



# TOWN OF HUDSON

## Zoning Board of Adjustment



Maryellen Davis, Chairman

Thaddeus Luszey, Selectmen Liaison

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### HUDSON ZONING BOARD OF ADJUSTMENT MEETING MINUTES August 25, 2016

#### I. CALL TO ORDER

Chairman Davis called this meeting of the Hudson Zoning Board of Adjustment to order at 7:30 PM on Thursday, August 25, 2016, in the Paul Buxton Meeting Room in the Town Hall basement. Chairman Davis seated Mr. Maurice Nolin as a voting member to replace Mr. Normand Martin who was excused from the meeting. Chairman Davis then requested Mr. Houle to call the roll. Representatives of the Hudson Zoning Board of Adjustment were as follows:

**Members Present:** Maryellen Davis, Donna Shuman, Charles Brackett, Jim Pacocha, Maurice Nolin

**Alternates Present:** Gerald Dearborn, Kevin Houle

**Staff Present:** Bruce Buttrick, Zoning Administrator

**Excused:** Selectmen Liaison Ted Luszey – Excused  
Normand Martin - Excused

**Recorder:** Mary-Ellen Marcouillier

#### II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

For the benefit of all attendees Chairman Davis noted that copies of the agenda for the meeting, as well as an outline of the rules and regulations governing hearings before the Zoning Board of Adjustment were available at the door of the meeting room. She noted the outline includes the procedures that should be followed by anyone who wished to request a rehearing in the event the Board's final decision was not felt to be acceptable.

The curfew for the meeting is 11 PM. Chairman Davis does not anticipate this to be a problem for this session. In the event that a case is not heard by 11 PM, it will be postponed until the next meeting. If a case is in process, it will be heard until midnight then continued at the next meeting.

### III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. **Case 165-118 (8-25-16) (Deferred from 7-28-16):** Lori Rankin, 13 Grand Avenue, Hudson, NH, requests a Home Occupation Special Exception to allow an in home day care with up to 6 unrelated children, as defined as a “Family Day-Care Home”, in a Town Residence (TR) zoning district. [Map 165, Lot 118, Zoned TR, HZO Article II §334-6, Definitions - Family Day-Care Home.]

Lori Rankin testified that her home business will be a licensed home daycare with up to 6 non-related children and that the primary use is her residence. She further testified that the home business is located on the first level within her home and that the space is dedicated daycare only space. There will not be signs other than the ones permitted under Article XII. A 6 foot fence completely surrounds the property. Ms. Rankin expects 4 to 5 vehicles per day and parking is available in her driveway. Ms. Rankin will be conducting the home business.

Chairman Davis asked if anyone wanted to speak in favor of the Home Occupation Special Exception. No one came forward. Chairman Davis then asked if anyone wanted to speak neutrally or in opposition of the Home Occupation Special Exception. No one came forward.

Mr. Nolin asked Ms. Rankin if she would be the sole proprietor of the business and Ms. Rankin responded that she would be the only one, she does not have any other employees. Mr. Nolin also inquired if there was any other business being conducted on the property. Mr. Darren Rankin testified that his business had a temporary business sign on their mailbox until he could arrange for a PO Box in MA. The sign was there to ensure that he would get his business mail. Mr. Rankin conducts his business out of MA and reassured the ZBA that he does not run any business from his home. The sign has been removed from the mailbox.

Mr. Brackett inquired if there was a pool in the back yard. Ms. Rankin responded that they do have a 15 foot round above ground pool. The children would be in the back yard however they purchased a special ladder with a lock that the children would not be able to get into. Mr. Brackett asked if Ms. Rankin was aware of the State’s rules for operating a daycare and if she would be in compliance with those rules. Ms. Davis asked if Ms. Rankin was licensed in the State of NH. Ms. Rankin replied that she was not licensed as of yet, she needed to get the Home Occupation Special Exception before she could submit her application for a license. Ms. Rankin testified that she was thinking that the hours of operation would be from 7 AM to 5 PM, Monday – Friday. After some discussion, Ms. Rankin decided that the planned hours of operation would be 6:30 AM to 6 PM, Monday – Friday.

Chairman Davis declared the matter before the board.

Mr. Pacocha made a motion to grant, seconded by Mr. Brackett. Vote as follows:

Jim Pacocha	Grant
Charles Brackett	Grant
Donna Shuman	Grant
Maurice Nolin	Grant
Maryellen Davis	Not to Grant – Chairman Davis does not believe the area is conducive for a “Family Day-Care Home” and she would have liked to see stipulations on the planned hours of operation and parking.

2. **Case 242-007 (8-25-16): Charles Shunaman, 101 Musquash Road, Hudson, NH, requests a Variance to allow the proposed 2-lot subdivision to have 94.38 feet of frontage, where a minimum of 150 feet is required. [Map 242, Lot 007, Zoned R-2; HZO Article VII §334-27, Table of Dimensional Requirements.]**

Chairman Davis stepped down as she is a direct abutter. She appointed Vice Chair Pacocha as temporary Chair. Vice Chair Pacocha seated Gerald Dearborn as a voting member.

