



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 September 26, 2013

I. CALL TO ORDER

Acting Chairman Martin called this meeting of the Hudson Zoning Board of Adjustment to order at 7:32pm on Thursday, September 26, 2013, in the Paul Buxton Meeting Room in the Town Hall basement. Acting Chairman Martin then requested Acting Clerk Houle to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: Normand Martin, Jim Pacocha, Donna Shuman, and J. Bradford Seabury

Members

Absent: Mike Pitre (Excused)

Alternates

Present: Kevin Houle, Marilyn McGrath, Gary Dearborn, and Maurice Nolin

Alternates

Absent: Maryellen Davis (Excused)

Staff

Present: William Oleksak, 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. 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.

Chairman Seabury announced at the beginning of the meeting that he was stepping down as he did not feel well, and he handed the gavel over to Mr. Martin.

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

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

- 1. Case 193-036 (9/26/13): Gregory & Michelle Cataldo, 38 Flying Rock Road, Hudson, NH, requests an Accessory Living Unit (ALU) to be added to a newly built breezeway attached to the existing home at 38 Flying Rock Road. [Map 193, Lot 036, Zoned G, HZO Article XIII A, Section 334-73.3, Accessory Living Units.]**

Acting Clerk Houle read aloud the posted notice, as recorded above.

Ms. McGrath asked Mr. Oleksak if he had a signed copy of the letter dated August 12, 2013, from Michelle Cataldo. Mr. Oleksak replied that he did not.

Acting Chairman Martin asked who was present to speak in favor with regard to the application.

Mr. Cataldo read aloud from the application for an Accessory Living Unit, summarized as follows:

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1. *An ALU is allowed only in one-family dwellings. An ALU is not allowed in a two-family or multi-family dwellings, or any non-residential uses. An ALU is expressly prohibited in an Open Space Development. This site will conform to this requirement by: The proposed ALU is being added to a newly built breezeway attached to the existing home at 38 Flying Rock Road.*
2. *An ALU is not allowed as a free-standing, detached structure or as part of any structure which is detached from the principal dwelling. This site will conform to this requirement by: The proposed ALU will be connected with an attached breezeway structure.*
3. *An ALU is to be occupied only by immediate family members (by blood or marriage) of the owner of record of the principal dwelling. An ALU is not allowed in any principal dwelling in which the owner of record of the principal dwelling does not personally reside. This site will conform to this requirement by: The owners of 38 Flying Rock Road will reside in the home and their parents will reside in the newly built ALU.*
4. *The front face of the principal dwelling structure is to appear as a one-family dwelling after any alterations to the structure are made to accommodate an ALU. This site will conform to this requirement by: The main house will be connected to the two-car garage/ALU via a breezeway. The siding on the new addition will be the same as the existing home.*
5. *At least one common interior access between the principal dwelling unit and an ALU must exist. A second means of egress from an ALU must exist and be located at the side or rear of the structure. This site will conform to this requirement by: The breezeway door entry will exit to both the main house and the ALU. The back door off of the bedroom in the ALU will exit to a deck outside.*
6. *Separate utility service connections and/or meters for the principal dwelling unit and an ALU shall not exist. (This does not preclude using a type of heating system for an ALU different from the type for the principal dwelling unit. This site will conform to this requirement by: Separate meters will not be added.*
7. *Off-street parking shall be provided to serve the combined needs of the principal dwelling unit and an ALU. This site will conform to this*

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requirement by: A two-car garage is being built. At least four cars will fit in the new driveway.

8. *The gross living area (GLA) of an ALU shall not be less than 350 square feet, and shall not exceed fifty percent of the principle structure or 1,000 square feet, whichever is less. The above-grade GLA of the principal dwelling shall not be reduced to less than 850 square feet in order to accommodate the creation of an ALU. This site will conform to this requirement by: The proposed ALU shall be 26' x 28' with a connected breezeway. Mr. Cataldo stated that he did not know the dimensions of the breezeway.*
9. *A Building Permit for an ALU must be approved and issued prior to the construction of an ALU. The ALU shall have an interconnected smoke alarms per Section R313.2.1 of the 2006 IRC Building Code. This site will conform to this requirement by: The smoke alarms in the house will be connected to the ALU.*

Acting Chairman Martin stated that the applicant had initialed all of the items in addition to the questions on the application.

Ms. McGrath asked Mr. Cataldo to sign the letter dated August 12, 2013, which indicated who the intended occupants of the ALU would be. Mr. Cataldo signed the letter for the record.

Mr. Dearborn asked if the house were a one-story or two-story dwelling. Mr. Cataldo replied that it was a two-story dwelling.

Acting Chairman Martin asked if there were anyone else present who wished to speak in favor, in opposition, or neutrally with regard to the application. No one else came forward.

Acting Chairman Martin declared the matter before the Board.

