



TOWN OF HUDSON

Zoning Board of Adjustment

Normand Martin, Chairman Marilyn McGrath, Selectmen Liaison

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MEETING MINUTES – November 9, 2017 - draft

The Hudson Zoning Board of Adjustment met on November 9, 2017, in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall. Chairman Martin called the meeting to order at 7:00 PM and made the following announcements: to please silence all cell phones; that there are extra copies of the Agenda as well as Appeal forms by the door; that there is no smoking in the building; that when addressing to Board to please come to either the lectern or the two chairs and to state your name and address; that there is an 11 PM curfew to the meeting; and to please refrain from talking in the audience.

Clerk Houle took roll call. Members present were: Charlie Brackett (V-Ch.), Maryellen Davis (Reg.), Kevin Houle (Alt.), Normand Martin (Ch.), James Pacocha (Reg.), and Donna Shuman (Reg.). Also present was David Morin, Selectmen Liaison, and Bruce Buttrick, Zoning Administrator. Excused were: Michael Pitre (Alt.), Maurice Nolin (Alt.), Marilyn McGrath Selectmen Liaison, and Louise Knee, Recorder.

Chair Martin stated that the Regular Members would be voting and in the event of a recusal, there is one Alternate Member present to be appointed to vote.

I. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS

1. Case 190-191 (10-26-17 deferred): Joseph Maynard, 1F Commons Drive, Suite 35, Londonderry, NH requests at 48 Lowell Road, Hudson, NH (Map 190 Lot 191), Zoned (B) Business the following:
 - A) A Variance to allow a non-permitted use; HZO Article V §334-21 Table of Permitted Principle Uses.
 - B) A Special Exception to allow reduction of requirements for mixed uses; HZO Article VI §334-26 A, Reduction of requirements for mixed and dual uses.
 - C) A Variance to allow mixed or dual use; HZO Article III §334-10 Mixed or dual use on a lot.
 - D) A Variance to allow a sign within setbacks; HZO Article XII §334-60 (C) & (D), General requirements.

Not Official until reviewed, approved and signed.

D R A F T

1 Clerk Houle read the Case into the record. Ms. Shuman recused herself. Mr.
2 Houle appointed to vote. Mr. Buttrick recapped his Staff Report noting the
3 following: (A) This is a variance request for two-family residence in the B
4 (Business) district which is not permitted; (B) This is a Special Exception to
5 allow mixed uses as a two-family is deemed a mixed use on this parcel. As
6 noted in the Staff Report, the Applicant has been before the Planning Board for
7 a modification of Site Plan this past spring and they did a re-development of
8 the site as a Principal Use and this request would be another modification for a
9 Mixed Use. The area requirement is satisfied, but not the frontage; (C) This is a
10 variance request for reduced frontage to accommodate the dual use on a lot;
11 and (D) This is a Variance for the sign on two sections of the Zoning Ordinance,
12 the front setback and the sideyard setback.

13
14 Discussion ensued on how to proceed. General consensus was to address the
15 overall intent and vote on each request individually. Mr. Brackett asked and
16 Chair Martin confirmed that this parcel came before the ZBA on 1/28/2016 for
17 reduced frontage for a coffee shop and a carwash and was approved with a 4:1
18 vote.

19
20 Joseph Maynard from Benchmark Engineering introduced himself as
21 representing property owner MacThompson Realty Trust. The parcel in is the
22 Business (B) Zone and is approximately 2.59 acres in size with 118' of frontage
23 on Lowell Road. The existing buildings on the lot sit toward the front of the
24 property and prior to the PB approval this past spring, the three (3) buildings
25 had different uses. The structure that sits closest to the road is a two-family
26 home of approximately 3,300 SF in size that has existed since the 1940's. The
27 second detached building on the property was previously used as a heating and
28 ventilation company then an accounting office by the prior owner of the
29 property and is now a barbershop. The third building is an 1800 SF garage
30 being used for storage. Earlier this past year a plan was presented to the PB
31 (Planning Board) to create an outside fenced-in parking area at the rear of the
32 lot to be used for overflow merchandise/vehicles from a nearby business. An
33 employee of the business lives in one of the units of the house and watches
34 over the property and is one of the reasons for wanting to keep the residence.

35
36 Mr. Maynard stated that the variances needed include: one to allow the two-
37 family building to stay; one to allow for reduction in the lot area; the third is for
38 reduced frontage from the required 300' for dual use to the existing 118'; and
39 the last is for dimensional relief for the sign because if placement met the
40 requirements it would not be visible at all from one direction, therefore
41 requesting to be allowed to be placed on the otherside of the driveway in the
42 setback.

