

**HUDSON ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
February 23, 2012**

**I. CALL TO ORDER**

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:30pm on Thursday, February 23, 2012, in the Paul Buxton Meeting Room in the Town Hall basement. Chairman Seabury then requested Clerk Houle to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

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

**Members**

**Absent:** Normand Martin (Excused) & Michael Pitre (Excused)

**Alternates**

**Present:** Maryellen Davis, Gary Dearborn, Kevin Houle, and Marilyn McGrath

**Alternates**

**Absent:** None (All present)

**Staff**

**Present:** Bill 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. Dearborn in place of Mr. Pitre, who was excused and seated Ms. Davis in place of Mr. Martin, who was also excused.

Ms. McGrath stated that she would step down from the first case as she was a sitting member of the Planning Board when the matter of the Mark Street subdivision in 1980 was heard. (Recorder's Note: Ms. McGrath left the table and took a seat in the audience section of the room and no one was seated in her place as she was serving as a non-voting alternate member of the Board at that time.)

Ms. Shuman stated that she would also step down from the first case as she was not present at the November 10, 2011, meeting when it was originally before the Board. She also stated that she had stepped down from hearing the case at the January 26, 2012, meeting for the same reason. Chairman Seabury sat Mr. Houle in place of Ms. Shuman.

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

1. **Case 217-005 (02/23/12), Deferred from (01/26/12): Alan and Theresa Boissonneault Living Trust, P.O. Box 2431, 1016 Yates Road, Oak Harbor, WA, request a Variance for property located at 13 Mark Street, to allow access to the proposed lot without the proper frontage; 120 feet required, 50.49 feet proposed. [Map 217, Lot 005, Zoned R-2, HZO Article VII, Section 334-27, Table of Dimensional Requirements.]**

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

Chairman Seabury asked who was present who wished to speak in favor with regard to the application. Attorney Andrew Prolman, from Prunier & Prolman, PA, Nashua, NH,

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representing the applicant, addressed the Board, and stated that he continued to feel that the applicant had a good case for a Variance.

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application.

Mr. Gary Webster, Town Engineer for the Town of Hudson, addressed the Board, and stated that after researching the status of Mark Street, he had concluded that the street was accepted (up to the cul-de-sac) in March of 1986, the length of which was 1,319 feet. He further stated that the owner of the property (Map 217, Lot 005) would be responsible for maintaining the driveway from the edge of the existing cul-de-sac to the property.

Mr. Webster said that if Mark Street ever got built, since it lost its 20-year window to build the road, the town would then maintain the street once it was accepted. He said the plans received showed an alignment problem with Mark Street.

Chairman Seabury asked Mr. Webster if he could explain why there was “a stub” beyond the cul-de-sac. Mr. Webster replied that a stub was likely put there on purpose to prevent a land-lock situation.

Mr. Dearborn asked Mr. Webster if he knew who was responsible for putting up the jersey barriers. Mr. Webster replied that he did not know who was responsible. Mr. Oleksak said Mr. Ledoux was responsible for putting up the jersey barriers.

Ms. Davis asked if existing Mark Street was a town accepted road. Mr. Webster replied that it was a town accepted road from Burns Hill Road to the cul-de-sac and had been since 1986.

Attorney Prolman returned to the podium and continued addressing the Board.

Chairman Seabury asked Attorney Prolman who owned the 81 feet of property between the cul-de-sac and the property in question. Attorney Prolman replied that it was a dedicated right-of-way that provided access to the Boissoneault Lot and was either owned by the town if it had been accepted or by the original developer if it had not been accepted. He said he had not had time to do a title search.

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.

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Mr. Dearborn commented that he had a concern with granting a Variance for a driveway on a piece of property when the Board did not know who owned the 81 feet from the applicants' property line and the edge of the approved Mark Street cul-de-sac stump of land.

Mr. Pacocha asked Ms. McGrath if she knew if a right-of-way was accepted by the town, was it assumed that the town owned it. Ms. McGrath replied that she did not know.

Attorney Prolman suggested that perhaps the case should be deferred for another month to allow him time to research the title and road acceptance of the 81 feet in question. He also said he would like to obtain a copy of the deed.

Ms. Shuman addressed the Board as a member of the public, and stated that she had done some research and had a copy of the easement to the town.

