

**HUDSON ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
February 19, 2009**

**I. CALL TO ORDER**

Chairman Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 8:00pm on Thursday, February 19, 2009, in the Community Development Meeting Room in the Town Hall basement. Chairman Seabury then requested Clerk Martin to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

**Present:** Maryellen Davis, James Pacocha, and  
J. Bradford Seabury

**Members**

**Absent:** William McInerney, Excused  
Michael Pitre, Excused

**Alternates**

**Present:** Kevin Houle, Normand Martin, Marilyn McGrath, and  
Donna Shuman

**Alternates**

**Absent:** None (All present)

**Staff**

**Present:** William Oleksak, Building Inspector

**Liaison**

**Present:** Roger Coutu, Selectmen's Liaison - Excused

**Recorder:**

Trish Gedziun - Excused

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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 announced that Ms. McGrath would be seated in place of Mr. McInerney and Mr. Martin would be seated in place of Mr. Pitre - noting that Mr. Martin would retain his role of Clerk

## III. PUBLIC HEARINGS FOR SCHEDULED APPLICATIONS

1. **Case 182-120** – (2/19/09): JoAnne Gauthier, 42A Central Street, Hudson, NH, request the following:
  - A. A Home Occupation Special Exception to allow a mortgage broker business within the existing home. [Map 182, Lot 120, Zoned TR, HZO Article VI, Section 334-24, Home Occupation Special Exception.]
  - B. A Use Variance to allow a nine square foot free-standing sign for a home occupation, where the maximum allowable sign area is three square feet. [Map 182, Lot 12-, Zoned TR, HZO Article XII, Section 334-67, Home Occupation Signs.]

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

### **A. A Home Occupation Special Exception**

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

Ms. JoAnne Gauthier, the applicant, addressed the Board, stating that she was the present owner of Hudson Home Loans and Hudson Home Loans, LLC. and that both companies were licensed by the banking department of the State of New Hampshire.

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Ms. Gauthier stated that she had operated the companies for a total of five years – noting that for the past two years the companies were located at 39 Library Street in Hudson, NH.

Ms. Gauthier also stated that it had always been her personal preference to keep her home life separate from her work life. She said that the property located at 39 Library Street had been on the auction block three times in the past few months and she felt that it did not make sense to continue spending money renting the facility.

Ms. Gauthier stated that five people were originally employed by Hudson Home Loans (4 Loan Originators and 1 Assistant) and that she was the only employee left after the mortgage industry had “gone down hill.” She also stated that she wanted to remain being the owner and sole employee of the company because of the feeble state of the mortgage industry.

Ms. Gauthier stated that 95% of her business was operated via telephone, internet, or USPS, and her clients were scheduled by appointment only. Ms. Gauthier also said that she was one of the few mortgage companies in Hudson and she had been in the business for over twenty years.

Ms. Gauthier stated that her property was a three-family dwelling, adding that there was a large room in the back of the house (which had a separate egress and no stairs) that she would use as her “home office.” She also stated that handicap access would be installed if the Home Occupation Special Exception were granted.

Ms. Gauthier commented that she resided in one of the units and that her son and daughter resided in the remaining two units.

Ms. Gauthier stated that the property had off-street parking.

Chairman Seabury suggested that the Board waive the usual procedure of having the applicant read the application aloud because the applicant had significantly covered the items in her opening remarks.

Chairman Seabury confirmed that the applicant’s request was to use one room in the unit she resided in and not one of the units in the dwelling.

Ms. McGrath asked the applicant if she had converted the property to a three-family dwelling. The applicant replied that the property had already been converted when she purchased the property five years prior.

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Ms. McGrath asked Mr. Oleksak if there were any permits in the file which allowed for the conversion. Mr. Oleksak replied that he did not remember any activity associated with the property.

Ms. McGrath asked if the lack of building permits had any affect on the applicant's request for a Home Occupation Special Exception. Chairman Seabury replied that it was up to the Community Development Department.

Mr. Mark A. Pearson, Assistant Town Administrator, addressed the Board, stating that it was his recollection that there was paperwork in the file which supported the fact that the town had approved the conversion from a two-family dwelling to a three-family dwelling.

Ms. McGrath noted that Mr. Oleksak had, gone to the office and found a permit, dated September 1981, which allowed for the conversion from a two-family dwelling to a three-family dwelling.

Chairman Seabury asked the applicant to describe the available parking on the property. Ms. Gauthier replied that two off-street parking spaces would be reserved for client parking. She further replied that her clients were scheduled by appointment only – “one at a time.”

Chairman Seabury informed the applicant that one of the conditions of a Home Occupation Special Exception was that no person(s) could be employed by the company who did not reside on the property.

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.

Ms. Davis asked the applicant what the normal hours of business would be. Ms. Gauthier replied that they would typically be between the hours of 9:00 – 5:00. She noted that there would be an occasional “after hours” appointment around 6:00pm as well as occasional appointments on Saturdays.

Ms. Gauthier also noted that a six-foot privacy fence had recently been installed.

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Ms. McGrath commented that she did not have any objections to the applicant’s request. She further commented that she felt the use was low in intensity, there was plenty of vegetation between the properties, it would not create a lot of additional traffic, and there was no adverse abutter testimony.

Ms. Davis commented that not only did she agree with what Ms. McGrath had said, but also added that she felt the applicant would seek an alternate location should a need for additional employees arise in the future.

Ms. Davis made a motion to approve the request for a Home Occupation Special Exception.

Ms. McGrath seconded the motion.

Ms. Davis, speaking on her motion, stated that (in addition to what she had previously said) she felt the case was one of the more ideal situations for a Home Occupation Special Exception, and that the business would not be a detriment to the surrounding properties.

Ms. McGrath, speaking on her second, stated that she agreed completely with everything Ms. Davis had said.