43
44 Mr. Brackett and Mr. Maynard discussed what had been presented to the PB
45 and clarified that the proposal to the PB was for a parking area to the rear of
46 the site to store vehicles leaving the existing buildings unchanged with the

1 intent to convert the two-family building to offices and since then, the plan has
2 reverted to keeping it a residence and, if ZBA approves the variance, another
3 visit to the PB would be needed for Modification of Site Plan approval, Mr.
4 Maynard noted that after review of the effort required to convert the existing
5 two-family structure for commercial offices that it would be more beneficial to
6 demolish and build a new structure.

7
8 Mr. Maynard next addressed the criteria for each Case regarding the two-family
9 residence that included the following information:

- 10
- 11 • This request to keep is not contrary to public interest.
 - 12 • The two-family residence has existed for many years and there are no
13 changes are proposed to the existing structure
 - 14 • The building is serviced by Municipal sewer and water
 - 15 • There is evidence that the building has historical significance being an
16 old trolley transformer building.
 - 17 • Multi-family buildings, meaning more than two-family, are allowed in the
18 zone if they are connected to Municipal water and sewer.
 - 19 • A residence generates less traffic than a commercial use.
- 20

21 With regard to the sign request, Mr. Maynard stated that if the zoning
22 requirements are met the sign would actually be on the side of the house and
23 not visible for people travelling north and noted that other signs exist in the
24 neighborhood that are closer to the street.

25
26 Chair Martin opened the meeting for public testimony at 7:26 PM. No one
27 addressed the Board.

28
29 Mr. Bracket asked for more details regarding the sign as a sign is not needed
30 for the two-family and it is his understanding that the parking lot to the rear of
31 the site is for wholesale cars, not retail from this lot. Mr. Maynard stated that
32 the sign would be for the barber. Jeff Thompson, President of MacThompson
33 Realty, stated that the sign exists for the barber shop, that it meets sign
34 regulations but it is not visible, and the request is to relocate it for better
35 visibility and added that that there would be no signage for the parking lot.
36 Mr. Pacocha noted that, as proposed, the sign would be located three feet from
37 the property line but could be located further back and still be visible. Mr.
38 Maynard responded that the proposed location mirrored the sign on the
39 adjoining property (Sousa Realty).

40
41 Ms. Davis asked if the Town has a signed Site Plan and questioned the first
42 General Notes listed on the unsigned Site Plan provided in the packet,
43 specifically 1)A.ii Motor Vehicle Sales and Rental. According to her
44 understanding of the uses on the property, there was going to be offices in the
45 front building (which the applicant is now requesting to keep as a two-family

1 and presumably correlates to General Notes “Business or Professional Office”),
2 a barbershop in the building further back (which is the reason for the sign
3 variance and presumably correlates to General Notes “General Retail”), a third
4 building for storage which presumably correlates to General Notes “Storage for
5 on-site Commercial Uses” and then the Planning Board’s recently approved
6 area at the rear of the site for overflow vehicle storage from a car dealership.
7 According to the Site Plan that ends up correlating to General Use “Motor
8 Vehicle Sales and Rental”, which in her opinion is not an accurate reflection as
9 there are no sales and rentals just storage. According to the Table of Permitted
10 Uses in the Zoning Ordinance, the storage is considered an “industrial use”
11 which is not allowed in the Business Zone and questioned how the Planning
12 Board could approve without having first been sanctioned by the Zoning Board
13 for a Mixed or Dual Use Variance. Mr. Buttrick stated that that question was
14 raised during initial review and according to Zoning Ordinance Article 334:10.B
15 Mixed or Dual Uses for redeveloping a site and referenced General Notes item
16 13 for Proposed Use. Ms. Davis countered that the storage of vehicle is an
17 Industrial Use, not a Commercial Use per the Zoning Ordinance. Mr. Hackett
18 noted that the Planning Board did not approve “Motor Vehicle Sales and
19 Rental” as listed in the General Notes.

20
21 Discussion ensued and concerns expressed that not everyone had the same
22 copy of the unsigned Site Plan and the list of General Notes differed. Mr.
23 Pacocha asked if the third building that breeches the property line has been
24 addressed and a variance obtained and Mr. Maynard stated that it has been
25 discussed and there are plans to remove the portion of the building that
26 extends over the property line. Additional concerns were raised regarding the
27 historical significance of the current two-family structure.