Mr. Dearborn stated that twice the square footage of the existing house was 1,872 square feet and the proposed addition was 728 square feet. He further stated that the square footage of the proposed ALU noted was less than 50% of the principle dwelling.

Ms. McGrath asked Mr. Oleksak if the Flying Rock Road sub-division were a traditional sub-division. Mr. Oleksak replied that it was traditional.

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Ms. McGrath asked the applicant if the existing deck would be expanded to accommodate the proposed second egress. Mr. Cataldo replied that a second deck would be added off of the bedroom of the proposed ALU.

Ms. McGrath asked if the applicant had building plans for the proposed ALU. Mr. Cataldo replied that the contractor had already submitted a building plan to the Building Inspector.

Mr. Dearborn asked if there were an existing garage. Mr. Cataldo replied that the garage was in the process of being built and that he did have a permit for the construction.

Mr. Oleksak stated that he did not have a rendering of the proposed addition. He further stated that the actual ALU would only be one-story.

Mr. Pacocha asked if there would be a full basement under the breezeway. Mr. Cataldo replied there would not be.

Ms. McGrath made a motion to approve the request for an Accessory Living Unit.

Mr. Dearborn seconded the motion.

Ms. McGrath, speaking on her motion, stated that she felt the applicant had successfully met all of the criteria for an Accessory Living Unit and there was no negative abutter testimony. She also stated that she would make a note on the Decision Sheet that the letter dated August 12, 2013, indicating who would occupy the ALU, was signed by Mr. Cataldo at this meeting, September 26, 2013.

Mr. Dearborn, speaking on his second, stated that he agreed with what Ms. McGrath had said and was further satisfied that the Board had a full understanding of what was being proposed.

VOTE: Acting Chairman Martin asked Acting Clerk Houle to poll the Board on the motion to approve the request for an Accessory Living Unit and to record the members' votes, which were as follows:

| | |
|--------------|------------|
| Ms. McGrath | To approve |
| Mr. Dearborn | To approve |
| Mr. Pacocha | To approve |
| Ms. Shuman | To approve |
| Mr. Martin | To approve |

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Acting Chairman Martin declared that, there having been five votes to approve the request for and Accessory Living Unit, the motion had carried.

2. **Case 168-020 (9/26/13): Paul & Sandy O’Sullivan, 8 Washington Street, Hudson, NH, requests an Accessory Living Unit (ALU) to be constructed above the attached two-car garage at 8 Washington Street and connected to the principal dwelling via stairs in a common entry way. [Map 168, Lot 020, Zoned R2, HZO Article XIII A, Section 334-73.3, Accessory Living Units.]**

Acting Clerk Houle read aloud the posted notice, as recorded above.

Acting Chairman Martin asked Mr. Oleksak to explain why the matter was before the Board.

Mr. Oleksak explained that the matter was before the Board because, as in the previous case, Accessory Living Units needed to be approved by the Board prior to construction.

Acting Chairman Martin asked who was present to speak in favor with regard to the application.

Mr. Paul O’Sullivan, the applicant, addressed the Board, and read aloud from the Application for an Accessory Living Unit, summarized as follows:

1. *An ALU is allowed only in one-family dwellings. An ALU is not allowed in a two-family or multi-family dwellings, or any non-residential uses. An ALU is expressly prohibited in an Open Space Development. This site will conform to this requirement by: 8 Washington Street is a single-family cape style home. The neighborhood was developed in the late 60’s and early 70’s and is not an Open Space Development.*
2. *An ALU is not allowed as a free-standing, detached structure or as part of any structure which is detached from the principal dwelling. This site will conform to this requirement by: The proposed ALU is above the attached two-car garage and connected to the principal dwelling via stairs in a common entry way.*
3. *An ALU is to be occupied only by immediate family members (by blood or marriage) of the owner of record of the principal dwelling. An ALU is not allowed in any principal dwelling in which the owner of record of the principal dwelling does not personally reside. This site will conform to*

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this requirement by: The ALU will be occupied by Gudrun (Sally) Besemer, who is my wife's mother. My wife and I personally reside at 8 Washington Street.