Chairman Seabury declared a break at 8:45pm, for the purpose of allowing the Board members to review the easement documentation, calling the meeting back to order at 8:50pm.

Chairman Seabury asked if there were any members of the Board that had further questions or comments.

Mr. Pacocha made a motion to defer the case, date specific, to the March 22, 2012, meeting.

Ms. Davis seconded the motion.

VOTE: Chairman Seabury asked Clerk Houle to poll the Board on the motion to defer the case, date specific, to the March 22, 2012, meeting and to record the members' votes, which were as follows:

Mr. Pacocha	To defer
Ms. Davis	To defer
Mr. Dearborn	To defer
Mr. Houle	To defer
Mr. Seabury	To defer

Chairman Seabury declared that, there having been five votes to defer the case, date specific to the March 22, 2012, meeting, the motion had carried.

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Chairman Seabury noted that Ms. Shuman had returned to her seat as a regular voting member of the Board, and Mr. Houle and Ms. McGrath had returned to their seats as non-voting alternate members of the Board respectively.

2. **Case 182-125 (2/23/12): Hudson Library Street Association, LLC., 253 Main Street, Nashua, NH, request an Appeal from an Administrative Decision issued by the Zoning Administrator dated January 4, 2012, which stated that the property located at 39 Library Street is in violation of the Hudson Zoning Ordinance; the property is a commercial property being used as residential without the appropriate approvals. [Map 182, Lot 125, Zoned TR, HZO Article III, Section 334-16, Building Permits, Section 334-16 C, Conditions of Issuance, and Section 334.16.1, Site Plan Approval.]**

Clerk Houle 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 case was before the Board for the same reason described in the case notification, as repeated above.

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

Attorney Andrew Prolman, from Prunier & Prolman, PA, Nashua, NH, representing the applicant, addressed the Board, and stated that he wished to ask the Board to defer the case for a period of 90 days. He further stated that, his partner Attorney Gerald Prunier wished to continue to work with Mr. Oleksak regarding the concerns, prior to presenting the case for an Appeal from an Administrative Decision before the Board.

Ms. McGrath asked who owned the property. Attorney Prolman replied that the owners were the Manoukian Family.

Mr. Richard Maynard, from Maynard & Paquette Engineering, addressed the Board, and stated that he had prepared the packages which were before the Board. He further stated that the property had gone through a series of owners and the current owner was in fact, the Hudson Library Street Association, LLC.

Ms. McGrath asked if the current owner was the person who signed the authorization of representation letter. Mr. Maynard replied that the owner had signed the letter - Vatche Manoukian.

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Mr. Pacocha made a motion to defer the case, date specific, to the May 24, 2012, meeting.

Mr. Dearborn seconded the motion.

VOTE: Chairman Seabury asked Clerk Houle to poll the Board on the motion to defer the case, date specific, to the May 24, 2012, meeting and to record the members' votes, which were as follows:

Mr. Pacocha	To defer
Mr. Dearborn	To defer
Ms. Shuman	To defer
Ms. Davis	To defer
Mr. Seabury	To defer

Chairman Seabury declared that, there having been five votes to defer the case, date specific to the May 24, 2012, meeting, the motion had carried.

- Case 221-002 (2/23/12): Danville Realty, LLC, 32 Executive Drive, Hudson, NH, request a Variance for the property located at 25 Flagstone Drive to allow construction of an addition within the front-yard setbacks, 50 feet required, 41.2 feet proposed. [Map 221, Lot 002, Zoned I, HZO Article VII, Section 334-27, Table of Dimensional Requirements.]**

Clerk Houle 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 case was before the Board for the same reason described in the case notification, as repeated above.

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

Mr. Richard Maynard, from Maynard & Paquette Engineering, addressed the Board, and 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 proposed new edition will significantly enhance the value of the building and property. There will be minor insignificant encroachment of 538 feet. It has no impact of the surrounding neighborhood. There will be no impact on public health, safety, and*

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*welfare. The increase in property value will increase the tax base with no change in public expenditures.*

- 2. The proposed use will observe the spirit of the ordinance because the minor setback is not contrary to the spirit of the ordinance with regard to only 30 feet required in other zones in other uses. This is not a collector road. It serves no planning or zoning purpose.*
- 3. Substantial justice would be done to the property owner by granting the Variance because the minor setback Variance will allow the building owner to replace outdated (ugly) front addition and substantially improve the appearance and the value of the building and site.*
- 4. The proposed use will not diminish the values of surrounding properties because the proposed new addition will increase the property and building values of neighboring properties.*

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application.

