



# TOWN OF HUDSON

## Zoning Board of Adjustment



J. Bradford Seabury, Chairman

Marilyn McGrath, Selectmen Liaison

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### HUDSON ZONING BOARD OF ADJUSTMENT MEETING MINUTES February 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, February 25, 2016, in the Paul Buxton Meeting Room in the Town Hall basement. Those persons present along with various applicants, representatives and interested citizens were as follows:

##### **Members**

**Present:** Normand Martin, James Pacocha, Maryellen Davis, Donna Shuman, Charles Brackett and Kevin Houle

##### **Members**

**Absent:**

##### **Alternates**

**Present:** Gerald Dearborn, Maurice Nolin

##### **Selectman**

**Liaison:** Marilyn McGrath - ABSENT

##### **Staff**

**Present:** Bruce Buttrick, Zoning Administrator

**Recorder:** Cat Bardwell

#### II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

For the benefit of all attendees Chairman Davis announced 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 stated 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.

Chairman Davis pointed out the meeting has a curfew of 11:00 PM. In the event that a case is not heard by 11:00 PM, it will be postponed until the next meeting. If a case is in the process, it will be heard until midnight then continued at the next meeting.

Ms. Davis asked Mr. Dearborn to read the first case before the Board.

### **III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THIS BOARD**

- 1. Case 177-059 (02-25-16): John & Sonya Cullen, 58 Bear Path Lane, Hudson, NH, requests continued use of an approved Accessory Living Unit (ALU) located at 58 Bear Path Lane, Hudson. [Map 177, Lot 059, Zoned G; HZO Article XIII A §334-73.4, Term Of Special Exception Approval.]**

Mr. Buttrick explained why the matter was before the Board. John and Sonya Cullen explained that they received a notice to request a continuance of the ALU use for her mother, the previous owner.

Mr. Martin suggested that a presentation was not needed as this was a previously approved application. Mr. Brackett agreed that if it's all the same, a presentation is not necessary. However, a letter signed by John and Sonya Cullen is needed to state that the occupant is a relative (Sonya's mother.) Ms. Davis asked if the Board felt they had sufficient testimony and it was unanimously agreed that they did.

Mr. Pacocha asked that John and Sonya Cullen accept the terms of special exception and acknowledge all terms of the special exception will be maintained and will be inhabited by a relative by blood and or marriage. It was agreed that any new owner of the house if it's sold, would have to go before the Board for an exception. The Cullen's agreed to submit a letter tonight before they leave.

Mr. Martin made a Motion to Grant; seconded by Mr. Brackett. Mr. Brackett stated that he is glad the process is working and feels that this should be granted.

Vote:

Mr. Martin	To grant
Mr. Brackett	To grant
Ms. Shuman	To grant
Mr. Pacocha	To grant
Ms. Davis	To grant

Vote 5-0 – Motion passed.

- 2. Case 182-001 (02/25/16): Mark Hetzer, P. O. Box 910, Londonderry, NH, requests a Variance to allow a retail sales office for a fencing company to occupy the property located at 5 Lowell Road, Hudson, NH, located in a TR zoning district. [Map 182, Lot 001, Zoned TR; HZO Article V §334-20, Allowed Uses Provided in Tables.]**

Mr. Mark Hetzer, owner, presenting in accordance with the filed Application, stated as follows:

1. The rental business in question is a fencing company that installs fencing on other property sites. The rental will primarily be an office and storage facility, and not a nuisance business.
2. There will be no changes to the overall character of the neighborhood; business will observe similar hours to other businesses at that address.

3. Justice would be served in that it would again allow a similar utilization of the property; Hudson does not have another fencing company, so this would be a benefit to the community in that it's a safety service, thus benefitting the community.
4. It would not diminish value since it's always been a business location and the Request is similar to previous approved uses for the property. It will bring new progress, life and value to the property and the area.
5. Enforcement would result in hardship because without zoning permission, the property will remain vacant in a location that has served businesses for over 60 years.