- 4. The front face of the principal dwelling structure is to appear as a one-family dwelling after any alterations to the structure are made to accommodate an ALU. This site will conform to this requirement by: The front face of the principal dwelling appears as a single-family cape style home with an attached garage and finished space above the garage.*
- 5. At least one common interior access between the principal dwelling unit and an ALU must exist. A second means of egress from an ALU must exist and be located at the side or rear of the structure. This site will conform to this requirement by: The ALU is connected to the principal dwelling via a common interior stairway from the driveway that leads to the mudroom in the principal dwelling and to the kitchen area of the proposed ALU. There is a second means of egress from the ALU on the southwest side via an exterior stairway.*
- 6. Separate utility service connections and/or meters for the principal dwelling unit and an ALU shall not exist. (This does not preclude using a type of heating system for an ALU different from the type for the principal dwelling unit. This site will conform to this requirement by: The proposed ALU is heated with same furnace as the principal dwelling. All utilities are extended from the principal dwelling; heat, electric, phone, cable TV, & internet.*
- 7. Off-street parking shall be provided to serve the combined needs of the principal dwelling unit and an ALU. This site will conform to this requirement by: Including the two-car garage, there is off-street parking for eight vehicles.*
- 8. The gross living area (GLA) of an ALU shall not be less than 350 square feet, and shall not exceed fifty percent of the principal structure or 1,000 square feet, whichever is less. The above-grade GLA of the principal dwelling shall not be reduced to less than 850 square feet in order to accommodate the creation of an ALU. This site will conform to this requirement by: The principal dwelling, 1,224 square feet, was improved in 2012/2013, reference building permit number 2012-00508, to 2,352 square feet. The proposed ALU is 840 square feet which is less than 50% of*

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the principal dwelling and less the 1,000 square feet which leaves 1,512 square feet for the principal dwelling.

9. *A Building Permit for an ALU must be approved and issued prior to the construction of an ALU. The ALU shall have an interconnected smoke alarms per Section R313.2.1 of the 2006 IRC Building Code. This site will conform to this requirement by: The space for the proposed ALU was constructed in 2012/2013 and has interconnected smoke alarms. The installation was inspected under the Hudson Fire Department permit number 12-106.BI-PM.*

Mr. O’Sullivan stated that he did understand if the property sold, the new owners would have to obtain permission to keep the ALU and that he had read and understood all of the points listed after the questions on the application.

Acting Chairman Martin asked if there were anyone else present who wished to speak in favor, in opposition, or neutrally with regard to the application. No one else came forward.

Acting Chairman Martin declared the matter before the Board.

Ms. McGrath commented that the existing dwelling appeared to be within the setbacks.

Mr. Oleksak replied that the existing dwelling was within the setbacks and would require an Equitable Waiver.

Ms. McGrath suggested that the applicant request an Equitable Waiver at this meeting in addition to the request for an Accessory Living Unit.

Mr. Oleksak then stated that, after reviewing the records, that there had been a request for a Variance from the setback requirements in 1984 and, therefore, the applicant did not need the Equitable Waiver.

Mr. Pacocha asked if the entire stairway would be enclosed. Mr. O’Sullivan replied that it would be enclosed.

Ms. McGrath made a motion to approve the request for an Accessory Living Unit.

Mr. Dearborn seconded the motion.

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Ms. McGrath, speaking on her motion, stated that she felt the applicant had successfully met all of the requirements for an Accessory Living Unit and there was no negative abutter testimony.

Mr. Dearborn, speaking on his second, stated that he agreed with what Ms. McGrath had said.

VOTE: Acting Chairman Martin asked Acting Clerk Houle to poll the Board on the motion to approve the request for an Accessory Living Unit and to record the members' votes, which were as follows:

| | |
|--------------|------------|
| Ms. McGrath | To approve |
| Mr. Dearborn | To approve |
| Mr. Pacocha | To deny |
| Ms. Shuman | To approve |
| Mr. Martin | To approve |

Acting Chairman Martin declared that, there having been four votes to approve the request for an Accessory Living Unit, and one vote to deny the request, the motion had carried.

3. **Case 152-033 (09/26/13): Leonard E. Nutter, Jr. 27 Copeland Drive, Hudson, NH, requests the continued use of a previously approved Accessory Living Unit (ALU) located at 27 Copeland Drive, Hudson, NH. [Map 152, Lot 033, Zoned R2, HZO Article XIII A, Section 334-73.4B, Accessory Living Units.]**

Acting Clerk Houle read aloud the posted notice, as recorded above.

Acting Chairman Martin asked Mr. Oleksak to explain why the matter was before the Board.

Mr. Oleksak replied that the new owner of the above property wished to continue the use of the existing Accessory Living Unit.

Acting Chairman Martin asked who was present to speak in favor with regard to the application.

Mr. Leonard Nutter, the applicant, addressed the Board, and read aloud from the application for an Accessory Living Unit summarized as follows:

