



# 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 April 28, 2016

#### I. CALL TO ORDER

Chairman Davis called this meeting of the Hudson Zoning Board of Adjustment to order at 7:39 PM on Thursday, April 28, 2016, in the Paul Buxton Meeting Room in the Town Hall basement. 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, Normand Martin, Jim Pacocha, Kevin Houle

##### **Alternates**

**Present:** Gerald Dearborn, Maurice Nolin

##### **Selectman**

**Liaison:** Ted Luszey

##### **Staff**

**Present:** Bruce Buttrick, Zoning Administrator

**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 the hearing 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 THIS BOARD

1. **Case 199-004 (4-28-16): Don Dumont, 18 Hilindale Drive, Hudson, NH, requests the following for the proposed three unit condominium site plan located on Pelham Road, Hudson, NH.**
  - a) **A Variance to allow the frontage of the proposed site plan to have 82.48 feet, where a minimum of 150 feet is required. (Map 199, Lot. 004, Zoned G; HZO Article VII 334-27, Table of Dimensional Requirements.)**
  - b) **A Variance to allow a single private common access way to the proposed three units, which would encroach both side setbacks. (Map 199, Lot 004, Zoned G; HZO Article XI 334-55, Road Standards.)**

Rehearing – original request was denied on January 28, 2016.

Thomas J. Leonard testified on behalf of Don Dumont, the owner of the property. Mr. Leonard discussed the conditions of prior approvals. He then stated that this current application was different from the application done in 1995. The current application is to sub-divide 1 of 3 lots into 2 lots. Mr. Dumont would like to develop 7 acres of land and build 3 free standing single family units used as condominiums on a private road. They understand they would need approval from the Planning Board.

Mr. Leonard discussed the concerns of abutter Suellen Seabury who was present at the meeting. Mr. Leonard stated that Ms. Seabury was in favor of the plan but did have a concern about her well for which she would discuss later. Mr. Leonard addressed specific details in the application with regard to setbacks and frontage. Mr. Leonard went on to say that the units would have safe, private access. The units would be similar to the neighborhood and would not diminish any value. Mr. Leonard again reiterated that the Planning Board would have the final say on this project and they would, of course, abide by the decision the Planning Board renders. Mr. Leonard stated that what they were looking for from the Zoning Board of Adjustment was the following: approval for 3 condominium units on 7 acres that would not be sub-divided but single family owned and secondly, relief for lot with no frontage.

Chairman Davis asked if there was anyone in favor of this application. Suellen Seabury came forward. She explained that Mr. Dumont has been very cooperative and that he moved the property line out to the left. She also stated that her main concern was her well. The well is listed as proposed but it is the actual well. She expressed specific details about her concerns and maintained that preservation of her water was her biggest issue. There is no other place on her property to drill another well if this one becomes contaminated. Mr. Leonard stated that Ms. Seabury had a Bed Rock Well and that it was protected from surface water, he went on to say that he was working with Ms. Seabury and the Planning Board and did not believe that salt and drainage would be an issue.

Mr. Leonard addressed questions about the Open Space use and said that the space was part of the 7 acres and that there was no common use. It is limited to Condo Owners and their guests. He assured that they would abide by that.

Chairman Davis asked if there was anyone neutral or in opposition to this application. No one came forward. Chairman Davis then asked for Board member input and they asked questions for Mr. Leonard; Mr. Leonard answered their questions in detail. Mr. Leonard addressed the difference with a private road maintained by a condominium association. There was discussion back and forth on the matter of road ownership (private vs. public).

Chairman Davis asked if anyone cared to make a Motion; a Motion was made by Mr. Brackett and seconded by Chairman Davis. Before the vote was taken, Chairman Davis asked that 4 stipulations be added: 1) all prior conditions of the Planning Board must be cleared as they pertain to Pelham Road from previous plan. (2) Private access road to be built to standards as determined by the Planning Board. (3) This will be a condominium development covered by condo covenant embedded by Town Council. (4) Applicant understands that 1 lot is created with no frontage – does have deeded access – future development requires variance for proper frontage.

Member comment took place before the vote. Mr. Brackett wanted the minutes to reflect that there was concern with the Members that the Planning Board is aware of abutter Suellen Seabury’s issue with her well. Mr. Martin stated that no one can guarantee that the abutter, Suellen Seabury’s well will not be affected.

Motion was to approve the application with the 4 stipulations previously stated. Vote as follows:

Charles Brackett	Grant with stipulations
Maryellen Davis	Grant with stipulations
Donna Shuman	Grant with stipulations
Normand Martin	Not to Grant
Jim Pacocha	Not to Grant

Vote: 3-2 Variance granted as posted with 4 stipulations

**2. Case 247-090 (4-28-16): Ted & Melanie Benjamin, 6 Cherry Street, Hudson, NH, requests a Variance to allow a 12’ x 18’ shed to be placed within the rear-yard setback; 15-foot required, 5-foot proposed. (Map 247, Lot 090, Zoned TR; HZO Article VII 334-27, Table of Dimensional Requirements.)**

Chairman Davis stepped down – applicants are personally known to her and her husband. Chairman Davis appointed Vice Chairman Jim Pacocha to take her place. Vice Chairman Pacocha appointed Maurice Nolin to replace Chairman Davis.