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

Ms. Davis	To approve
Ms. McGrath	To approve
Mr. Pachoca	To approve
Mr. Martin	To approve
Mr. Seabury	To approve

Chairman Seabury reported that, there having been five votes to approve the request for a Home Occupation Special Exception, the motion had carried.

**B. Use Variance**

Chairman Seabury asked Ms. Gauhtier, the applicant, to read aloud from her application for a Use Variance, summarized as follows:

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- 1. The location of the proposed sign would not be directly in front of the house but on the side it.*
- 2. The proposed sign would not be neon, internally lit, or be lit in the evening.*
- 3. The zoning restriction of the cited ordinance interferes with the plaintiff's reasonable use of the property because the area is that of a mixed use and there are other signs in the area.*
- 4. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because the area was already a high traffic area.*
- 5. No diminution in the value of surrounding properties would occur because the proposed sign would be tastefully made out of carved wood and it would blend in with the property.*
- 6. The proposed use would be compatible with the spirit of the ordinance because the proposed sign would not be larger than any of the other signs in the area.*
- 7. Granting the variance would do substantial justice because a service to the town would be provided.*

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 was 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.

Ms. McGrath asked the applicant what church her property abutted and the applicant replied that it was St. John the Evangelist Church.

Ms. McGrath asked the applicant to verify that the proposed sign would not be lit at any point during the day. The applicant verified her testimony.

Mr. Pacocha asked the applicant if she had a rendering of what the proposed sign would look like. The applicant replied that she did not but that it would be made out of carved wood in the shape of a house.

Mr. Pacocha asked how big the lettering would be on the proposed sign and the applicant replied that the lettering would be 4-6 inches in height.

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Chairman Seabury commented that he did not feel the applicant’s argument for a larger sign was persuasive. Chairman Seabury further commented that he felt the area’s mixed use was minor – noting that there were many residences and not many signs.

Ms. Gauthier asked if a variance would still be needed if the sign were six square feet opposed to nine square feet. Chairman Seabury replied that a variance would still be needed and the larger question was why this home occupation should have a sign larger than other home occupations.

Ms. Davis commented that she agreed with Chairman Seabury, adding that her other concern was that the Use Variance would stay with the property and a future owner may not have a home occupation with such a low intense use or have a tasteful sign.

Ms. McGrath commented that she felt the proposed sign was too large and was not in good keeping with the neighborhood.

Ms. Davis made a motion to deny the request for a Use Variance.

Ms. McGrath seconded the motion.

Ms. Davis, speaking on her motion, stated that she felt a three-square -foot sign was adequate enough to identify the business while the request for a nine-square-foot sign did not satisfy the requirements, it was contrary to the public’s interest, and it was not within the spirit of the ordinance.

Ms. McGrath, speaking on her motion, stated that she agreed completely with what Ms. Davis had said.

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

Ms. Davis	To deny
Ms. McGrath	To deny
Mr. Pachoca	To deny
Mr. Martin	To deny
Mr. Seabury	To deny

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Chairman Seabury reported that, there having been five votes to deny the request for a Use Variance, the motion had carried.

### **IV. APPROVAL OF MEETING MINUTES**

The following edits were made to the minutes of the October 23, 2008, meeting:

1. Page 5, 2<sup>nd</sup> Paragraph – “the property received a Use Variance on May 28, 2008” was changed to “the property received a Use Variance on May 28, 1992” - Seabury
2. Page 9 – “Mr. Seabury returned to the table and resumed his position as Chairman with Mr. Houle returning to his position as a non-voting alternate member” was added after the vote. - Seabury

Mr. Martin made a motion to accept the minutes of the October 23, 2008, meeting as amended by the Board.

Ms. McGrath seconded the motion.

Chairman Seabury called for a verbal vote and he then stated that all of the Board members were in favor.

The following edits were made to the minutes of the January 22, 2009, meeting:

1. Page 8 – the word “motion” was changed to “nominations” under the position of Chairman of the Board. – McGrath
2. Page 8 – the word “motion” was changed to “nominations” under the position of Vice Chairman of the Board. – McGrath

Mr. Martin made a motion to accept the minutes of the January 22, 2009, meeting as amended by the Board.

Ms. McGrath seconded the motion.



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Chairman Seabury called for a verbal vote and he then stated that four of the Board members were in favor, while Ms. Davis abstained because she had been excused from that meeting.

### **V. OTHER BUSINESS**

- Chairman Seabury pointed out that the 16<sup>th</sup> Annual Spring Planning & Zoning Conference would take place on Saturday, May 2 2009. Chairman Seabury encouraged the members to notify Julie Kennedy if any of them wanted to attend.
- Mr. Martin asked Mr. Oleksak about the Cease & Desist Order which was issued to Soucy & Gagnon Family Dentistry on January 30, 2009. Mr. Oleksak replied that it was his understanding that a medical R&D lab was there, but he had found one of the tenants in the building was performing “defense minded stuff” which resulted in a Haz-Mat incident. Mr. Oleksak stated that the Hudson Fire Department had initially informed him of the incident.
- Mr. Oleksak pointed out that the department was undergoing some new administrative formats.
- Ms. Davis asked Mr. Oleksak if any new applications had come into the Community Development Department. Mr. Oleksak replied that the following items were in the pipeline:
  - A request for a determination on a piece of land for a 10,000 square foot building.
  - A request for a Wetlands Special Exception.
  - An existing Accessory Living Unit that needed to come into compliance with the ordinance.

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**VI. ADJOURNMENT**

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

Mr. Pacocha seconded the motion.

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

Chairman Seabury declared the meeting to be adjourned at 9:44pm.

Date: November 3, 2008

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J. Bradford Seabury, Chairman

Recorder: Trish Gedziun