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1. *An ALU is allowed only in one-family dwellings. An ALU is not allowed in a two-family or multi-family dwellings, or any non-residential uses. An ALU is expressly prohibited in an Open Space Development. This site will conform to this requirement by: This is a single-family dwelling (renewal of original permit).*
2. *An ALU is not allowed as a free-standing, detached structure or as part of any structure which is detached from the principal dwelling. This site will conform to this requirement by: The unit is under the main dwelling.*
3. *An ALU is to be occupied only by immediate family members (by blood or marriage) of the owner of record of the principal dwelling. An ALU is not allowed in any principal dwelling in which the owner of record of the principal dwelling does not personally reside. This site will conform to this requirement by: Owners all reside in this single-family dwelling. The ALU is my mother's (co-owner) area.*
4. *The front face of the principal dwelling structure is to appear as a one-family dwelling after any alterations to the structure are made to accommodate an ALU. This site will conform to this requirement by: No alterations have been done. It appears as a single-family dwelling.*
5. *At least one common interior access between the principal dwelling unit and an ALU must exist. A second means of egress from an ALU must exist and be located at the side or rear of the structure. This site will conform to this requirement by: This already has this requirement. Has one common interior access between the principal unit and the ALU. The 2nd means of egress is located at the rear of the house.*
6. *Separate utility service connections and/or meters for the principal dwelling unit and an ALU shall not exist. (This does not preclude using a type of heating system for an ALU different from the type for the principal dwelling unit. This site will conform to this requirement by: All utilities are "one" in single-family dwelling.*
7. *Off-street parking shall be provided to serve the combined needs of the principal dwelling unit and an ALU. This site will conform to this requirement by: Dwelling has one driveway & garage. It is large enough to accommodate several cars.*

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8. *The gross living area (GLA) of an ALU shall not be less than 350 square feet, and shall not exceed fifty percent of the principle structure or 1,000 square feet, whichever is less. The above-grade GLA of the principal dwelling shall not be reduced to less than 850 square feet in order to accommodate the creation of an ALU. This site will conform to this requirement by: The dwelling already has this requirement. The ALU has more than 350 square feet and does not exceed 50% of the structure. The principal dwelling is more than 850 square feet.*

9. *A Building Permit for an ALU must be approved and issued prior to the construction of an ALU. The ALU shall have an interconnected smoke alarms per Section R313.2.1 of the 2006 IRC Building Code. This site will conform to this requirement by: The ALU was originally approved in 1996.*

Mr. Nutter stated that he had read and understood all of the points listed after the questions on the application.

Acting Chairman Martin asked if there were anyone else present who wished to speak in favor, in opposition, or neutrally with regard to the application. No one else came forward.

Acting Chairman Martin declared the matter before the Board.

Ms. McGrath asked if the applicant had planned on making any alterations to the existing ALU. Mr. Nutter replied that he did not plan on making any alterations.

Ms. McGrath asked Mr. Oleksak if the applicant had to go through the same process since his mother, the occupant of the ALU, was a co-owner. Mr. Oleksak replied that if it was an ALU, it was still a requirement that the process be followed.

Mr. Dearborn stated that there was a third owner listed on the property card. He further asked if the third owner, Ms. Susan Davis, should have signed the letter of the intended occupancy of the ALU. Acting Chairman Martin replied that he felt it was acceptable that Ms. Davis had not signed that letter.

Ms. McGrath made a motion to approve the request for the continued use of a previously approved Accessory Living Unit.

Mr. Pacocha seconded the motion.

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Ms. McGrath, speaking on her motion, stated that she felt the applicant had successfully met all of the requirements and there were no changes being proposed to the existing ALU.

Mr. Pacocha, speaking on his second, stated that the request was for a continued use and he felt that the applicant was doing what he was supposed to do as far as the Zoning Ordinance was concerned.

VOTE: Acting Chairman Martin asked Acting Clerk Houle to poll the Board on the motion to approve the request for the previously approved Accessory Living Unit, and to record the members’ votes, which were as follows:

| | |
|--------------|------------|
| Ms. McGrath | To approve |
| Mr. Pacocha | To approve |
| Ms. Shuman | To approve |
| Mr. Dearborn | To approve |
| Mr. Martin | To approve |

Acting Chairman Martin declared that, there having been five votes to approve the request for the previously approved Accessory Living Unit, the motion had carried.

V. APPROVAL OF MEETING MINUTES

There were no changes made to the meeting minutes of the July 25, 2013, meeting minutes

Ms. McGrath made a motion to approve the minutes from the July 25, 2013, meeting, as reviewed by the Board.

Ms. Shuman 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 July 25, 2013, meeting, as reviewed by the Board.

The following changes were made to the meeting minutes of the August 22, 2013, meeting minutes:

1. Page 2, last paragraph – “would be compliance” was changed to “would be in compliance” – Dearborn

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2. Page 6, 3rd paragraph from bottom – “and that” was added between the words “Variance” and “it” - Shuman

Ms. McGrath made a motion to approve the minutes from the August 22, 2013, meeting, as amended by the Board.

Ms. Shuman 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 August 22, 2013, meeting, as amended by the Board.

VI. ADJOURNMENT

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

Ms. Shuman seconded the motion.

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

Acting Chairman Martin declared the meeting to be adjourned at 9:09pm.

Date: October 19, 2013

Normand Martin, Acting Chairman

Recorder: Trish Gedziun