



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 June 27, 2013

I. CALL TO ORDER

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:33pm on Thursday, June 27, 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, Mike Pitre, Donna Shuman, and J. Bradford Seabury

Members

Absent: Jim Pacocha (Excused)

Alternates

Present: Maryellen Davis, Gary Dearborn, & Maurice Nolin

Alternates

Absent: Kevin Houle (Absent) and Marilyn McGrath (Excused)

Staff

Present: William Oleksak, Zoning Administrator

Recorder: Trish Gedziun

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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 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 seated Mr. Nolin in place of Mr. Pacocha, who was excused.

III. 7:00PM – ATTORNEY/CLIENT SESSION (Not open to the public)

IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. **Case 175-043 (6/27/13):** Tim & Amy Van Loon, 152 Ferry Street, Hudson, NH, requests the following:
 - a. An Equitable Waiver to allow the existing dwelling to remain within the front and side-yard setbacks and to allow the existing shed to remain within the rear-yard setback. [Map 175, Lot 043, Zoned B, HZO Article VIII, Section 334-28, Nonconforming Uses, Structures and Lots.]
 - b. A Variance to allow the proposed 15-foot above-the-ground pool to be located within the rear-yard setback, 1-foot proposed, 15 feet required. [Map 175, Lot 043, Zoned B, 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

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

Ms. Amy Van Loon, the applicant, addressed the Board, stating that the existing shed was on the property when the house was purchased 9 years ago. She further stated that she had subsequently discovered that the existing house (which was built in 1950) was also located in the front and side-yard setbacks.

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.

Ms. Davis asked if there had been any code enforcements against the property. Mr. Oleksak replied that there were none.

Chairman Seabury stated that it appeared that the applicant had satisfied the basic requirements of an Equitable Waiver.

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

Ms. Shuman seconded the motion.

Mr. Martin, speaking on his motion, stated that he felt it was pretty clear by the evidence presented to the Board that the house and shed existed prior to the applicant buying the property, there would be a high correction cost, and it was not a nuisance.

Ms. Shuman, speaking on her second, stated that she had concurred with everything Mr. Martin had said.

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
Ms. Shuman	To approve
Mr. Nolin	To approve
Mr. Pitre	To approve
Mr. Seabury	To approve

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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 a Variance

Chairman Seabury asked who was present to speak in favor with regard to the request for a Variance.

Ms. Amy Van Loon, the applicant, addressed the Board and stated that they were requesting permission to install a 15-foot above-the-ground pool within 1-foot of the rear property line. She also stated that the side property line exceeded the 15-foot minimum.

Mr. Oleksak stated that the location of the septic system and leach field minimized the possible locations of the proposed pool.

Ms. Van Loon read aloud a portion of the Application for a Variance as summarized as follows:

- 1. Granting of the requested Variance will not be contrary to the public interest because the request will have no impact on the public. It will only benefit our family by giving us a place to swim.*
- 2. The proposed use will observe the spirit of the ordinance because this will be a family pool it will not impact the neighborhood.*
- 3. Substantial justice would be done to the property owner by granting the Variance because our family would enjoy a place to swim. Also, the pool will increase the value of the home.*
- 4. The proposed use will not diminish the values of surrounding properties because adding a pool will increase the property value which will benefit the neighboring property values.*
- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary hardship** because unfortunately, my property is so small that meeting the 15-foot set-back is impossible. I have approximately 30 feet of yard running width-wise from the back side of my house to the property line.*

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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. Nolin asked what separated the applicant's backyard from their neighbor. Ms. Van Loon replied that the property was separated partly by a fence and partly by trees.

Mr. Nolin asked how tall the fence was. Ms. Van Loon replied that it was 6 feet in height.

Ms. Shuman asked if the driveway on the plot plan was ever installed. Ms. Van Loon replied that the driveway had been moved from the front of the house to the side of the house and that the proposed addition on the plot plan was never completed.

Mr. Nolin asked if there were any concerns from abutters. There were none and there were no abutters present.

Ms. Davis asked what the hardship on the property was. Mr. Martin replied that he felt the hardship was that there was no other place to install a pool on the property.

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

Mr. Nolin seconded the motion.

Mr. Martin, speaking on his motion, stated that he felt substantial justice would be done for the property owner, it would not diminish the value of the surrounding properties, it would not be contrary to the public interest as it was hidden from the road, and it was a relatively small invasion.

Mr. Nolin, speaking on his second, stated that he agreed with everything Mr. Martin had said.

Chairman Seabury stated that he would not vote in favor of this request because the Planning Board had been in discussions regarding addressing setbacks on small lots "for some things." He further stated that he felt 1-foot was too close to the setback. He also said that he felt the way to properly mitigate the situation was for the Zoning Ordinance to change.

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:

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Mr. Martin	To approve
Mr. Nolin	To approve
Ms. Shuman	To approve
Mr. Pitre	To approve
Mr. Seabury	To deny

Chairman Seabury declared that, there having been four votes to approve the request for a Variance, and one vote to deny the request, the motion had carried.