Mr. Roger Coutu, 10 Rita Avenue, Hudson, NH, addressed the Board, and stated that he had known the founder and owners of the company (Mr. George Villemaire & Mr. Paul Villemaire) for over 35 years. He also stated that he had followed all of the planning stages for the project.

Mr. Coutu said that he had expressed concerns as a sitting member of the Board of Selectmen over both of the industrial parks in the town. He said that he felt the proposed addition would make the building one of the most attractive buildings in the industrial park, and perhaps even more importantly, the proposed addition would allow for the hiring of up to 30-40 additional employees.

Chairman Seabury asked if there were anyone else present who wished to speak in favor with regard to the application. No one else came forward.

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

Chairman Seabury declared the matter before the Board.

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Ms. McGrath asked Mr. Maynard if the Planning Board had granted approval for the proposed addition. Mr. Maynard replied that it had received approval from the Planning Board.

Ms. McGrath asked Mr. Maynard to confirm that the proposed plan would go back to the Planning Board for an amended approval if the Zoning Board approved the request. Mr. Maynard replied that it would go back to the Planning Board.

Ms. McGrath asked how much of the lot would be open space after the additions were added. Mr. Maynard replied that there would be well over 40% of open space.

Ms. Davis asked Mr. Maynard to confirm that the use was going to be for office space. Mr. Maynard replied that it would be used for office space.

Chairman Seabury asked if there were any other members of the Board who had questions or comments.

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

Ms. Davis seconded the motion.

Mr. Dearborn, speaking on his motion, stated that he felt there would be substantial justice, an improvement to the building, and it might entice other surrounding properties to improve their properties as well.

Ms. Davis, speaking on her second, stated that she felt that the application had met all of the criteria for a Variance, there was very little intrusion into the setback, granting the request would improve the property and its value and provide the applicant with substantial justice.

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

Mr. Dearborn	To approve
Ms. Davis	To approve
Mr. Pacocha	To approve
Ms. Shuman	To approve
Mr. Seabury	To approve



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

Chairman Seabury declared a break at 9:06pm, calling the meeting back to order at 9:11pm.

4. **Case 199-009 (2/23/12): Robert N. Dumont, 60 Pelham Road, Hudson, NH, requests a Home Occupation Special Exception to allow the sale of firearms within the existing home. [Map 199, Lot 009, Zoned G, HZO Article VI, Section 334-24, Home Occupations.]**

Clerk Houle 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 case was before the Board for the same reason described in the case notification, as repeated above.

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

Mr. Robert N. Dumont, the applicant, addressed the Board, and read aloud a portion of the Application for a Home Occupation Special Exception summarized as follows:

1. *Please explain the nature of your home business. The proposal is for a home based FFL (Federal Firearms License) to buy and sell firearms from home, internet, and gun shows.*
2. *Is the home occupation secondary to the principal use of the home as the business owners' residency? Yes, I live there with my wife and daughter.*
3. *Will the home occupation business be carried on within the residence and/or within a structure accessory to the residence? It will be in a room in the basement of my home.*
4. *Other than the sign(s) permitted under Article XII, will there be exterior display or other exterior indications of the home occupation? Will there be any variation from the primarily residential character of the principal or accessory building? No, there will not be any signs.*
5. *Will there be any exterior storage. No, all storage will be in a large safe inside the room in the basement.*

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6. *Will there be noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare produced? No, none at all.*
7. *Will the traffic generated by the home occupation activity be substantially greater in volume than would normally be expected in the neighborhood? No, I do not believe so. We will only be open from 4:00 – 8:00pm and by appointment on the weekends when there are no shows.*
8. *Where will customer/client parking for the home occupation be located? I have a 150' driveway with auxiliary dirt driveway.*
9. *Who will be conducting the home occupation? Robert N. Dumont.*
10. *Will there be a vehicle(s) for the home occupation? Yes – 1 Chevy Tahoe.*

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. Dearborn asked Mr. Dumont if he currently had a security system in the home. Mr. Dumont replied that he currently did not have a security system but was in the process of getting quotes for an ADT Security System.

