



TOWN OF HUDSON

Zoning Board of Adjustment



J. Bradford Seabury, Chairman

Ben Nadeau, Selectmen Liaison

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HUDSON ZONING BOARD OF ADJUSTMENT MEETING MINUTES November 13, 2014

I. CALL TO ORDER

Acting Chairman Martin called this meeting of the Hudson Zoning Board of Adjustment to order at 7:30pm on Thursday, November 13, 2014, in the Paul Buxton Meeting Room in the Town Hall basement. Acting Chairman Martin then requested Clerk Dearborn to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: Normand Martin, Jim Pacocha, and Donna Shuman

Members

Absent: J. Bradford Seabury (Excused) and Mike Pitre (Excused)

Alternates

Present: Maryellen Davis, Gary Dearborn, Kevin Houle, and Maurice Nolin

Alternates

Absent: Marilyn McGrath (Excused)

Staff

Present: Kevin Desmond, Zoning Administrator

Recorder: Trish Gedziun

II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

For the benefit of all attendees, Acting Chairman Martin 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. He noted the outline included 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.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Acting Chairman Martin pointed out that the Board allowed rehearings only if collectively convinced by a written request that the Board might have made an illogical or illegal decision or if there were positive indications of new evidence that for some reason was not available at the hearing.

Acting Chairman Martin seated Ms. Davis in place of Mr. Seabury and Mr. Houle in place of Mr. Pitre, who were both excused.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. Case 109-017 & 110-012 (11-13-14): Robert N. & Sally A. Durand, 24 Putnam Road, Hudson, request a Variance from the literal provisions of the Hudson Zoning Ordinance Article VII of HTC §334-27 (Table of Minimum Dimensional Requirements) to permit a lot in excess of 6 acres in area that has approximately 45 feet of frontage where 200 feet of frontage is required. [Map 109, Lot 017 & Map 110, Lot 012, Zoned G1; HZO Article VII, §334-27.]

Clerk Dearborn read aloud the posted notice, as recorded above.

Acting Chairman Martin

Who is present to speak with regard to this application?

Attorney J. Bradford Westgate, Winer & Bennett, LLP

I am representing Robert and Sally Durand, the applicants. Mr. & Mrs. Durand are present as is Mr. Tony Basso from Keach-Nordstrom Associates. Mr. Basso's firm represents the project surveyor's and engineers.

The Durand's own two properties that are the subject of this application; one is located at 22 Putnam Road and one is located at 7 Cutler Road. The plan we posted is the same as the 11' x 17' version that is included with the application package. The existing property line on 7 Cutler Road is a rectangle, it's about 5.2 or 5.3 acres and there is a single family house on it. The balance of the property is on 22 Putnam Road and that is vacant. The Durand's live at 24 Putnam Road but that's not part of the application. They have two parcels and what we are proposing to do is take the two parcels which add up to about 12.7 acres and consolidate them into one parcel and that at the same time, subdivide them into four parcels and the resulting four parcels would be approximately two acre parcels that would encompass the 7 Cutler Road single family home, two other parcels a little over 2 acres with frontage on Putnam Road, and then what I would call a back lot with frontage on Cutler Road. All of the green lots represented on the plan would be conforming lots. They all have 200 feet or more of frontage and they all have 2 acres or more in the G-1 District. The back lot represented in orange would be an oversized lot with over 6 acres. The reason we are here is that it would only have about 45 feet of frontage on Cutler Road, therefore not having the 200 feet of frontage necessary in the G-1 District. The overall frontage on the Cutler Road property is about 279 feet and to have this lot be 2 acres in size we are giving it a

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

bit over 200 feet of frontage which enables the back lot to be as large as possible. If we create one large back lot which is about 6.5 acres then we are maintaining some consistency with the purposes of the G-1 District which is to have a rural approach not overly dense and have the land/uses be consistent with the neighboring land/uses in that district. The Durand's ultimate goal is to sell their existing home and build a home for retirement on the back lot.