Acting Chairman Pacocha read letters of opposition from Richard Empey of 104 Musquash Road and William Cunningham of 102 Musquash Road. Both reside in Hudson, NH and were unable to attend the hearing.

Charles Shunaman testified that the proposed new lot will be of similar size (1+ acre) to other lots in the area and that the lot is sized for a single family home only. The requested new lot will meet all requirements except frontage and that the remainder of the lot will also meet all requirements. He also noted that there is an existing gravel driveway on the new lot that is a substantial distance from neighboring homes and driveways. The proposed use will observe the spirit of the ordinance because the placement of the homes on this stretch of Musquash Road will allow a significant amount of space between existing structure and new construction. The proposed lot quickly expands to 150'+ in width due to the trapezoidal shape of the existing lot. Mr. Shunaman further testified that there are existing lots in the area with less than 150' frontage. Development of this new proposed lot will clean up an area that is becoming over grown with brush. The proposed size of the lot is more than sufficient for two homes, because of the somewhat trapezoidal shape, the frontage falls short. A new single family home would clean up this area and actually improve the aesthetics of this section of Musquash Road.

Acting Chairman Pacocha asked if anyone wanted to speak in favor of the Variance. No one came forward. Acting Chairman Pacocha then asked if anyone wanted to speak neutrally or in opposition of the Variance.

Attorney Gerald Prunier came forward and stated that he was representing Mr. and Mrs. Ewing in opposition of the Variance. Attorney Prunier testified that this proposed lot would diminish the value of surrounding properties. He further testified that there is no hardship and that the traffic, cluster and general welfare of the community would be adversely affected if the variance was granted.

Mr. James Ewing testified that his property directly abuts Mr. Shunaman's property and he is in opposition of the variance. Mr. Ewing has been a resident at 105 Musquash Road for 21 years and intends on staying. Mr. Ewing further stated that to allow this variance would alter the character of the neighborhood. The proposed development would disturb the beautiful, pastoral land that allows wild life to pass through. This variance would also create a hardship for the Ewing's – it would not only produce a dramatic and negative impact on their life but diminish the value of their home. Mr. Ewing asked the following: why is it imperative to put a home there now?

Ricky Lemon testified in opposition of the Variance. He purchased his property at 14 Sanders Road because of the size of the lot and the privacy it allotted. He has raised three daughters there. He also stated that there is a multitude of wild life that navigates through there and that shouldn't be disturbed due to granting this variance. Musquash Road is a very heavy traveled back commuter route especially

in the morning – this variance would allow a driveway in a very dangerous section of road. This would create a very dangerous driving hazard.

Maryellen Davis testified as a neighbor and an abutter for the past 22 years. She believes the board needs to take a look at this application and ask what is exceptional about this property that doesn't apply generally to other properties at the site, in the neighborhood, and within the Town of Hudson itself. Yes, it is a large lot but so are many others in the area. Is this variance not detrimental to the Spirit of the Ordinance? Her personal and public rights would be injured by something like this because she will be disturbed by an additional building there and all the activity that goes along with having a building there. The public rights are inferred here. A lot of wild life use this area as a corridor. Many factors to consider here – doing something like this does more harm to the public than good to the applicant.

Acting Chairman Pacocha asked again if anyone wanted to speak neutrally or in opposition of the Variance. No one came forward. He then asked Mr. Shunaman if he would like to address the concerns of those that spoke.

Mr. Shunaman testified that the area of brush is not connected to any wetlands or wild life. It is an area that is over grown and can never be cleaned up without heavy equipment. Existing driveway is gravel – pulls away from West. Slight hill, nothing to interfere with the traffic. Proposed new house would be lower from Ewing's house. Surrounded by open property. A lot of concerns are not valid. There is no hardship to abutters. Mr. Shunaman maintained that the hardship that exists is in the use of the property. There is no other use that would be valid for this type of property. Fulfills all requirements except for the frontage. Traffic would not be an issue – it is not a business but a single family home.

Acting Chairman Pacocha asked again if anyone wanted to speak neutrally or in opposition of the Variance. No one came forward. The matter was declared before the Board.

Ms. Shuman asked about the easement. Mr. Shunaman was not aware of any easement.

Discussion took place on whether or not there was a hardship. Mr. Brackett does not believe that any hardship exists – it is a large lot that is consistent with the character of the neighborhood. Mr. Shunaman asked for clarification from the board on what they considered a hardship. Mr. Shunaman is asking to take something that exists and make better use of property. How is that not reasonable? Mr. Brackett again stated that no hardship exists. Mr. Dearborn believes the hardship is the layout of the property. Mr. Nolin believes that the hardship would be with the abutters if the variance was granted.