Mr. Dearborn asked how far Nottingham West Elementary School was from his residence. Mr. Dumont replied that the distance separating the two properties was approximately ½ mile.

Ms. McGrath asked how common it was to sell firearms out of a home. Mr. Dumont replied that it was fairly common – noting that there were approximately four other individuals who sold firearms out of their home in Hudson.

Ms. McGrath asked what type of weapons would be sold from the home. Mr. Dumont replied that (hunting) rifles, hand guns, and shot guns would be some examples of what would be sold. Ms. McGrath asked if “assault” weapons would be sold. Mr. Dumont replied “probably not.”

Mr. Dumont stated that ZBA approval was the first in a series of approvals needed before starting the business. He noted that he still needed approval from the Hudson Police

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Department as well as the ATF. He also said that all potential firearm buyers would be screened by the federal government – the FBI or the State Police.

Ms. Davis asked if potential buyers needed to have a license to carry a firearm or to purchase a firearm. Mr. Dumont replied that a license to carry a firearm was not required in the State of New Hampshire. He also noted that he would only be authorized to sell firearms to residents of New Hampshire.

Ms. Davis asked if potential buyers would want to test the firearm prior to purchasing it. Mr. Dumont replied that potential buyers would likely want to see the firearm but he had no place on his property to fire a gun.

Ms. Davis commented that the requirement of the Ordinance reflected goods or services produced on-site and she was not sure if the application met all of the criteria for a Home Occupation Special Exception.

Mr. Pacocha asked Mr. Dumont how he would safeguard against false identification. Mr. Dumont replied that the identification had to be a government issued photo ID.

Mr. Houle asked if Mr. Dumont would know who the potential buyers would be prior to them entering his home. Mr. Dumont replied that he would have a firearm on his person in the event of threatened bodily harm or theft.

Ms. Davis asked how Mr. Dumont planned on advertising the proposed business. Mr. Dumont replied that he would advertise on the internet and have business cards. Mr. Dumont also said that he did not feel there would be many in-home customers – most would be sold on-line or at a gun show.

Ms. Davis asked Mr. Dumont how many firearms he anticipated having on the premises at any one time. Mr. Dumont replied that he had twenty of his own personal weapons and that he could have as many as twenty additional weapons.

Ms. Davis asked Mr. Oleksak if there had been any complaints on the property. Mr. Oleksak replied that there were none.

Chairman Seabury asked Mr. Oleksak if all future applications regarding firearms could be routed through the police department for input. Mr. Oleksak replied that he would have a conversation with the police chief.

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Mr. Pacocha made a motion to approve the request for a Home Occupation Special Exception with the stipulation that the applicant had to install a home security system.

Mr. Dearborn seconded the motion.

Mr. Pacocha, speaking on his motion, stated that he felt this particular Home Occupation Special Exception would see the least amount of customers coming/going from the home, there would be no signage, and he felt the applicant had successfully met all of the criteria.

Mr. Dearborn, speaking on his motion, stated that there was no negative abutter testimony, and he felt the applicant had also successfully met all of the criteria.

VOTE: Chairman Seabury asked Clerk Davis to poll the Board on the motion to approve the request for a Home Occupation Special Exception, with the noted stipulation, and to record the members' votes, which were as follows:

Mr. Pacocha	To approve
Mr. Dearborn	To approve
Ms. Davis	To deny
Ms. Shuman	To approve
Mr. Seabury	To deny

Chairman Seabury declared that, there having been three votes to approve the request for a Home Occupation Special Exception, with the noted stipulation, and two votes to deny the request, the motion had carried.

**IV. OTHER BUSINESS**

Chairman Seabury passed out a copy of the text for the ZBA portion of the 2011 Annual Report to members of the Board.

Mr. Oleksak commented on discussions regarding a possible sign at Wayne's Tattoo on Tracey Lane.

**V. ADJOURNMENT**

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

Mr. Dearborn seconded the motion.

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

Chairman Seabury declared the meeting to be adjourned at 10:06pm.

Date: March 18, 2012

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J. Bradford Seabury, Chairman

Recorder: Trish Gedziun