

# BARRE TOWN DEVELOPMENT REVIEW BOARD MINUTES FOR DECEMBER 8, 2021

The Barre Town Development Review Board held a public meeting & hearings on **December 8, 2021**, beginning 7:00 p.m. at the Municipal Building, 149 Websterville Road, Websterville, VT.

## MEMBERS

In person: Mark Reaves Cedric Sanborn, Mike Gilbar, Chris Neddo, Angela Labrador(alt). Jim Fecteau, and Jon Valsangiacomo

## ABSENT:

Angela Valentinetti and Michael Titus (alt-Mr. Titus attempted to attend by phone but there we technical difficulties)

## STAFF PRESENT

Chris Violette and Cindy Spaulding

## OTHERS PRESENT:

Dan Cowles and Lauren Simmers (HP Hood) and Merle Miller (abutter to HP Hood)

### **A. 7:00 P.M. – CALL TO ORDER**

Mr. Reaves called the meeting to order at 7:00 p.m. and swore in those providing testimony.

### **B. CHANGES TO THE AGENDA**

Mr. Reaves asked whether there were changes to the agenda. None were presented.

### **C. APPROVE MINUTES –**

November 10, 2021

*On motion by Mr. Gilbar, seconded by Mr. Sanborn, the Development Review Board approved the minutes of November 10, 2021, as written. Vote 7-0-0.*

### **D. NON-AGENDA ITEMS (max 10 minutes)**

### **E. SUBDIVISION PRELIMINARY REVIEW - NONE**

### **F. SUBDIVISION FINAL REVIEW**

#### **1) APPLICANT: HP Hood – Final – Variance**

**Request by HP Hood, LLC for review and possible approval of a 50' variance of right-of-way setback (Allen St.) allowing for a zero (0) setback for two proposed commercial silos in front of the existing building and next to existing silos located at 219 Allen Street; Parcel ID: 005/125.00; zoned low density residential; V-21000004.**

Consultant: None

Date: December 3, 2021

## **STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE, PLANNING OFFICER**

This is a warned public hearing for the purpose of a variance request in accordance with Article 7, section 7.9 of the Barre Town Zoning Bylaw whereas it has been determined prior to request for a building permit that the proposed structure cannot meet the required setbacks based on the applicant's desire to locate said structure in a certain location. The subject parcel is located in a low-density residential zone which requires right-of-way setbacks of 50'. The area around this location is mixed between residential and industrial.

The applicant proposes to construct a concrete pad and two vertical silos that will sit next to six other silos that have previously been granted variances prior to construction. If the variance is approved and built, there will be eight silos in front of the existing Hood building directly adjacent to Allen Street. Like the other concrete pads and silos, the proposed pad and silos will be placed on the edge of the right-of-way (Allen Street) and will have a 0' setback meaning the applicant is seeking a 50' variance.

The nature of H.P. Hoods business and the layout of the plant inside the building dictate the location of these silos and there are no other options. They also note that the existing building where these silos will be placed next to is only setback 13' from the right-of-way and that the building. The initial Booth

Brother's Dairy building was erected in the late 40's, long before zoning. The heart of the H.P. Hood business is essentially that same setup which is why the building is so close to the road.

As mentioned, the applicant has received three other variances for the same situation, 2009 (V-09000001), 2012 (V-12000001), and 2016 (V-16000005).

Below are the 5 variance criteria and my comments are in bold:

1. Are there unique physical circumstances or conditions as to:
  - a. Irregularity, narrowness or shallowness of lot size or shape;
  - b. Exceptional topography or physical conditions peculiar to a particular property;
  - c. Unnecessary hardship due to the above?

**The applicants states that the tanks and access room are a mirror image of what was installed to the right of these tank so there is no impact.**

**The unique physical circumstance here is not specifically related to lot configuration as such now but more related to how the lot was configured back when this plant was constructed and how that now dictates much of these situations where the building was placed so close to the road and tanks need to go in certain locations.**

2. Are there physical circumstances or conditions that prevent conformity to zoning regulations; And a variance is necessary to enable "reasonable use" of the property.

**The applicants states that these tanks would be close enough to the road that would need a variance as the other tanks did. The tanks must go in this location because piping and other equipment located inside the plant.**

**Going back to the same response to criterion 1 in that the physical circumstance and the issue with conformity was created before zoning and leaves the only real option for these tanks to be in this location. The location of the proposed tanks allows H.P. Hood reasonable use of the property because to do it any other way would be a significant hardship.**

3. Is it true that no unnecessary hardship was created by the applicant?

**H.P. Hood purchased this plant from Booth Brothers Dairy and did not create the hardship.**

4. Is it true that a variance will not:
  - a. Alter the essential character of the neighborhood?
  - b. Substantially or permanently impair appropriate use or development of adjacent property?
  - c. Reduce access to renewable energy sources?
  - d. Be detrimental to the public welfare?

