



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 25, 2011

I. CALL TO ORDER

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:35pm on Thursday, August 25, 2011, in the Community Development 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: J. Bradford Seabury, Normand Martin, Jim Pacocha, Michael Pitre, and Donna Shuman

Members

Absent: None (All present)

Alternates

Present: Bill Abbott, Maryellen Davis, and Gary Dearborn

Alternates

Absent: Kevin Houle (Excused) 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.

III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD

1. Case 211-052 (8/25/11): Marty and Susan Breen, 12 Glen Drive, Hudson, NH, request the following:

A. An Accessory Living Unit to be placed above the existing garage and breezeway and to be occupied by a family member. [Map 211, Lot 052, Zoned R-1, HZO Article XIII A, Section 334-73, Accessory Living Units.]

B. A Variance to allow the common interior access to be the stairs to the rear of the garage. [Map 211, Lot 052, Zoned R-1, HZO Article XIII A, Section 334-73.3 E, Provisions.]

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

The Board had decided to hear requests A and B as one presentation but would decide the votes pertaining to requests A and B separately.

Chairman Seabury asked Mr. Oleksak to explain why the matter was before the Board. Mr. Oleksak explained that the applicant had applied for a Building Permit to construct an Accessory Living Unit. He stated that he had concerns with the initial design because it had no common access between the principle dwelling and the proposed ALU. He further stated that the applicant had submitted a revised plan that would allow the common interior access to be the set of stairs to the rear of the garage.

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

Mr. Marty Breen, the applicant, addressed the Board, and included the following testimony with regard to the Application for a Variance, summarized as follows:

- 1. Granting of the requested Variance will not be contrary to the public interest because by allowing the proposed access we are able to provide a connection to the home that is visually appealing and is not detrimental to the character of the neighborhood.*
- 2. The proposed use will observe the spirit of the ordinance because it will never be the intent to rent/occupy/use the ALU for any other purpose than what it is designed for.*
- 3. Substantial justice would be done to the property owner by granting the Variance because the proposed common access will not interfere with the existing master bedroom, causing a reduction in the room size and the loss of closet space. Changes to the bedroom not only ruin the use of the room but add a substantial amount of cost and interruption to the project.*
- 4. The proposed use will not diminish the values of surrounding properties because the proposed renovation should only increase the property value and curb appeal which will ultimately benefit surrounding properties.*
- 5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary hardship** because the only feasible location for the ALU is above the garage. Due to the existing layout of the home, we are seeking another common access area that will make this project's design remain in contact which ultimately provides the most convenient and comfortable layout for Ms. Stack. Furthermore, taking away the master bathroom will diminish the value of the home.*

Mr. Breen read aloud from the Application for an Accessory Limit Unit summarized as follows:

- 1. An ALU is allowed in one-family dwellings only. The site will conform to this requirement by: The proposed ALU will become part of a single-family residential home.*

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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. The site will conform to this requirement by: The proposed ALU is designed to be placed over the existing garage and breezeway which is connected to the main house.*
3. *An ALU is to be occupied only by immediate family members of the owner of record of the principal dwelling. The site will conform to this requirement by: The ALU is designed for Ms. Judy Stack, mother of Susan Breen.*
4. *The front face of the principal dwelling structure is to appear as a one-family dwelling after all alterations to the structure are made to accommodate an ALU. The site will conform to this requirement by: The character of the home will improve with the appearance of a finished room over the garage. No additional doors will be installed to the outside.*
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. The site will conform to this requirement by: Common access is achieved through the rear stairs to the primary household mudroom. The second means of egress is achieved with an egress window in the ALU bedroom.*
6. *Separate utility service connections and/or meters for the principal dwelling unit and an ALU shall not exist. The site will conform to this requirement by:*
 - a. *Electricity will be supplied by the main house panel.*
 - b. *Heating and cooling equipment will share the existing fuel source.*
7. *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 alarm per Section R313.2.1 of the 2006 IRC Building Code. This site will conform to this requirement by: Construction will not start until all necessary approvals and permits are issued and no one will occupy the proposed ALU until after the town approves construction and issues a Certificate of Occupancy.*

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Chairman Seabury stated that all of the listed requirements were initialed indicating that the applicant understood them.

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

Mr. Ed Campbell, from GM Roth Design, the “designer,” was also present, representing the applicant. He stated that the current layout would only provide access to the proposed ALU through the master bedroom suite. He also stated that the Fire Inspector did not have a problem with the applicant’s proposed layout to access both the principle dwelling as well as the ALU via the stairs to the rear of the garage. He said that the Fire Chief indicated that the existing door off the breezeway should not have a lock on it.

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

Mr. Breen submitted a letter to the Board, addressed to Mr. Oleksak, dated August 25, 2011, from Michael W. LaBonte, an abutter, which Chairman Seabury read aloud as follows:

With respect to this case, we Michael and Mary LaBonte, of 14 Glen Drive, abutters, have no objection whatsoever to an Accessory Living Unit being placed above the existing garage and breezeway to be occupied by a family member. We have no objection whatsoever for the Variance allowing the common interior access to the stairs to the rear of the garage.

Please accept these words at this hearing as our intentions in our absence and grant the approvals.

Mr. Frank Yeschanin, 5 Wildwood Terrace, an abutter, addressed the Board, stating that he had no objections.

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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Chairman Seabury asked the applicant to confirm that there would be no added doorway at the top or the bottom of the proposed added stairway. Mr. Breen confirmed that there would not be an added doorway at the top or bottom of the proposed stairway.

