



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 August 22, 2013

I. CALL TO ORDER

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:32pm on Thursday, August 22, 2013, in the Paul Buxton Meeting Room in the Town Hall basement. Chairman Seabury then requested Clerk Davis to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

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

Members

Absent: None (all present)

Alternates

Present: Maryellen Davis, Gary Dearborn, and Maurice Nolin

Alternates

Absent: Kevin Houle and Marilyn McGrath

Staff

Present: William Oleksak, Zoning Administrator

Recorder: Trish Gedziun

II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

For the benefit of all attendees, Chairman Seabury 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. Chairman Seabury pointed out that the Board allowed rehearsals 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.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. **Case 186-012-000 (8/22/13, Deferred from 7/25/13): David Segatto, (New Owner) 1 Gates Lane, Hudson, NH, requests continued use of a previously approved Accessory Living Unit (ALU) located at 1 Gates Lane, Hudson, NH. [Map 186, Lot 12; Zoned G, HZO Article XIII A, Section 334-73.3, Accessory Living Unit.]**

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

Chairman Seabury asked Mr. Oleksak to explain why the matter was before the Board. Mr. Oleksak replied that the matter was before the Board because when a home with an Accessory Living Unit changed hands, an approval to continue the use had to be approved by the Board.

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

Mr. David Segatto, the applicant, addressed the Board, stating that he was present to request permission to continue using the existing Accessory Living Unit.

Chairman Seabury stated that the applicant had filled out a multi-page application in which he indicated that he had read through the requirements and initialed that he felt he would be in compliance with those requirements.

Chairman Seabury 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.

Chairman Seabury declared the matter before the Board.

Mr. Martin asked if anything had changed in the Accessory Living Unit since the original approval. Mr. Segatto replied that nothing had changed.

Mr. Pitre asked if the applicant knew it was an Accessory Living Unit when he bought the property. Mr. Segatto replied that the real estate agent had presented it as an Accessory Living Unit but had failed to inform him that there was an approval process involved.

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

Mr. Pacocha seconded the motion.

Mr. Martin, speaking on his motion, stated that he felt the request should be granted since nothing had changed since the original approval.

Mr. Pacocha, speaking on his second, stated that he agreed that the request should be granted since nothing had changed since the original approval.

VOTE: Chairman Seabury asked Clerk Davis to poll the Board on the motion to approve the request for the continued use of a previously approved Accessory Living Unit and to record the members' votes, which were as follows:

Mr. Martin	To approve
Mr. Pacocha	To approve
Ms. Shuman	To approve
Mr. Pitre	To approve
Mr. Seabury	To approve

Chairman Seabury declared that, there having been five votes to approve the request for the continued use of a previously approved Accessory Living Unit, the motion had carried.

- Case 198-157-000 (8/22/13): Mandy & Tim Powers, 36 Pelham Road, Hudson, NH, requests the following:**

- A. An Equitable Waiver to allow the existing dwelling to remain within the front setbacks. [Map 198, Lot 157, Zoned TR, HZO Article VIII, Section 334-31, Alteration and Expansion of Non-conforming Structures.]
- B. A Variance to allow the construction of an addition encroaching within the side-yard setback; 15 feet required, 13.1 feet proposed at the front corner. [Map 198, Lot 157-000, Zoned TR, HZO Article VII, Section 334-27, Table of Minimum Dimensional Requirements.

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

Discussion with regard to the request for an Equitable Waiver

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

Mr. Oleksak explained that the matter was before the before because over the years, the zoning had changed and the property presently needed an Equitable Waiver to bring it into conformity. He also said that having the Equitable Waiver would be quite beneficial for a financial institution to have accurate records in the event the house was ever sold.

Chairman Seabury asked Mr. Oleksak if there had been any complaints with regard to the property. Mr. Oleksak replied there had not.

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

Mr. Pacocha seconded the motion.

Mr. Martin stated that he did not feel additional comments were needed.

Mr. Pacocha, speaking on his second, stated that the property had been in existence for far longer than ten years and that he felt the applicant had successfully met all of the requirements for an Equitable Waiver.

