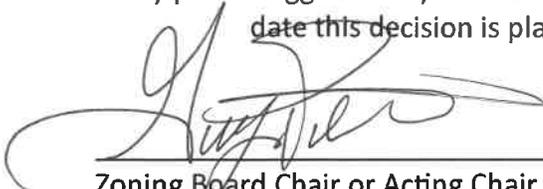
**ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION**

For: Appeal of Selectboard Decision: Denial of Zoning Redesignation of Map 4 Lots 79, 82 & 89

On February 2, 2026 after a duly noticed public hearing, the Zoning Board of Adjustment voted to deny the appeal as presented of the Selectboard's decision to deny the requested zoning redesignation of the properties noted above from Residential to Commercial.

The Zoning Board of Adjustment hereby upholds the decision of the Selectboard and finds the decision was reasonable, lawful and in compliance with the Zoning Ordinance and State laws.

Any person aggrieved by this decision may appeal to the Superior Court within 30 days of the date this decision is placed on file with the Town, pursuant to RSA 677:4.

  
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Zoning Board Chair or Acting Chair

2/2/2026  
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Date of Decision