Melanie and Ted Benjamin testified that they had a very small back yard and that they were requesting a variance that would allow them to build a shed 5 ft. from both property lines (rear yard and side yard.) This would enable them to keep the area over the septic tank accessible in case they needed work done.

Vice Chairman Pacocha asked if there was anyone in favor of this application. No one came forward. Vice Chairman Pacocha then asked if there was anyone in opposition of this application. No one came forward.

Motion was made by Mr. Brackett to waive review of the application as the application was a straight forward case. Motion was seconded by Mr. Martin. Members agreed that the proposed shed placement was consistent with the neighborhood.

Charles Brackett	Grant
Normand Martin	Grant
Donna Shuman	Grant
Maurice Nolin	Grant
Jim Pacocha	Grant

Vote: 5-0 Variance granted

Chairman Davis resumed her seat as Chair, Active Chairman Pacocha resumed his seat as Member and Maurice Nolin resumed his seat as Alternate.

- 3. Case 167-009 (4-28-16): Eversource Energy, 13 Legends Drive, Hooksett, NH, requests a Wetland Special Exception to access the proposed rebuild of the existing Y151 Transmission Line from the Eversource Power Street Substation located at 15 Power Street, Hudson, NH to the National Grid ROW adjacent to McCrady Drive. The proposed project requires 970 sf of permanent Wetland impact and 26, 327 sf of temporary Wetland impact. In addition, the project requires 170 sf of permanent buffer impact and 17, 190 sf of temporary buffer impact. (Map 167, Lot 009, Zoned R-2, G-1, and G; HZO Article XIII A 334-35, Uses within Wetland Conservation District.)**

Donna Shuman stepped down and Gerald Dearborn stepped down as Alternate. Chairman Davis appointed Maurice Nolin to take Donna Shuman's place.

Tracy – Wetland Scientist testified on behalf of Eversource Energy. The project would replace existing poles and existing lines updating them to current standards. The project would require wetland impact for 2 poles and anchors. It would be a small impact.

Chairman Davis asked if there was anyone in favor of this application. No one came forward. Chairman Davis asked if there was anyone neutral or in opposition of this application. Gerald Dearborn came forward. Mr. Dearborn asked why he was listed as a direct and non-direct abutter. Mr. Buttrick explained that it was the radius of impact. Mr. Dearborn went on to ask what kind of poles would be installed. Tracy replied that they would be H frames as they are now, however, they would now be steel instead of wood.

Chairman Davis asked the Board if anyone had any questions. Mr. Martin asked if the project had been started. Tracy replied that it had not been started and that it hadn't gone out to bid. Mr. Brackett stated that the Conservation Commission concerns were taken into consideration and how accommodating Eversource has been to the abutters. Mr. Martin stated that he would grant the application but wanted the 5 stipulations from the Conservation Commission to be added to the Zoning Board of Adjustment decision.

Chairman Davis asked for a motion. Motion was made by Mr. Brackett and seconded by Mr. Pacocha.

Charles Brackett	Grant with stipulations
Jim Pacocha	Grant with stipulations
Normand Martin	Grant with stipulations
Maurice Nolin	Grant with stipulations
Maryellen Davis	Grant with stipulations

Vote: 5-0                      Wetland Special Exception Granted

Donna Shuman resumed her place as voting Member. Gerald Dearborn and Maurice Nolin resumed their places as Alternate.

- 4. Case 198-168 (4-28-16): Ann Sheehan, 6 Cape Drive, Hudson, NH, requests a Variance to allow the construction of a 26' x 22' attached garage with above family room to encroach within 3-feet of the side-setback, where 15-feet is required. (Map 198, Lot 168 Zoned TR; HZO Article VII 334-27, Table of Dimensional Requirements.)**

Ann Sheehan testified that the existing deck would be removed. The proposed structure would not alter or change the character of the neighborhood nor would it threaten public health, safety or welfare or otherwise injure public rights. The proposed structure will not outweigh harm to the general public and will allow more room for vehicles and storage.

Chairman Davis asked if there was anyone in favor of this application. No one came forward. Chairman Davis then asked if there was anyone neutral or in opposition of this application. No one came forward.

Motion was made by Mr. Martin to grant the application and seconded by Mr. Brackett.

Normand Martin	Grant
Charles Brackett	Grant
Donna Shuman	Grant
Jim Pacocha	Grant
Maryellen Davis	Grant with comments – Chairman Davis expressed her thanks for all the work the applicant put into learning the process and attending the meetings.

Vote: 5-0                      Variance Granted

#### **IV. REQUEST FOR REHEARING**

Chairman Davis stated that a rehearing request for 218 Central Street was proposed. Application was date stamped as received on April 21, 2016. Chairman Davis received the application via email on April 27, 2016.

Mr. Martin requested that the request for a rehearing be placed on the May 12, 2016 agenda so the board could have time to review the application.

The Board agreed that the request for a rehearing would be placed on the May 12, 2016 agenda.

#### **V. APPROVAL OF MEETING MINUTES**

The board reviewed the meeting minutes from March 24, 2016. The meeting minutes were approved as amended.

#### **VI. ADJOURNMENT**

Mr. Martin made a motion to adjourn and Mr. Brackett seconded the motion; all in favor. The motion passed unanimously. Chairman Davis declared the meeting adjourned at 10:44 PM.

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Maryellen Davis, Chairman