28
29 General consensus was that the Case be deferred, that Land Use Director
30 George Theborge be the focal point and if treated with priority could be handled
31 at the Planning Board meeting scheduled for 12/8/17 and then could return
32 to the ZBA for its scheduled 12/14/17 meeting. Ms. Davis clarified that a
33 variance is needed for the storage of vehicles as the Zoning Ordinance classifies
34 it as an Industrial Use, that clarification is needed from the Planning Board
35 regarding the signed Site Plan General Notes, specifically regarding “Sales and
36 Rentals” and that there is continuity between the “zoning plan” and the “site
37 plan” and that there is clarity on the plan.

38
39 Motion made by Mr. Brackett, duly seconded by Ms. Davis and unanimously
40 voted to defer Case #190-191 A-D to the December 14, 2017 ZBA meeting with
41 the condition that the Planning Board’s decision be clarified and a consistent
42 ZBA Plan be submitted that coincides with the approved Site Plan. Ms. Davis
43 noted that another Variance is needed for the industrial classification for the
44 overflow parking.

45

1 Chair Martin noted that Ms. Shuman returned to the Board table and that
2 Alternte Member Houle would no longer be voting.

3
4 2. Case 174-186 (11-09-17): Ana D Rousseau, 9 Hayward Place,
5 Hudson, NH requests at 9 Haywood Place, Hudson NH (Map 174 Lot
6 186), Zoned (TR) Town Residential the following:
7

8 A) A Variance to alter (expand up) an existing non-conforming
9 structure's roof from flat to pitched roof; HZO Article VIII §334-31A
10 Alteration and expansion of non-conforming structures.
11

12 B) A Variance to encroach 16" more within the required front setback,
13 leaving 13'-1", where 30 ft. is required; HZO Article VII §334-27
14 Table of Minimum Dimensional Requirements.
15

16 Clerk Houle read the Case into the record. Mr. Buttrick stated that the
17 applicant wishes to change the existing flat roof on a non-conforming structure
18 to a pitched roof which will increase the nonconformity and also the
19 encroachment into the setback with the overhanging eaves.
20

21 Ana D. Rousseau, property owner of 9 Hayward Place, introduced herself and
22 Kevin Dumais, her fiancée and resident at 9 Hayward Place, and authorized
23 Mr. Dumais to represent the application. Mr. Dumais clarified that the existing
24 roof penetrates sixteen inches (16") over the wall of the building and there is no
25 further encroachment proposed with the new roof, noting that the only
26 differernce is that the rafters will now be at an angle.
27

28 Mr. Dumais stated that the existing flat roof is leaking and to repair/replace it
29 with another flat roof is not the best solution as it will continue to have to be
30 shoveled with snow every winter. Mr. Dumais addressed the criteria for the
31 granting of a variance and shared that their request is not contrary to public
32 interest, will not impact the neighborhood or diminish surrounding property
33 values because the roof is to the rear of the building and the view from the
34 street remains the same and substantial justice would be done to repair the
35 roof with a pitched roof.
36

37 Chair Martin opened the meeting for public testimony at 8:06 PM. No one
38 addressed the Board.
39

40 Mr. Brackett questioned whether, based on the testimony just received that
41 there will be no further encroachment into the setback with the pitched roof
42 whether Variance B (for additional encroachment) was needed. Mr. Dumais
43 withdrew Variance B.
44

45 Ms. Davis questioned the living space below the new roof. Ms. Rousseau stated
46 that the area is her kitchen and no additional living space is proposed. Mr.

1 Brackett questioned the angle of the pitched roof and Mr. Dumais noted that
2 there is a window on the second floor and the pitched roof would be
3 approximately six inches below the window and approximately two feet above
4 the existing flat roof and slope away from the building. Mr. Brackett called up
5 a picture of the house on his tablet and showed it to Members.
6

7 Motion made by Mr. Brackett to grant the variance to replace the flat roof with
8 a pitched roof as presented. Mr. Pacocha seconded the motion. Mr. Brackett
9 noted that the house maintains the existing footprint. Mr. Pecocho stated that
10 it is basically an elevation issue and that the hardship exists with the current
11 position of the house already in the setback. Vote was unanimous. Variance
12 approved. Mr. Martin noted that a Notice of Decision would be produced in
13 seven to ten days and that there is a 30-day appeal period.
14

15 With regard to Variance B, Chair Martin noted that it is not needed and asked
16 Ms. Rousseau if she would withdraw the application without prejudice. Ms.
17 Rousseau made the verbal request to withdraw Variance B regarding the
18 encroachment without prejudice as it is no longer required. Motion made by
19 Mr. Brackett, seconded by Ms. Davis and unanimously voted to accept the
20 withdrawal of Case B without prejudice. Ms. Davis clarified that “without
21 prejudice” could allow the property to come before the Board in the future if
22 anything new were to be proposed to encroach the setback.
23