VOTE: Chairman Seabury asked Clerk Davis 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. Martin	To approve
Mr. Pacocha	To approve
Ms. Shuman	To approve
Mr. Pitre	To approve

Mr. Seabury

To approve

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

Discussion with regard to the request for the Variance

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

Mr. Oleksak replied that the matter was before the Board because the applicant wished to construct an addition to the home and a small corner of that addition would be located in the side-yard setback. Mr. Oleksak further replied that he had informed the applicant that a Variance would be needed for the encroachment.

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

Mr. Tim Powers, the applicant, addressed the Board, and 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 because it will not directly interfere with abutter property lines.*
2. *The proposed use will observe the spirit of the ordinance because it will remain within property lines and will not conflict with above stated concerns.*
3. *Substantial justice would be done to the property owner by granting the Variance because this addition and the relocation of the driveway will provide a safe location to park vehicles and provide safety when getting in and out of vehicles.*

The current location of the driveway is dangerously close to on-coming traffic and our vehicles have been hit by other cars at least twice.

4. *The proposed use will not diminish the values of surrounding properties because there are several other homes in our neighborhood that have garages.*

This addition will increase the value of our home while maintaining the character of the neighborhood.

5. *Special conditions exist such that literal enforcement of the ordinance results in **unnecessary hardship** because the location of our 140-year old home is at the most narrow end of our property. This is the only location to build this addition to our home which will provide safety for our vehicles and most importantly, for our family.*

This addition will also provide us with much needed storage space as there is currently no basement or attic space.

Chairman Seabury 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.

Chairman Seabury declared the matter before the Board.

Mr. Pitre asked the applicant to explain the plans for the proposed driveway. Mr. Powers replied that the existing driveway would be abandoned when the new one was constructed.

Ms. Davis asked if the area over the proposed garage would be used strictly for a bedroom. Mr. Powers replied that was correct and also that the room would be accessed by an existing doorway.

Mr. Martin made a motion to approve the request for a Variance.

Mr. Pitre seconded the motion.

Mr. Martin, speaking on his motion, stated that he felt the applicant had demonstrated that the road was dangerous and it was dangerous for cars to be parked on that side of the house. He further stated that he felt the applicant had successfully satisfied all of the requirements for a Variance and it would be a good use for the property.

Mr. Pitre, speaking on his second, stated that he agreed with what Mr. Martin had said.

VOTE: Chairman Seabury asked Clerk Davis to poll the Board on the motion to approve the request for the Variance and to record the members' votes, which were as follows:

Mr. Martin	To approve
Mr. Pitre	To approve
Ms. Shuman	To approve
Mr. Pacocha	To approve
Mr. Seabury	To approve

Chairman Seabury declared that, there having been five votes to approve the request for the Variance, the motion had carried.

V. APPROVAL OF MEETING MINUTES

The following changes/edits were made to the meeting minutes of the June 27, 2013, meeting minutes:

1. Page 2 through 9 – Top of each page – “July 27, 2013,” was changed to “June 27, 2013.” - Martin

Mr. Martin made a motion to approve the minutes from the June 27, 2013, meeting, as amended by the Board.

Ms. Shuman seconded the motion.

Chairman Seabury 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 June 27, 2013, meeting, as amended by the Board.

VI. OTHER BUSINESS

Ms. Davis commented that she and Ms. Shuman had done some research on the validity of facsimile signatures. She said that there were two situations where a facsimile of a signature was accepted.

1. A point of sale situation – i.e. when paying by credit card.
2. A government approved system called “ARX” used for documents requiring multiple signatures.

Ms. Davis further commented that it was her and Ms. Shuman’s conclusion that the town should not accept facsimiles of signatures. [Signatures should be

notarized if done outside of the town hall and with positive identification if done inside of the town hall.]

VI. ADJOURNMENT

All scheduled items having been processed, Mr. Martin made a motion to adjourn the meeting.

Ms. Shuman seconded the motion.

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

Chairman Seabury declared the meeting to be adjourned at 8:20pm.

Date: August 31, 2013

J. Bradford Seabury, Chairman