Attorney Westgate then read aloud from the Application for a Variance summarized as follows:

- 1. Granting of the requested Variance will not be contrary to the public interest. It is not contrary to the public interest to grant a variance that allows an oversized lot, in this case over 6 acres, with 45 feet of frontage, on an existing town road that can be serviced with its own driveway and utilities. The creation of this lot enables the property to be used deeper into the parcel than along the street.*
- 2. The proposed use will observe the spirit of the ordinance. The proposed use will observe the spirit of the ordinance and the proposal was consistent with the spirit of the ordinance.*
- 3. Substantial justice would be done to the property owner by granting the Variance. Substantial justice is done if the general public realizes no appreciable gain from denying the variance. If the Variance is granted the general public is served because the properties may be used in a manner consistent with the goals of the G-1 District, without the overly dense development and without the need to create a new public road which would ultimately be maintained by the Town.*
- 4. The proposed use will not diminish the values of surrounding properties. The proposed ultimate development of these properties will indicate vitality in the area, evidenced by new construction, yet in a manner consistent with the density requirements of the G-1 District.*
- 5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship. The properties have frontage on two local roadways. In particular, the frontage along Cutler Road only totals approximately 279 feet, yet readily provides access to the existing house and to an oversized back lot, without adversely affecting the immediately abutting parcels.*

The properties are contiguous in back yard sections and capable of re-configuration and re-subdivision in a manner which permits the establishment of 4 separate parcels out of more the 12 acres, appropriately configured for uses permissible in the G-1 District, including single family dwellings.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Attorney Westgate

A couple of abutter's submitted letters indicating that they had no objection to the Variance application. (Attorney Westgate submitted the letters to the members of the Board.) He said one letter was from Mr. Robert Higgins at 11 Cutler Road and the other letter was from Etchstone Properties. Etchstone is the abutter to the south.

Acting Chairman Martin

Is there anyone else that would like to speak in favor with regard to the application?

Mr. Nelson Dionne, 9 Cutler Road

I have lived at 9 Cutler Road for 49 years and Sally Durand has lived next us for all of those 49 years. I am more than happy to speak in favor of the application, it doesn't hurt me at all; in fact it enhances my property. The Durand's have reclaimed the land and now I have a nice park in my backyard, it's beautiful out there and I know that they plan on building out there. The driveway they propose to put in would not affect me as it's on the same side of my garage. The only bad thing for me is that I used to hit golf balls out there.

Mr. Dale Fuller, 2 Fuller Drive

I've known Sally since I moved here 27 years ago and they have been great neighbors and I have no objection to what they want to do.

Acting Chairman Martin

Is there anyone who would like to speak in opposition or neutrally with regard to the application? Seeing none, I will declare the matter before the Board.

Mr. Pacocha

I would like to have Attorney Westgate address the hardship issue relative of 45 feet where you have at least 75 feet available for this frontage.

Attorney Westgate

The hardship argument would apply in either case whether it is 75 feet or 45 feet. It's really a geometric point. the proposed lot to house the existing 7 Cutler Road home is just over 2 acres and if we widened the throat of the orange line by let's say another 25 feet or 30 feet, you would have to elongate the lot that handles the 7 Cutler Road property for no purpose. We don't really need the 75 feet width to accommodate the driveway. It

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

can be handled in the 45-foot frontage width as can the necessary utilities. It made more sense for this lot be a little more square and less usable back land but have a little more usable width here since this bigger back lot has got substantial back land capability.

Mr. Tony Basso, Keach-Nordstrom Associates

The other piece of it is that there is an existing driveway that services the house and this is the garage for it out back so by moving it over we end up putting the driveway that is there in the side-yard setback which is not allowed. We were trying to balance this and not impact how the driveway and garage gets accessed. The other possibility would be to twist it and put an angle on it and that would make it a funny shape for no reason. The idea was to keep it away from the driveway and garage so we don't then go and create another situation where we are putting a garage or a driveway in the side-yard setback.

Mr. Pacocha

The garage wouldn't be in the side-yard setback.

Mr. Basso

If we moved this whole line over, the whole driveway would end up in the side-yard setback.

Ms. Davis

The proposal is for one single family home on each lot?

Mr. Basso

Yes.

Ms. Davis

With no future development?

Mr. Basso

We are not leaving enough of a strip there to put a road in.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Ms. Davis

I am thinking of the properties that are owned by Etchstone.

Attorney Westgate

That was already subdivided some years ago. All of the frontages are on Old Derry Road.