**The applicant indicates that a variance will not change the character of the neighborhood, it will not impair adjacent property from being developed, will not reduce access to renewable energy sources, and will not be detrimental to the public's welfare.**

**While the concrete pads and the tanks themselves are situated close to the road, they are still 13' from the travel way. Allen Steet in this location has a speed limit of 25 MPH and is close to an intersection which means vehicle are either slowing down or speeding up at the point of where the tanks will be.**

5. Is it true the variance represents the minimum deviation from regulation and plan to provide relief?

**H.P. Hood evaluates its needs and growth which is generally what has dictated the addition of these tanks over the years. Some tanks have been replaced because of age etc, but most have been added as their business and product lines grow. To meet this demand, they need to add the two tanks and the variance is necessary to provide relief.**

### **SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

H.P. Hood continues to be an important component of Barre Town's and the surrounding areas economy. Their growth over the years, the nature of their business, and FDA rules have led to the need for the

external silos. Six silos have previously been constructed that needed the same variances being request herein and for the same reason. The configuration of the building, which was originally constructed on a much smaller parcel of land and before zoning was enacted in Barre Town, led to the building being so close to the road.

Regarding the essential character of the area, I think H.P. Hood is part of the character. Adding the two silos I do not believe changes the character. Regarding the public welfare, the pads and tanks will be 13' from the travel way and Allen Street is a 25 MPH zone. The existing tanks have not been a cause for concern related to the public's welfare.

I believe the five variance criteria for the reasons the applicant and I have laid out justify the variance and I recommend, with consideration to the conditions below, approval of a 50' variance of right-of-way setback (Allen Street) allowing construction of two concrete pads and round silos with a 0' setback.

1. The applicant should contact a State of Vermont Permit Specialist to determine what, if any, State Permits are required.
2. A building permit is required before construction begins. The applicant should allow at least 30-days to receive a valid building permit.

**COMMENTS:**

Mr. Violette provided an overview of his staff report as stated above.

Merle Miller (abutter)

Q: Do the existing silos store milk?

Mr. Cowles answered yes.

Q: Will the additional silos be used to store milk?

Mr. Cowles answered yes.

Q: Would the additional silos increase vehicular traffic, especially milk trucks.

Mr. Cowles answered no.

M. Gilbar

Q: If there were more demand for product would there be enough room for future development/expansion for more tanks?

Mr. Cowles answered that an expansion of the plant would require extensive renovations and it is limited. He further explained the current production set up.

A. Labrador

Q: Have there been any traffic issues with the silos so close to the road?

Mr. Violette answered no. He further stated that vehicle traffic slows in the area since it is near an intersection.

Mr. Reaves asked Mr. Cowles the five criteria questions. Mr. Cowles answered yes to all.

***On motion by Mr. Gilbar, seconded by Mr. Sanborn, the Development Review Board closed the final public hearing. Vote 7-0-0.***

**DELIBERATION:**

***On motion by Mr. Sanborn, seconded by Mr. Neddo, the Development Review Board approved a request by HP Hood, LLC of a 50' variance of right-of-way setback (Allen St.) allowing for a zero (0) setback for two proposed commercial silos in front of the existing building and next to existing silos located at 219 Allen Street; Parcel ID: 005/125.00; zoned low density residential; V-21000004; contingent upon the following conditions:***

1. ***The applicant should contact a State of Vermont Permit Specialist to determine what, if any, State Permits are required.***
2. ***A building permit is required before construction begins. The applicant should allow at least 30-days to receive a valid building permit. Vote 7-0-0.***

CONDITIONS Yes X No \_\_\_\_\_

MOTION BY: Sanborn

SECOND BY: Neddo

**ROLL CALL:**

Mark Reaves	<u>Yes</u>	Jon Valsangiacomo	<u>Yes</u>
Jim Fecteau	<u>Yes</u>	Chris Neddo	<u>Yes</u>
Cedric Sanborn	<u>Yes</u>	Angela Labrador (alt)	<u>Yes</u>
Mike Gilbar	<u>Yes</u>		

## 2) APPLICANT: **HP Hood – Final – Variance**

Request by HP Hood, LLC for review and possible approval of a 26' variance of maximum height, allowing for two (2) 61' high silos in front of the existing building and next to existing silos located at 219 Allen Street, Parcel ID: 005/125.00; zoned low density residential; V-2100005.