V. OTHER

Chairman Seabury read aloud a letter dated June 11, 2013, addressed to the Zoning Board of Adjustment, from Attorney Andrew A. Prolman, summarized as follows:

*RE: Alan E. and Theresa C. Boissonneault Living Trust
13 Mark Street
Hudson, NH 03051
Parcel: 217-005-000*

Thank you for scheduling the Boissonneault Trust’s hearing following the Hillsborough County Superior Court’s remand order. This letter requests a continuance of the June 27, 2013, hearing. As I mentioned to the Board, I am trying to work with the abutting lot owners to find a solution to the “Ledoux” Mark Street subdivision. All parties agree in principle to consolidate and re-subdivide, but the devil is in the details of a multiparty project. With my busy practice, multiple parties, and summer schedules, I respectfully request the Board reschedule the Boissonneault Trust application for your September, 2013, hearing. Please be sure to copy me on hearing notices.

Mr. Martin made a motion to defer the case, date specific, to the September 26, 2013, meeting.

Mr. Pitre seconded the motion.

VOTE: Chairman Seabury asked Clerk Davis to poll the Board on the motion to defer the case, date specific, to the September 26, 2013, meeting, and to record the members’ votes, which were as follows:

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Mr. Martin	To defer
Mr. Pitre	To defer
Ms. Shuman	To defer
Mr. Nolin	To defer
Mr. Seabury	To defer

Chairman Seabury declared that, there having been five votes to defer the case, date specific, to the September 26, 2013, meeting, the motion had carried.

Chairman Seabury declared a break at 9:00pm, calling the meeting back to order at 9:06pm.

VI. APPROVAL OF MEETING MINUTES

The following edits were made to the meeting minutes from the February 28, 2013, meeting:

1. Page 1 and throughout – “Chairman Martin” was changed to “Acting Chairman Martin” – Martin
2. Page 3, Last Paragraph – “and these extensions were not granted.” was added to the end of the paragraph – Martin

Mr. Martin made a motion to approve the minutes from the February 28, 2013, meeting as amended by the Board.

Ms. Shuman seconded the motion.

Chairman Seabury called for a verbal vote and he then stated that all of the sitting Board members were in favor of approving the minutes from the February 28, 2013, meeting as amended by the Board.

The following edits were made to the meeting minutes from the April 25, 2013, meeting:

1. Page 5, 4th paragraph – “Case 200-010-001” was changed to “Case 200-040-001 – Martin
2. Page 5, 6th paragraph – “Mr. Martin made a motion to withdraw the previous motion” was changed to “Mr. Martin withdrew his previous motion.” – Martin

Mr. Martin made a motion to approve the minutes from the April 25, 2013, meeting as amended by the Board.

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Ms. Shuman seconded the motion.

Chairman Seabury called for a verbal vote and he then stated that all of the sitting Board members were in favor of approving the minutes from the April 25, 2013, meeting as amended by the Board.

The following edits were made to the meeting minutes from the May 9, 2013, meeting:

1. Page 3, 8th paragraph – “closet” was changed to “closest” – Dearborn
2. Page 4, 1st paragraph – The name of the abutter “Mr. Del E. Stroud, 14 Bear Path Lane” was added - Davis
3. Page 8, 2nd paragraph – “state-of-the-are” was changed to “state-of-the-art” – Shuman
4. Page 8, 10th paragraph – “Mr. Dearborn asked what the proposed hours of operation would be” was changed to “Mr. Dearborn asked what the proposed hours of operation of the sign would be” – Davis
5. Page 9, 3rd paragraph – the word “asked” was added to the sentence after Ms. McGrath – Shuman
6. Page 11, 3rd paragraph – The word “time” was added to the first sentence between the words “him” and “to” – Shuman

Mr. Martin made a motion to approve the minutes from the May 9, 2013, meeting as amended by the Board.

Ms. Shuman seconded the motion.

Chairman Seabury called for a verbal vote and he then stated that all of the sitting Board members were in favor of approving the minutes from the May 9, 2013, meeting as amended by the Board.

VI. DISCUSSION OF ANY TOWN/STATE ACTIVITY OF INTEREST TO THE BOARD

Mr. Martin expressed concern that the sign at Alvirne High School was on every night, all night as well as on weekends.

Mr. Martin made a motion to request that a letter be sent to the school board requesting them to operate the sign in accordance with the zoning requirements.

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Mr. Nolin seconded the motion.

Chairman Seabury called for a verbal vote, and he then stated that all of the sitting Board members were in favor of having a letter be sent to the school board with regard to the operation of the sign.

VII. ADJOURNMENT

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

Mr. Pitre seconded the motion.

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

Chairman Seabury declared the meeting to be adjourned at 8:59pm.

Date: August 12, 2013

J. Bradford Seabury, Chairman

Recorder: Trish Gedziun

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