Mr. Martin asked about materials being stored on the site and hours of operation. The question was raised about going before the Planning Board with this proposition. Hours of operation are planned for 8:30 am to 5:00 pm and seasonally on Saturdays, from 10:00 am to 2:00 pm.

Ms. Davis asked about plans for outside storage, which will be behind a fence; the current fence will be replaced with a better looking fence product and some landscaping added to beautify the property. Site storage will be comprised of stock and samples and out of the "visible" eye behind the fencing. Most of the displays will be inside the showroom; deliveries will be approximately twice weekly and will be placed out of general view. Materials will be bulk stored in Somersworth and only small bundles of "job lots" or very small quantities of materials will be stored at this location. Mr. Brackett commented that this information should be presented to the Planning Board.

Mr. Dearborn asked about stock; Penney Fence delivers to the job site; this company is not sufficiently sized to do drop shipments at this time.

An inquiry as to signage was made – and Mr. Hetzer responded that they would use the existing signage and add their name to what's already there.

A question was raised about proximity to the brook and the 50' buffer area; again Mr. Hetzer responded that the buffer zone is off limits and will not be encroached on. He provided photos to show that this area is not accessible. This concern is satisfied.

Mr. Pacocha inquired if the property has ever had zoning issues. Mr. Buttrick stated that it has clearly been a non-conforming issue as to site, and that it has always been allowed.

Ms. Davis made the comment that Mr. Hetzer has bred a lot of entrepreneurs at that site since 1974. A comment was made that the fencing company was an improvement over the small engine repair facility that previously operated from that site.

Mr. Martin made a Motion to Grant; Ms. Pacocha seconded. Mr. Martin expressed an opinion that this business makes a great addition to the Town, meets criteria, is not an eyesore, that the Application addresses the concerns and is not intrusive. Mr. Pacocha stated that it's not contrary to public interest, gives justice to maintain the facility, that there is no public harm. Furthermore, it would be an excessive hardship to convert this property to residential use.

The Chair commented that she likes the plan and business and that no business on Sunday is good and she wished the renter good luck.

Vote:

Mr. Martin Grant  
Mr. Pacocha Grant  
Mr. Brackett Grant  
Ms. Shuman Grant  
Ms. Davis Grant

Motion Granted with a vote of 5-0

There are no Minutes to be reviewed from prior meetings.

Ms. Davis stated that she will schedule a meeting with Dave Lefebvre to go over changes to zoning regulations, which are mainly the revisions for 7/2017 to the ADU and changed to the definition of "Family". The Zoning Ordinance Review Committee (ZORC) is updating starting with definitions; there are 7 or 8 changes as the starting point for this process. Mr. Buttrick is involved in this process and stated that he would be happy to bring any questions or comments of the Board to the ZORC. He urged members to be involved in bringing concerns to that committee.

Ms. Davis stated that a Hearing will need to be heard on an Appeal that came in via e-mail on today's date. They need to grant or deny. Ms. Shuman suggested they discuss this with the Town Attorney prior to the next hearing date. March 24 is the next meeting and this request is dated and stamped 2/25. The Board discussed starting early to meet with the Town Attorney and discussed a separate meeting prior to the next Hearing date. The Chair asked if the Members would be willing to come for a meeting with the Attorney on 3/24 at 6:30 and when that was met with positive reception, stated she would contact the Town Attorney to see if that would work with his schedule.

At this point, there are no Minutes available for that case. It was mentioned that it would be nice to have those ready prior to the next meeting. This has been an issue in the past with the Minutes being unreviewed.

The Chair brought up a case request for PSNH and a pole replacement issue whereby they requested a waiver on 88 abutter tax records being provided. She agreed with their request. Mr. Buttrick notes it is a wetlands property. Mr. Brackett noted that Mr. Buttrick was doing a great job!

Mr. Martin - Motion to Adjourn; Second - Donna Shuman.

All in favor.

Meeting adjourned at 8:36 PM.