Ms. Davis asked if an addition were being put on the back of the garage to accommodate the proposed staircase. Mr. Breen replied that an addition was being planned and that it would sit on piers, not a foundation.

Chairman Seabury commented that he felt the door located inside the breezeway, on the right, should be sealed off.

Ms. Davis asked what the applicant used the breezeway for. Mr. Breen replied that the breezeway was used as a mudroom.

Mr. Oleksak asked if the door between the breezeway and the main residence had window panes. Mr. Breen replied that it was a full glass paned door and was not a fire door.

Mr. Pitre commented that he felt the applicant should sign the letter regarding the intended occupancy in the proposed Accessory Living Unit. Mr. Breen signed the letter.

Chairman Seabury commented that he had a concern with the second egress in the proposed ALU if an electronic lift were installed. He said that he was worried that a 70+ year old person would have a difficult time jumping out of a window. Mr. Oleksak replied that the lift would be extra wide to accommodate the electronic staircase as well as access. Mr. Oleksak also stated that an egress window was for a person to get out or for the fire department or rescue personnel to get in.

Chairman Seabury asked how the fire department would know the ALU existed since they were no longer responsible for assigning the house numbers. Mr. Oleksak replied that the town would let the fire department know that there was an ALU at the address and they would put it into their computer.

Motion on request B – Request for a Variance

Mr. Pitre made a motion to approve the request for a Variance with the following stipulation:

1. That door #2 on Plan GMR-218/A3 remains without a door, without framing, and shall have a hallway appearance.

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Mr. Pacocha seconded the motion.

Mr. Pitre, speaking on his motion, stated that he did not feel the ALU would alter the esthetics of the home, there was no negative abutter testimony, and he felt granting the request was within the spirit of the ordinance.

Mr. Pacocha, speaking on his second, stated that he felt the applicant had met all of the criteria for a Variance and it would not alter the aesthetics of the home.

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

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

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

Motion on request A – Request for an Accessory Living Unit

Mr. Pitre made a motion to approve the request for an Accessory Living Unit, with the same stipulation as the approval for the Variance.

1. That door #2 on Plan GMR-218/A3 remains without a door, without framing, and shall have a hallway appearance.

Mr. Pacocha seconded the motion

Mr. Pitre, speaking on his motion, stated that he felt he had adequately explained his thoughts when he spoke with regard to the approval of the Variance.

Mr. Pacocha, speaking on his second, stated that he felt the applicant had satisfactorily addressed the criteria for an Accessory Living Unit.

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Chairman Seabury commented that he would vote to approve the request for an Accessory Living Unit because he was willing to accept the applicant’s testimony that the door connecting the main house and the breezeway was a French type, glass paned door that was normally kept open with the exception of winter months.

VOTE: Chairman Seabury asked Clerk Davis to poll the Board on the motion for an Accessory Living Unit with the noted stipulation, and to record the members’ votes, which were as follows:

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

Chairman Seabury declared that, there having been five votes to approve the request for an Accessory Living Unit with the noted stipulation, the motion had carried.

IV. OTHER BUSINESS

41 Dracut Road

Chairman Seabury stated that Mr. Oleksak had approved a request from Mrs. Joanne M. Crocker for a Superior Soft Water business to be located at 41 Dracut Road. Chairman Seabury further stated that Mr. Oleksak was under the impression that as long as there was no signage/advertisements, deliveries of any kind (via UPS, FedEx, freight companies, etc.) additional traffic occurs or company trucks are parked, then such a request could be granted without appearing before the Zoning Board of Adjustment for a Home Occupation Special Exception.

Chairman Seabury asked if the members of the Board were in agreement with that decision.

Ms. Davis commented that the Board had no control over the situation once the business was in place.

Mr. Martin commented that he did not feel a Home Occupation Special Exception should be allowed because the requestor was a tenant and not the owner of record.

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Mr. Martin read aloud from the Zoning Ordinance pertaining to Home Occupation Special Exceptions as summarized below:

Home occupations are defined by the Zoning Ordinance as any activity carried out for gain by a resident in their dwelling unit. Such activity is a secondary use to the principal unit.

If the owner of the business is a renter, the owner of record had to sign an affidavit.

Mr. Pitre commented that he felt the Board should leave the decision as it was.

Chairman Seabury commented that he did not feel a business could be operated without advertising.

Chairman Seabury appointed Mr. Pitre and Ms. Shuman to form a sub-committee to discuss updates to the criteria for a Home Occupation Special Exception.

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Chairman Seabury asked Mr. Martin to consult with Ms. Davis with regard to a possible change in the wording to the Sign Ordinance.

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Mr. Pitre left the meeting at 9:40pm. Chairman Seabury announced that Mr. Abbott would be seated in place of Mr. Pitre.

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Chairman Seabury raised the question as to whether or not a Certified Plot Plan was needed in all cases – such as sheds, decks, carports, and pools.

Ms. Davis commented that she felt that a Certified Plot Plan should be required – especially when the applicant was asking for an exception.

Chairman Seabury commented that he felt a hand-drawn plan should be accepted – especially if the Board knew exactly where the proposed shed, deck, etc. would be.

Ms. Davis stated that she would propose a revision, in writing, at the next meeting to the application form to cover the agreed-upon list of requirements.

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**V. 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 9:45pm.

Date: September 14, 2011

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J. Bradford Seabury, Chairman

Recorder: Trish Gedziun