



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Marilyn E. McGrath, Selectmen Liaison

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MEETING MINUTES – January 28, 2021 – approved

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REMINDER: COVID-19 State of Emergency Contact Tracing Attendance Form: Meeting Sign-In Sheet

Gary Daddario called the meeting to order at 7:03 PM, welcomed everyone and read the COVID-19 meeting procedure that in conformance with the NH State of Emergency Order #12 confirmed the following: (a) providing public access to meeting by telephone and video access; (b) provided public notice on how to access the meeting; (c) mechanism to advise if there is a problem with accessing meeting and (d) should there be an issue with accessibility, the meeting will need to be adjourned and rescheduled; and (e) that voting would be by roll call vote. Mr. Daddario stated that the Board would go into recess so that the public could call in their questions or concerns during public testimony and added that if anyone cannot gain access, that the meeting would need to be adjourned. Mr. Daddario noted that specific instructions for meeting access was included in both the Applicant Notification and the Abutter Notification and were posted on the website.

Mr. Buttrick read the Preamble into the record, identified as Attachment A of the Board's Bylaws, which included the procedure and process for the meeting, and the importance of the 30-day time period for appeal.

Mr. Daddario invited everyone to stand for the Pledge of Allegiance and asked everyone to sign the contact meeting form for Covid tracking purposes.

Clerk Etienne took attendance. Members present were Gary Daddario (Regular/Vice Chair/Acting Chair), Brian Etienne (Regular/Clerk), Leo Fauvel (Regular), Ethan Severance (Alternate and remote), and Jim Pacocha (Regular). Also present were Bruce Buttrick, Zoning Administrator, Louise Knee, Recorder (via remote access) and Kara Roy, Interim Selectman Liaison. Excused was Marilyn McGrath, Selectman Liaison. For the record, Alternate Severance was seated as a Voting Member.

IV. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:

1. **Case 157-001 (01-28-21)(continued from 10-22-20):** Andrea Mastrangelo, **56A Ledge Rd., Hudson, NH** requests a Home Occupation Special Exception to operate a home hair salon color studio business in the basement area of the primary residence. [Map 157, Lot 001-000; Zoned Residential-Two (R-2); HZO Article VI, Special Exceptions, §334-24, Home Occupations].

Mr. Buttrick read the Case into the record, noted that it was continued from October's meeting, with no meeting date specified, so that the Applicant could provide additional information regarding water and septic capacities, and stated that the Case could not have a public hearing at this meeting because the Case was not properly noticed to the public. It was noted that a continuation without a specified date requires re-notice to the public and abutter fees to be (re)paid.

Mr. Buttrick referenced the Town Engineer's 12/11/2020 email to the Applicant noting his acceptance of Northeast Water Well, Inc. assessment that the water usage for the proposed salon business should "not have a severe impact on the well or water table and should not be added strain to the current system at the volume of business estimated on a weekly basis currently." (calculation was estimated at eighty (80) gallons per week).

With regard to the septic system, Mr. Buttrick reported that the Town Engineer spoke with AB Septic after they advised the Applicant that a new septic design would be needed and as of 1/20/2021 the Town Engineer has not yet received a septic design plan. Mr. Buttrick stated that the Board has the option to approve the Home Office Special Exception with a condition that a septic design plan be submitted.

Mr. Daddario stated that the Board heard a lot of concerns from the abutters back in October and even though the option exists to approve with a condition, it would be his preference to have a septic plan design to review prior to approval. Mr. Fauvel concurred and stated that his concerns are not only with the height of the septic system with regard to sink but also with the well, whether the well is artesian or shallow because a shallow well could be compromised with any chemical discharge, and whether there is a plan for additional paved parking.

Mr. Etienne made the motion to defer hearing of this Case to the 2/25/2021 ZBA meeting. Mr. Pacocha seconded the motion. It was noted that the Applicant will need to pay Notification Fee to Abutters and submit a Septic Design Plan. Roll call vote was 5:0.

Board took a five-minute recess at 7:24 PM

V.PUBLIC HEARING: Proposed Bylaw amendments– 2nd reading.

At 7:30 PM Public Hearing opened. Mr. Buttrick reviewed the amendment and sections for the insertion of the succession of Officers. Mr. Etienne noted that the change basically crosses the T's and dots the I's and made the motion to accept the revision as edited. Mr. Pacocha seconded the motion. Recess called at 7:32 PM for any call-ins. At 7:38 PM Mr. Daddario called the meeting back to order and Mr. Buttrick reported that no phone calls were received. Roll call vote to adopt the amendment to the Bylaws was 5:0.

