

**HUDSON ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
January 31, 2008**

I. CALL TO ORDER

Chairman J. Bradford Seabury called this meeting of the Hudson Zoning Board of Adjustment to order at 7:01p.m. on Thursday, January 31, 2008, 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, William McInerney, Michael Pitre, and J. Bradford Seabury

Members

Absent: James Pacocha (Excused)

Alternates

Present: Marilyn McGrath, and Kevin Houle

Alternates

Absent: Normand Martin (Excused)

Staff

Present: None

Staff

Absent: Sean Sullivan, Community Development Director (Excused)

Liaison

Present: Doug Robinson, Member, Board of Selectmen

Recorder: Trish Gedziun

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes
January 31, 2008**

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. Houle in place of Mr. Pacocha, and seated Ms. McGrath in place of Mr. Martin, noting that she also would assume his role of clerk.

III. PUBLIC HEARING FOR SCHEDULED APPLICATIONS

1. Case 102-7 (1/17/08): Vincent Braccio, 27 River Road, Hudson, NH, requests the following:

- A. An Equitable Waiver to allow an existing single-family, non-conforming structure to remain in its current location. [Map 102, Lot 7, Zoned G-1, HZO Article VII, Section 334-27.1, Table of Dimensional Requirements.]**

- B. An Area Variance to allow construction of an attached garage and addition within the front-yard setback, 50 feet required, 37 feet proposed for property located at 172 Old Derry Road, Hudson, NH. [Map 102, Lot 7, Zoned G-1, HZO Article VII, Section 334-27.1, Table of Dimensional Requirements.]**

Acting Clerk McGrath read aloud the posted notice, as recorded above.

Chairman Seabury stated that the applicant was back before the Board because the case was originally improperly noticed to the public.

Chairman Seabury further stated that the Board had felt the applicant needed an Equitable Waiver in addition to an Area Variance, as the property was non-conforming, because it was too close to the road by the present day ordinance requirements.

Chairman Seabury noted that the applicant was present to address both the Equitable Waiver and the Area Variance applications.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes January 31, 2008

Chairman Seabury asked who was present to speak in favor with regard to the application for an Equitable Waiver.

Mr. Vincent Braccio, owner and applicant, addressed the Board, stating that he was present to discuss his application for an Equitable Waiver as recommended by the Board.

Mr. Braccio read aloud a portion of his application for an Equitable Waiver, as summarized below:

1. The non-conformity was an innocent mistake. The home was built in 1960 and was constructed prior to the town requiring a 50 foot setback.

2. The non-conformity was discovered too late. Mr. Braccio stated that it was his belief that the structure was not built in violation at the time of construction. Mr. Braccio further stated that, upon the purchase of the home, he had applied for a building permit and it was at that time that he was informed that the house was non-conforming.

3. The structure did not diminish the value of other properties and was not a public nuisance. Mr. Braccio stated that the home was comparable to other homes in the neighborhood. Mr. Braccio further stated that the home would be improved upon which would increase the value and appeal of neighboring properties.

4. There would be a high correction cost. Mr. Braccio stated that the existing structure and foundation would have to be moved back by 40 feet and the cost to do that would be very costly.

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 then declared the matter before the Board.

Ms. Davis made a motion to approve the Equitable Waiver.

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes
January 31, 2008**

Mr. Pitre seconded the motion.

Ms. Davis, speaking on her motion, stated that there had been no code enforcement issues on the property, it had been in existence for over ten years, and she felt it met the criteria for an Equitable Waiver.

Mr. Pitre, speaking on his second, stated that he felt the property met the criteria for an Equitable Waiver.

VOTE: Chairman Seabury asked the Clerk to poll the Board on the motion to approve the Equitable Waiver, and to record the members' votes, which were as follows:

Ms. Davis	To approve
Mr. Pitre	To approve
Mr. McInerney	To approve
Mr. Houle	To approve
Mr. Seabury	To approve

Chairman Seabury reported that, the decision having been unanimous, the motion had carried.