Mr. Brackett made a motion to deny.

10 minute recess was requested. Acting Chairman Pacocha approved request to recess.

***ZBA went in Recess at 8:50 PM and Resumed at 8:55 PM***

Mr. Brackett made his motion to deny, Ms. Shuman seconded the motion. Mr. Brackett spoke on his motion. Mr. Brackett believes it is an issue of Financial Gain and not a Hardship. Public interest is not in favor of granting the variance. Acting Chairman Pacocha requested a roll call. Vote as follows:

Charles Brackett Deny  
Donna Shuman Deny

Gerald Dearborn Grant  
Maurice Nolin Deny  
Jim Pacocha Deny

Vote: 4-1 Deny Variance

Ms. Davis returned as Chairman. Mr. Pacocha returned as voting Member. Mr. Dearborn returned as Alternate.

**3. Case 182-052 (8-25-16): Leonard Vigeant, 5 Mockingbird Lane, Hudson, NH, requests a Variance for the property located at 16 Central Street to allow a two family dwelling in the Business (B) and Town Residential (TR) zoning districts which is not an allowed use. [Map 182 Lot 052, Zoned B & TR; HZO Article V, §334-21, Table of Permitted Principle Uses 334 Attachment 1.]**

Mr. Vigeant's representative testified that the proposed use will be consistent with the essential character of the neighborhood as the property directly abuts two multi-family dwellings within the TR zone and is surrounded by several two-family and multi-family dwellings in both the TR and B zones. It will not alter the character of the locality and is surrounded by similar uses. Substantial justice is done onto the property owner and applicant in this case by allowing reasonable development of the parcel with a use that is consistent with the neighborhood. The proposed use is a reasonable balance between the two zoning districts that bifurcate the parcel. The development of the two-family dwelling should only raise the value of this undeveloped property which in return will not diminish the values of the surrounding properties. The special condition of this property is that it is split zoned between B and TR. Even though two-family dwelling are not allowed in either, the parcel is surrounded by them. Given the position of the zone line on the property, development of a permitted use fully within the B zone portion, such as a multi-family dwelling, is unrealistic. Also, development of the small remaining portion of the land within the TR zone is unrealistic and unachievable. The special conditions of this parcel make granting the proposed variance reasonable.

Chairman Davis asked if anyone wanted to speak in favor of the Variance. No one came forward. Chairman Davis then asked if anyone wanted to speak neutrally or in opposition of the Variance. Mr. Peter Remeis came forward.

Mr. Remeis testified that he owned 25 Central Street, Hudson. He is concerned that developing a duplex on the proposed property will create a traffic issue for the new owner. In the past there has been difficulty in the area with depressed properties. He doesn't believe it would be a good living space. Mr. Remeis believes that the best use for the property would be to have the Town of Hudson purchase the property and keep it as green space.

Chairman Davis asked if there were any questions from the Board. Mr. Brackett wanted to know why a two-family vs. a multi-family would be best suited for the proposed property.

Mr. Vigeant's representative testified that the current parcel is 18,000 square feet in size and that he did not believe a multi-family would be conducive to the space. The shape and size of the lot accommodates a duplex and not a multi-family dwelling.

Mr. Dearborn inquired if a single family was ever considered for the proposed parcel?

Patrick Colburn, Project Manager for Keach-Nordstrom testified that the applicant was in the business of Rental Property and a single family was never contemplated.

Chairman Davis confirmed that this proposal would not be going before the Planning Board and was concerned with the site distance off of Central Street. She asked how that was going to be rectified.

Mr. Colburn responded that when the driveway permit is pulled by the applicant it would be situated in the area that would achieve the best site distance.

Mr. Remeis asked if the applicant owned the property because there was a For Sale sign on it. Mr. Colburn responded that the applicant did not currently own the property and that it was contingent upon the ZBA's approval of the Variance. Chairman Davis noted that the vacant lot was owned by the Church and that the Church did give the applicant permission to seek the Variance.

Chairman Davis declared the matter before the Board.

Mr. Brackett made a motion to Grant, seconded by Mr. Pacocha. Vote as follows:

Charles Brackett	Grant
Jim Pacocha	Grant
Donna Shuman	Grant
Maurice Nolin	Grant
Maryellen Davis	Grant

Vote: 5-0 Grant Variance

**IV. REVIEW OF MINUTES**

No minutes to review.

**V. REQUEST FOR REHEARING**

No request for rehearing.

**VI. OTHER**

Mr. Buttrick passed out the 2016 Municipal Law Lecture Series and encouraged each board member to sign up.

**VII. ADJOURNMENT**

Mr. Nolin made a motion to adjourn and Ms. Shuman seconded the motion. All in favor, the motion passed unanimously. Chairman Davis declared the meeting adjourned at 9:37 PM.

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Maryellen Davis, Chairman