VI.REQUEST FOR REHEARING:

No requests were received for Board consideration

VII. REVIEW OF MINUTES:

12/17/20 edited Minutes: Motion made by Mr. Etienne and seconded by Mr. Pacocha to approve the 12/17/2020 Minutes as edited. Roll call vote was 5:0.

VIII. OTHER:1. Election of New ZBA Officers for 2021

Chairman: Motion made by Mr. Pacocha and seconded by Mr. Etienne to appoint Mr. Daddario as Chairman. Roll Call vote was 5:0.

Vice Chair: Motion made by Mr. Daddario and seconded by Mr. Etienne to appoint Mr. Pacocha as Vice Chair. Roll call vote was 5:0.

Clerk: Motion made by Mr. Daddario and seconded by Mr. Pacocha to appoint Mr. Etienne as Clerk. Roll call vote was 5:0.

The 2021 ZBA OFFICERS: Chairman Gary Daddario, Vice Chair Jim Pacocha and Clerk Brian Etienne.

2. 143 Dracut Rd - Determination as a Development of Regional Impact

(see Z.D. #20-139)

Mr. Buttrick stated that a one hundred fifty five foot (155') tall monopole cell tower has been proposed for the location and because of the Zone District will require a Special Exception from the ZBA and Site Plan approval from the Planning Board. Cell towers require notices to be sent to everyone within a twenty-mile radius. As Zoning Administrator, he has made the determination that this project is one of Regional Impact and would appreciate Board confirmation.

Mr. Etienne made the motion to affirm the Zoning Administrator's determination to designate this project a development of Regional Impact. Mr. Pacocha seconded the motion. Roll call vote was 5:0.

Mr. Etienne stated that based on his employment, he would be recusing himself when the Case comes before the Board.

3. Discussion on Notice of Decision omitted in error: Request for Rehearing Case 173-012 & 014 (4 & 14 Tolles St)

Mr. Buttrick stated that the Case requesting extension of same Uses from 15 & 17 Tolles Street for 4 & 14 Tolles Street was denied on 7/23/2020 and the Request for Rehearing was denied on 9/24/2020 and that the next step in the process is to appeal to Superior Court. In preparation for Court, it was discovered that a Notice of Decision (NOD) for denying the Rehearing was not issued.

Mr. Buttrick stated that Town Counsel was consulted and advised that the Board should motion to issue a NOD and preserve the paper trail. Mr. Buttrick referenced

the excerpt from the approved 9/24/2020 Minutes in the Meeting Packet and the draft NOD prepared from the Minutes.

Mr. Daddario stated that such a motion would ratify the Board's decision and noted that the draft confirmed what transpired in the 9/24/2020 meeting.

Mr. Daddario made the motion to issue the Notice of Decision denying the Rehearing Request as drafted. Mr. Etienne seconded the motion. Roll call vote was 4:0:1. Mr. Fauvel abstained

4. Discussion on Home Occupation Special Exception Application

Mr. Buttrick stated that the Home Occupation Special Exception (HO/SE) application does not have Criteria F in it – “On-site retail sales are an expressly prohibited home occupation special exception use.” – yet has the words “sales or service” at the head of the application form and noted that the Zoning Ordinance does not have a definition for Sales or Retail Sales and an amendment to the Zoning Ordinance can only occur with a Town Vote. Discussion ensued and general consensus was that Criteria F should be added to the application form and that sales either for services provided on site or items created/made on site are permitted whereas items made offsite by someone else for someone else constitutes “retail sale” and is prohibited. Mr. Buttrick was asked to draft a revision to the HO/SE Application Form to include Criteria F and clarification of sales.

5. Proposed Zoning Ordinance amendments

Mr. Buttrick referenced the excerpt from the Planning Board's 1/6/2021 meeting regarding proposed revisions to Section 334-6, Definitions, pertaining to buildings and setback, and noted that the change is now in de facto effect. Mr. Fauvel stated that steps going into a building usually have a platform and asked of the platform is considered part of the building or part of the steps. Mr. Buttrick stated that would depend on whether the platform has a roof. If no roof, then the platform is part of the steps; if there is a roof, then the platform is considered part of the building. It was noted that the ZORC (Zoning Ordinance Review Committee) has not met in the past couple of years but will hopefully be engaged later this year.

6. Alternates – function & participation

Mr. Buttrick referenced the material in the Meeting Packet containing excerpt from the State of NH OSI and if a change is desired, the Bylaws would need to be modified. Discussion ensued. General consensus was to leave as is, that Alternates get to participate up to deliberation. No further action required.

Motion made by Mr. Pacocha, seconded by Mr. Etienne and unanimously voted to adjourn the meeting. The 1/28/2021 ZBA meeting adjourned at 8:26 PM.

Respectfully submitted,

Gary M. Daddario, Chairman