2. Case 102-7 (1/17/08): Vincent Braccio, 27 River Road, Hudson, NH, requests an Area Variance to allow construction of an attached garage and addition within the front-yard setback, 50 feet required, 37 feet proposed for property located at 172 Old Derry Road, Hudson, NH. [Map 102, Lot 7, Zoned G-1, HZO Article VII, Section 334-27.1, Table of Dimensional Requirements.]

Acting Clerk McGrath read aloud the posted notice, as recorded above.

Chairman Seabury stated that the Community Development Director had denied the applicant's request because, by the present ordinance requirements, the home was located too close to the road.

Mr. Vincent Braccio, owner and applicant addressed the Board and read aloud a portion of his application for an Area Variance as summarized below:

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes January 31, 2008

1. *The denial of the Area Variance would cause an unnecessary hardship for the applicant because the existing home was less than 50 feet from the front lot line and the proposed addition was going to be attached to the existing home. The septic tank was directly behind the house, which prevented the addition from being placed in that location.*
2. *There was no change of use being requested. There was ample land on the property, which consisted of 2.67 acres and all other setbacks were within the zoning ordinance requirements.*
3. *There would be no diminution of the value of the surrounding properties, because the proposed addition would add value to the property, and, therefore, only upgrade the value of abutting properties.*
4. *The proposed use would be compatible with the spirit of the ordinance, because the addition would be an extension of the existing home and would provide additional living space to an already residential use.*
5. *The approval of the Area Variance would do substantial justice for the applicant, because the applicant and his family could enjoy the extended living space, and the proposed addition was consistent with other properties in the neighborhood.*

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 then declared the matter before the Board.

Ms. Davis asked if the applicant planned on expanding the driveway, and the applicant responded in the negative.

Ms. Davis made a motion to approve the Area Variance.

HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes

January 31, 2008

Mr. Pitre seconded the motion.

Ms. Davis, speaking of her motion, stated that she felt the applicant met all of the criteria for an Area Variance. Ms. Davis further stated that the house was too close to the road by present standards, but that was a hardship on the property, and the applicant was not proposing to extend the home any further into the front-yard setback.

Ms. Davis also stated that the reason the Board had asked the applicant to come back was because the case was originally noticed incorrectly and that it was in the best interest of applicant to have the case properly noticed.

Mr. Pitre, speaking on his second, stated that he felt it was important that the case was properly re-notified. Mr. Pitre further stated that he felt the applicant met all of the criteria, that it was within the spirit of the ordinance, and that he felt the applicant could not have achieved the same benefit by any other reasonable means.

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

Ms. Davis	To approve
Mr. Pitre	To approve
Mr. McInerney	To approve
Mr. Houle	To approve
Mr. Seabury	To approve

Chairman Seabury reported that, the decision having been unanimous, the motion had carried.

IV. OTHER BUSINESS

Ms. Davis stated that she had generated an Excel spreadsheet that listed cases that the Board had approved, as well as any stipulations applied which needed to be followed up, in the event the applicant was not adhering to those stipulations.

Chairman Seabury stated that, the By-laws stated that the Vice-Chairman was responsible for ensuring that the properties that had stipulations applied to them were adhering to them, and if they were not, the Community Development Department had to be notified.

**HUDSON ZONING BOARD OF ADJUSTMENT – Meeting Minutes
January 31, 2008**

Chairman Seabury commented that he did not feel that it was fair to ask Ms. Davis to do that, and there was some discussion of the Board changing those By-laws.

Mr. Robinson stated that any complaints received from citizens of the town had to be in writing, and that Mr. Sullivan would not accept or act on them if they were not received in writing.

Ms. Davis stated that she felt the town should have a fax number or telephone number which the citizens of the town could call to lodge an anonymous complaint.

V. ADJOURNMENT

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

Mr. McInerney seconded the motion.

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

Chairman Seabury declared the meeting to be adjourned at 11:28 p.m.

Date: February 3, 2008

J. Bradford Seabury, Chairman

Recorder: Trish Gedziun