Consultant: None

Date: December 3, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

This is a warned public hearing for the purpose of a variance request in accordance with Article 7, section 7.9 of the Barre Town Zoning Bylaw whereas it has been determined prior to the request for a building permit that the proposed structures exceed the maximum height allowance, The subject parcel is in a low-density residential zone which limits the height of a structures to 35'. The area around this location is mixed between residential and industrial.

The applicant proposes to construct a concrete pad and two vertical silos that will sit next to six other silos that have previously been granted road setback variances prior to construction. If the variance is approved and the silos built, there will be eight silos in front of the existing Hood building directly adjacent to Allen Street. Like the other concrete pads and silos, the proposed pad and silos will be placed on the edge of the right-of-way (Allen Street). In this application the applicant is seeking a 26' height variance.

The height of silos is dictated by the volume of storage needed. In this case the overall circumference of the silo is limited by its proximity to Allen Street. These silos and the six adjacent have all had to receive right-of-way setback variances because of their proximity to Allen Street. With the original H.P. Hood building being constructed in the late 1940's, before zoning regulations, they sit within the setback area of Allen Street. The location of the silos is dictated by building interior layout making the area that they are placed necessary for functionality. Shorter silos would mean fatter silos and, in this case, would mean they'd be in the Allen Street right-of-way. H.P. Hood knows that there isn't room for larger circumference silos in front of the building and doesn't feel it is practical to seek permission to place them in the right-of-way. Making the tanks taller is the most viable solution.

Below are the 5 variance criteria and my comments are in bold:

1. Are there unique physical circumstances or conditions as to:
  - a. Irregularity, narrowness or shallowness of lot size or shape;
  - b. Exceptional topography or physical conditions peculiar to a particular property;
  - c. Unnecessary hardship due to the above?

**The unique physical circumstance here is not specifically related to lot configuration as such now but more related to how the lot was configured back when this plant was constructed and how that now dictates much of these situations where the building was placed so close to the road and tanks need to go in certain locations and being wider is not an option because they'd be closer to the road than they already are.**

2. Are there physical circumstances or conditions that prevent conformity to zoning regulations; And a variance is necessary to enable "reasonable use" of the property.

Going back to the same response to criterion 1 in that the physical circumstance and the issue with conformity was created before zoning and leaves the only real option for these tanks to be in this location. The location of the proposed tanks allows H.P. Hood reasonable use of the property because to do it any other way would be a significant hardship. Placing tanks with larger circumference isn't an option because of the proximity to Allen Street.

3. Is it true that no unnecessary hardship was created by the applicant?

**H.P. Hood purchased this plant from Booth Brothers Dairy and did not create the hardship.**

4. Is it true that a variance will not:

- a. Alter the essential character of the neighborhood?
- b. Substantially or permanently impair appropriate use or development of adjacent property?
- c. Reduce access to renewable energy sources?
- d. Be detrimental to the public welfare?

**While these tanks will be noticeably taller than the others, the applicant indicates that a variance will not change the character of the neighborhood, it will not impair adjacent property from being developed, will not reduce access to renewable energy sources, and will not be detrimental to the public's welfare.**

5. Is it true the variance represents the minimum deviation from regulation and plan to provide relief?

**H.P. Hood evaluates its needs and growth which is generally what has dictated the addition of these tanks. These tanks are necessary for their business to expand and making them larger in circumference isn't an option because of the proximity to Allen Street. Wider tanks would mean they'd be closer to the road and in the right-of-way which isn't a viable option.**

#### **SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

H.P. Hood continues to be an important component of Barre Town's and the surrounding areas economy. Their growth over the years, the nature of their business, and FDA rules have led to the need for the external silos. Six silos exist in the front and a few others in the back. The configuration of the building, which was originally constructed on a much smaller parcel of land and before zoning was enacted in Barre Town, led to the building being so close to the road. The proximity means these proposed silos have to be taller and not wider.

Regarding the essential character of the area, I think H.P. Hood is part of the character. Adding a couple of taller silos, I do not believe changes the character.

I believe the five variance criteria for the reasons the applicant and I have laid out justify the variance and I recommend, with consideration to the suggested conditions below, approval of a 26' variance of height allowing construction of two concrete pads and round silos to be 61' tall.