- 24 3. Case 216-018-013 (11-09-17): Lois Mitchell, 14 Partridge Circle,
25 Hudson, NH requests a Home Occupation Special Exception to
26 conduct an artist home business at 14 Partridge Circle, Hudson NH
27 [Map 216 Lot 018-013, Zoned (R-2) Residential Two; HZO Article VI
28 §334-24 Home Occupations].
29

30 Clerk Houle read the Case into the record. Mr. Buttrick recapped his Staff
31 Report and noted that the applicant is in need of a mailing address for her
32 business which is the creation of art in her single family home.
33

34 Lois Mitchell introduced herself, stated that she mostly does watercolors and 3-
35 D topo maps and would like to work up her business and work from her home.
36 Ms. Mitchell stated that she has already obtained the Condominium
37 Association’s approval for the Home Occupation, that her entire operation is
38 internal to the home with no exterior impact, that the sales are predominantly
39 on-line sales, that she will also approach outside businesses to display her
40 works and addressed the criteria sharing the following information: there will
41 be no outside storage; there will be no noise except a saw and hammer if a
42 frame is needed; there will be no abnormal traffic as customers don’t come to
43 the home except for pick-up and there is room in the driveway to park and
44 occasionally there will be delivery trucks for supplies or shipping finished art to
45 customers; that she will be the only employee and would use her personal
46 vehicle for the business.

1
2 Chair Martin opened the meeting for public testimony at 8:23 PM. No one
3 addressed the Board.

4
5 Mr. Pacocha asked and received confirmation that it is a private road and the
6 the Condominium Association is responsible for snow removal and road
7 maintenance.

8
9 Motion made by Ms. Davis, duly seconded by Mr. Brackett and unanimously
10 voted to grant the Home Occupation Special Exception. Ms. Davis stated that
11 the proposed use demonstrates the intent of home occupations and noted that
12 should the business grow it would naturally be relocated out of the home into a
13 more suitable location. Ms. Shuman asked that the letter from the Condo
14 Association be placed in the Town's file for future reference. Motion passed.
15 Chair Martin stated that a Notice of Decision would be issued in seven to ten
16 days and noted that there is a thirty day appeal period.

17
18 **II. REVIEW OF MINUTES: 10-26-17 Minutes**

19
20 Minutes not available and deferred to December.

21
22 **III. REQUEST FOR REHEARING**

23
24 None presented for Board consideration.

25
26 **IV. OTHER**

27
28 1. Discussion of any Town/State activity of interest to the Board.

29
30 Mr. Buttrick stated that a draft of the proposed amendments approved at the
31 March 2017 vote have been compiled, complete with strikethrough and asked if
32 the Members would like to see just the final draft of the Zoning Ordinance
33 and/or the strike-through version. Ms. Davis stated that she would like to see
34 the strike-through version and could wait for the updated Zoning Ordinance.

35
36 2. ZORC (Zoning Ordinance Review Committee) Update

37
38 Mr. Brackett reported that ZORC met last evening (11/8/17) and there was
39 some discussion of what would be presented and one proposed amendment
40 was withdrawn. A Public Hearing has been scheduled and suggested that ZBA
41 Members attend. Ms. Davis noted that she submitted information, edits and
42 emails which were not considered and noted that particularly with regard to
43 "clubs" recommended a Community Facilities Use instead of a district/zone.
44 Mr. Brackett noted that "clubs" were removed from the list for March 2018.

45
46 3. Communication and Preparation

1
2 Selectman Morin expressed concern for the disservice to the applicants citing
3 the first case at this meeting and also at the Planning Board and strpngly
4 suggested that a meeting of the Chairs and Staff be scheduled to alleviate the
5 miscommunication and better prepare information for a meeting. Ms. Davis
6 noted that the abutters are also being misserved as well. Chair Martin asked
7 Selectman Morin to coordinate the resolution and email when a meeting is
8 scheduled and he will attend.

9
10 A male resident remained in the audience and when asked if he had business
11 with the Board, he questioned the notice aspect and why he received multiple
12 notices. Board reviewed the recent cases and explained the notice
13 requirements and invited him to consider volunteering for a Board seat.

14
15 Motion made by Ms. Davie, seconded by ,r Pacocha and unanimously voted to
16 adjourn the meeting. The 11/9/2017 ZBA meeting adjourned at 8:42 PM.

17
18 Respectfully submitted,
19 Louise Knee, Recorder

20

DRAFT