Ms. Davis

I am just saying that it is still owned by Etchstone.

Mr. Dearborn

That 45-foot strip on Cutler Road, is that going to be a driveway eventually to that back lot?

Attorney Westgate

Yes.

Mr. Dearborn

The other property on the left that is proposed, there's already a house, garage, and driveway on it. Why is it proposed?

Attorney Westgate

It is just the lot configuration that is proposed.

Mr. Davis

What is the length of the yellow strip?

Attorney Westgate

It's got to be over 700 feet.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Ms. Davis

So you are taking lots 12 & 17 and breaking them up into a proposed 17, 12, 12(1), & 12(2).

Attorney Westgate

Exactly.

Mr. Pacocha

Maybe they should go with the 45 feet and then they cannot put a cul-de-sac in. When we have allowed these before they have always been on 50-foot right-of-ways and we have allowed access to the proposed that were never used.

Ms. Davis

The purpose of frontage is to stop overcrowding and to allow access for emergency vehicles and clearly here, you do not have overcrowding and 45 feet would provide access for emergency vehicles.

Ms. Davis made a motion to approve the request for the Variance to allow the creation of one lot without the proper frontage; 45 feet proposed with 200 feet required with the stipulation that only one single family home shall be allowed on the proposed lot 12 and no further subdivision shall be allowed.

Mr. Pacocha

Mr. Pacocha seconded the motion.

Acting Chairman Martin

Would you please speak to your motion, Ms. Davis?

Ms. Davis

The purpose for the zoning for frontage is to allow for proper access, density within the lots, and of course access for emergency vehicles. This lot is constructed so that you would get the access for emergency vehicles and because of the size and the stipulation not to further subdivide it; you still get the rural nature of the area. I think it also met the criteria for hardship.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Acting Chairman Martin

Mr. Pacocha, would you please speak on your second?

Mr. Pacocha

This is a subdivision that meets all of the requirements and sizes except for this one particular lot. It is adequate for a driveway and it services a large lot.

VOTE: Acting Chairman Martin asked Clerk Dearborn to poll the Board on the motion to approve the request for a Variance, with the noted stipulation, and to record the members' votes, which were as follows:

Ms. Davis	To approve
Mr. Pacocha	To approve
Mr. Houle	To approve
Ms. Shuman	To approve
Mr. Martin	To approve

Acting Chairman Martin declared that, there having been five votes to approve the request for a Variance, with the noted stipulation, the motion had carried.

Acting Chairman Martin declared a break at 8:15pm; calling the meeting back to order at 8:25pm

Acting Chairman Martin

Mr. Dearborn, will you please read the next case into the record.

2. Case 191-053 (11-13-14): William & Jean Frusteri, 22 A Street, Hudson, request an Equitable Waiver for an existing building which falls into the 15 ft. setback.

Clerk Dearborn read aloud the posted notice, as recorded above.

Acting Chairman Martin

Mr. Desmond, can you please tell us why this case is before the Board?

Mr. Desmond

The applicant is here to obtain a Variance because the building falls within the 15-foot setback and they are subdividing the property.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Acting Chairman Martin

Who is present to speak in favor with regard to the application?

Mr. William Frusteri, 22 A Street

We have proposed to the town to subdivide our property on 22 A Street through the Delaney Group. Enclosed with the application I have also included a 9' x 11' copy of the subdivision plan for the property. We have requested to subdivide the property to get a 10,000 square foot lot. My wife is disabled and the home that we live in, her access in moving about in the home has become very difficult. My understanding was that the original zoning for that area was that I had owned the property at 20 & 22 A Street so we are going to request to section off 10,000 square feet to build a single family ranch and in doing so, they requested that we apply for an Equitable Waiver due to the fact that the corner of the house is 9' 6" off of A Street. When the home was originally built in 1915, the A Street was a private driveway to the home from Route 3A and the existing homes around the property were cottages. In the 70's when they built the new development behind the home, the driveway was taken to become A Street.

Ms. Davis

Have you been before the Planning Board already?

Mr. Frusteri

No, we were due to go to the October Planning Board meeting but then they realized that we needed an Equitable Waiver first.

Mr. Dearborn

What is the size of the proposed lot?

Mr. Frusteri

10,000 square feet.

Mr. Dearborn

What is the frontage on A Street?