1. The applicant should contact a State of Vermont Permit Specialist to determine what, if any, State Permits are required.
2. A building permit is required before construction begins. The applicant should allow at least 30-days to receive a valid building permit.

#### **COMMENTS**

Mr. Violette provided an overview of his staff report as stated above.

Q&A

Mr. Miller (abutter)

Q: How will you meet the demand to fill the 60' silos without increasing truck traffic?

Mr. Cowles answered, Currently, for efficiency purposes we alternate deliveries between organic and non-organic milk. The additional silos will allow more storage capacity.

Q: Will the silos be refrigerated to store product longer?

Ms. Simmers answered there are State and Federal guidelines regarding limitations on how long the product can be stored. She further stated having the additional silos will utilize the time in processing the organic and non-organic products.

J. Valsangiacomo

Q: What is the tallest existing silo?



Mr. Cowles answered one is about the same height as these others are approximately 35' in the back.

Q: How tall are the existing silos next to the proposed site?

Mr. Cowles answered approximately 35' to 38'.

Q: Will the proposed silos be the diameter as the existing ones (Only taller)?

Mr. Cowles answered Yes, only taller (26' taller)

Q: Can you make the proposed silos shorter, and could these be moved to the back of the plant?

Ms. Simmers answered shortening the height would impact the capacity of how much the tank would hold. Mr. Cowles further explained the lay out of the existing building for production efficiency, the location in the front is the best as space is limited in the back of the building.

A. Labrador

Q: What is the life span of the existing silos and how long before they would be replaced?

Mr. Cowles answered that the newer ones have a longer life span since they are made out of stainless steel.

M. Gilbar

Q: Is it possible to make the silos wider in diameter?

Mr. Violette answered if they were wider in diameter, the silos would be within the town's right of way, as proposed, they would be on the edge of the right of way.

Q: Why is the height requirement 35' and how did it come to that height?

Mr. Violette explained that it has always been 35' which is equal to a three-story building in a residential zone. The original Industrial zone, which this parcel was zoned, was 50', the zone changed when the Planning Commission rezoned the area in 2007 to avoid spot zoning.

A. Labrador

Q: Have you received any concerns about the view sheds in the area of HP Hood?

Mr. Violette answered no he had not. The only call he received was from an abutter that is putting in a solar array and wanted to make sure that there would not be an shadowing from the silos.

Mr. Reaves asked Mr. Cowles the five criteria questions. Mr. Cowles answered yes to all.

***On motion by Mr. Gilbar, seconded by Mr. Fecteau, the Development Review Board closed the final public hearing. Vote 7-0-0.***

**DELIBERATION:**

Mr. Valsangiacomo stated he was against the height variance as does not meet the variance criteria.

***On motion by Mr. Sanborn, seconded by Mr. Gilbar, the Development Review Board approved a request by HP Hood, LLC of a 26' variance of maximum height, allowing for two (2) 61' high silos in front of the existing building and next to existing silos located at 219 Allen Street, Parcel ID: 005/125.00; zoned low density residential; V-21000005, contingent upon the following conditions:***

- 1) A State of Vermont Permit Specialist should be consulted to determine what, if any, State Permits are required.***
- 2) A building permit is required before construction begins. The applicant should allow at least 30-days to receive a valid building permit. Vote 6-1-0 (Valsangiacomo opposed).***

CONDITIONS    Yes X    No \_\_\_\_\_

MOTION BY:                    Sanborn  
SECOND BY:                    Gilbar

**ROLL CALL:**

Mark Reaves	<u>Yes</u>	Jon Valsangiacomo	<u>No</u>
Jim Fecteau	<u>Yes</u>	Chris Neddo	<u>Yes</u>
Cedric Sanborn	<u>Yes</u>	Angela Labrador (alt)	<u>Yes</u>
Mike Gilbar	<u>Yes</u>		

SUBDIVISION AMENDMENT

**3) APPLICANT: Pinard/Bailey Subdivision Amendment**

**Request by Jason Pinard & Shellie Bailey to amend a previously approved amendment (subdivision merger, P-19000008, plan 2290), reverting back to the original two lots approved for Alan Bashaw in 2005 (P-05000047, plan 2069) and as amended in 2006 (P-06000047, plan 2105) on land located off Cassie Street; PID: 009/071.04 & 009/071.05 Zoned low density residential: P-21000020 & 21000021.**

Consultant: None

Date: December 3, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,  
PLANNING OFFICER**

This is a warned public hearing for the purpose of amending a previously approved subdivision that by doing so would revert back to an earlier subdivision and a two-lot configuration. The subject lots are located in a low-density residential zone with a minimum lot size of 2.0 acres and minimum road frontage of 200'. Municipal water and sewer are not available at this location. The parcel(s) are accessed via Cassie Street, a Town class III paved road.

Three lots were created in 2005 as part of subdivision by Alan Bashaw (P-04000047). Of the three lots approved, only lot 3 has road frontage, the other two lots are back lots. Lots 2 & 3 were purchased by Jason Pinard and in 2019 while the third lot was and is retained by Mr. Bashaw. Mr. Pinard decided to merge lots 2 & 3 into one lot of 5.36 acres (P-19000008, P&Z plan 2290).

The original three-lot subdivision (P-04000047 P&Z plan 2069) had a minor amendment later by Mr. Bashaw (P-06000047, P&Z plan 2105). The amendment requested with this application will revert back to the plan which is already on file (2105) with a plat recorded in the land records as 25a. Lot 2 will be 2.7 acres while lot 3 is 2.66 acres.

There is a State of Vermont wastewater permit (WW-5-3492-1) for both onsite septic systems. However, upon reviewing the chronology of the changes, I discovered that the plans used for the wastewater permit aren't plans the Town has approved. The main difference is access to the lots. While that doesn't change this process, it is likely we'll see this again for further amending before development can occur. The reason that won't happen now is that a sale is pending with a closing planned shortly after the DRB hearing.

By reverting back to the original amended approval, access from Camp is via a three-way shared curb-cut as shown on plan 2105 and the paved apron has already been built.

**SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

This is a simple matter reverting back to the original two lot configuration, I recommend approval with consideration to the following conditions:

- 1) No changes to the approved plan can be made unless first reviewed by either the Town Planning Officer, or the Town Engineer for a determination of significance. If it is determined that a proposed change is significant, the plan will be required to go back before the Development Review Board for approval of the proposed change.

**COMMENT**

Mr. Valsangiacomo recused himself and went into the audience. Mr. Violette provided an overview of his staff report as stated above.

J. Fecteau

Q: Were there any conditions that were not met from the original request to merge the properties?

Mr. Violette answered no, a normal condition regarding need recording was not attached to this approval. While the deed hasn't been recorded, the fact that it being recorded wasn't a condition means that can't be used to revert.

***On motion by Mr. Gilbar, seconded by Mr. Fecteau, the Development Review Board closed the public hearing. Vote 6-0-0***

**DELIBERATION:**

*On motion by Mr. Sanborn, seconded by Mr. Gilbar, the Development Review Board approved a Request by Jason Pinard & Shellie Bailey to amend a previously approved amendment (subdivision merger, P-19000008 & P-19000009, plan 2290), reverting back to the original two lots approved for Alan Bashaw in 2005 (P-05000047, plan 2069) and as amended in 2006 (P-06000047, plan 2105) on land located off Cassie Street; PID: 009/071.04 & 009/071.05 Zoned low density residential: P-21000020 & 21000021. Contingent upon the following condition:*

- 1. No changes to the approved plan can be made unless first reviewed by either the Town Planning Officer, or the Town Engineer for a determination of significance. If it is determined that a proposed change is significant, the plan will be required to go back before the Development Review Board for approval of the proposed change. Vote 6-0-0.*

CONDITIONS Yes X No \_\_\_\_\_

MOTION BY: Sanborn  
SECOND BY: Gilbar

**ROLL CALL:**

Mark Reaves	<u>Yes</u>	Jon Valsangiacomo	<u>Recused</u>
Jim Fecteau	<u>Yes</u>	Chris Neddo	<u>Yes</u>
Cedric Sanborn	<u>Yes</u>	Angela Labrador (alt)	<u>Yes</u>
Mike Gilbar	<u>Yes</u>		

Mr. Valsangiacomo returned to meeting as a member.

**G. OTHER**

**H. FOLLOW-UPS**

**I. ROUNDTABLE**

**J. ADJOURN!**

*On motion by Ms. Neddo, seconded by Mr. Sanborn, the Development Review Board adjourned at 7:55 p.m. Vote: 7-0-0.*

Respectfully submitted,

Cindy Spaulding, Clerk for DRB

_____ Mark Reaves, Chair	_____ Jon Valsangiacomo
_____ Angela Valentinetti	_____ Chris Neddo
_____ Cedric Sanborn	_____ Michael Gilbar
_____ Jim Fecteau	_____ Angela Labrador (Alternate)
_____ Michael Titus (Alternate)	