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Mr. Frusteri

It would be approximately 80 feet; 60 feet to the beginning of the radius for F Street. I have proposed the driveway off of A Street to give me a longer driveway.

Mr. Dearborn

Where is the house going to be located?

Mr. Frusteri

The proposed house will face F Street and will conform to all town ordinances.

Mr. Dearborn

Is that where the excavating is going on right now?

Mr. Frusteri

Yes, the original garage to 22 A Street was sitting on where the new property would be so we received a demolition permit and removed it.

Ms. Davis

So the new lot is going to be conforming?

Mr. Frusteri

Yes.

Ms. Davis

The old existing lot will be made smaller.

Mr. Frusteri

Yes but just conforming in that it is 9' 6" off of A Street.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Mr. Nolin

Will you have 0 feet of setback on the side on the F Street side?

Mr. Frusteri

I'll be well within the setbacks for the new home and the new driveway for the new home would follow all of the town ordinances.

Acting Chairman Martin

We are only here for the Equitable Waiver.

Mr. Pacocha

How close is the front corner of the house to the proposed new lot line?

Mr. Frusteri

The house setbacks for the new lot line when it's all proposed will be 15.5'. The only thing that will be nonconforming is that the existing house on 22 A Street is only 9' 6" off of A Street.

Acting Chairman Martin

Is there anyone else present who would like to speak in favor, in opposition, or neutrally with regard to the application? Seeing none, I'll declare the matter before the Board.

Ms. Davis

Is this Zone G?

Acting Chairman Martin

It is Zone TR.

Ms. Shuman

I have a question on our Decision Worksheet and what I have seen proposed here. It says that the building will fall within the 15' setback. Isn't that really a 30' setback because it is the front?

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

Mr. Frusteri

The front of the house originally faced 3A.

Mr. Pacocha

Your address is A Street so the setback is from A Street which should be 30'. The Equitable Waiver should be 30' and not 15'.

Mr. Pacocha made a motion to approve the request for an Equitable Waiver.

Ms. Davis

Ms. Davis seconded the motion. Mr. Desmond, do we have any reports of any code enforcement issues?

Mr. Desmond

I have looked into this and no, there is not.

Acting Chairman Martin

Mr. Pacocha, can you please speak to your motion?

Mr. Pacocha

It falls within the Equitable Waiver guidelines. It was built prior to any kind of zoning restrictions, it is not a nuisance, and there is a high correction cost.

Acting Chairman Martin

Ms. Davis, can you please speak on your second?

Ms. Davis

I would agree that it meets all of the criteria.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

VOTE: Acting Chairman Martin asked Clerk Dearborn to poll the Board on the motion to approve the request for an Equitable Waiver, and to record the members’ votes, which were as follows:

Mr. Pacocha	To approve
Ms. Davis	To approve
Ms. Shuman	To approve
Mr. Houle	To approve
Mr. Martin	To approve

Acting Chairman Martin declared that, there having been five votes to approve the request for an Equitable Waiver, the motion had carried.

IV. OTHER BUSINESS

Acting Chairman Martin

We received the meeting dates for 2015 in our packets. Are there any issues with any of the dates for anyone? No one came forward.

V. APPROVAL OF MEETING MINUTES

The following changes/edits were made to the meeting minutes of the September 25, 2014, meeting minutes:

1. Page 4, 7th paragraph – the word “effective” was changed to “affected” - Shuman
2. Page 6, “Chairman Seabury” was changed to “Acting Chairman Martin” - Dearborn

Ms. Shuman made a motion to approve the minutes from the September 25, 2014, meeting, as amended by the Board.

Acting Chairman Martin seconded the motion.

Acting Chairman Martin called for a verbal vote, and he then declared that all of the voting Board members were in favor of approving the minutes from the September 25, 2014, meeting, as amended by the Board.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

November 13, 2014

VII. ADJOURNMENT

All scheduled items having been processed, Ms. Shuman made a motion to adjourn the meeting.

Ms. Davis seconded the motion.

VOTE: All members voted in favor. The motion passed unanimously.

Acting Chairman Martin declared the meeting to be adjourned at 8:56pm.

Date: November 29, 2014

Normand Martin, Acting Chairman

Recorder: Trish Gedziun