



# TOWN OF HUDSON

## Zoning Board of Adjustment

Gary M. Daddario, Chairman

Kara Roy, Selectmen Liaison

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### **MEETING MINUTES – December 08, 2022 - approved**

The Hudson Zoning Board of Adjustment met on Thursday, December 08, 2022 at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level Hudson Town Hall, 12 School St., Hudson, NH.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ATTENDANCE**

Chairman Daddario called the meeting to order at 7:00 PM, invited everyone to stand and join in the Pledge of Allegiance, and read the Preamble (Exhibit A in the Board's Bylaws) regarding the procedure and process of the meeting.

Members present were Gary Daddario (Regular/Chair), Tristan Dion (Alternate), Brian Etienne (Regular), Tim Lanphear (Alternate), Normand Martin (Regular/Clerk), Jim Pacocha (Regular/Vice Chair), Dean Sakati (Alternate) and Edward Thompson (Alternate). Also present were Bruce Buttrick, Zoning Administrator, Louise Knee, Recorder (remote) and Kara Roy, Selectman Liaison. Excused was Marcus Nicolas (Regular). Alternate Sakati was appointed to vote.

#### **IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:**

1. **Case 165-050 (12-08-22):** Edward J. & Joyce M. Welsh, **38 Campbello St., Hudson, NH** requests a Variance to demolish an existing non-conforming (front setback) single family dwelling and rebuild a proposed 36 ft. x 52 ft. single family-house with an attached 28 ft. x 36 ft. three (3) car garage. Both encroach 10 feet into the front yard setback leaving 20 feet (less non-conforming) where 30 feet is required. [Map 165, Lot 050; Zoned Town Residence (TR); HZO Article VII, Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Mr. Buttrick read the Case into the record, referenced his Staff Report initialed 11/29/22 noted that this existing non-conforming lot of record is due to a fifteen-foot (15') encroachment into the required thirty-foot (30') front setback

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and the intent is to demolish the existing house and replace it with a three-car garage with a lesser encroachment into the front setback by ten feet (10').

Ed Welch introduced himself, stated that he and his wife bought the property two (2) years ago, that his wife retired this past year and he will soon after having served thirty six (36) years in the US Air Force, and they've decided that they like living in Hudson, especially since they have family living close by in Nashua, and in this neighborhood so they started looking into options as to how to make their home more suitable to accommodate them as they age. The existing house was built in 1920 and has undergone modifications so that it resembles Frankenstein-ish creation and remodeling the interior is not practical, so they started looking into demolishing it and building new.

Mr. Welsh stated that they have since learned that they have a non-conforming lot because their house is into the front setback and they cannot rebuild in the same footprint and, with their backyard being the river, they need to apply for a Shoreline Protection Permit. Mr. Welsh stated that his wife has been dealing with NH DES (Department of Environmental Services) and they have additional requirements to satisfy as they can only have 20% of their land with an impervious surface which leaves them with approximately ninety feet (90') of land to build their home. A GIS overview of the property was posted and Mr. Welsh noted the existing hardscape on his property that attribute to impervious surface. Mr. Welsh stated that their shed will have to be removed to reduce the impervious surface and added that its contents will be kept in the third stall of the garage. Mr. Welsh acknowledged that this process has been akin to a jigsaw puzzle and the best solution requires them to seek a variance because they still need to encroach into the front setback and added that the proposed encroachment is five feet (5') less than the existing encroachment.

Mr. Welsh addressed the variance criteria. The information shared included:

(1) *not contrary to public interest*

- The requested variance will not be contrary to the public interest nor change the character of the neighborhood
- The plan is to build a new single-family home with a first-floor master bedroom to support them as they grow older
- The proposed house will have a 3-car garage to reduce strain from snow-removal and provide additional storage for yard equipment
- The character of the neighborhood will not change especially since it is an older neighborhood from the early 1990's where most homes were built prior to the 30' setback standard and most homes don't meet the 30' setback

(2) *will observe the spirit of the Ordinance*

- Proposed use will observe the spirit of the ordinance as what is being proposed is a single-family home in a residential zone

- Proposed single family home will not alter the essential character of the neighborhood, since most of the homes are older and don't meet the current setback standard
- (3) *substantial justice done*
- Substantial justice would be done to the Property Owner as it would allow the homeowners to build a new home that is less non-conforming and allows for them to grow old in the neighborhood
- (4) *not diminish surrounding property values*
- The proposed will actually increase the value of surrounding properties since it will be a new house in a much older neighborhood
  - The house will also be energy efficient and reduce harmful emissions in the neighborhood
  - Currently exploring including solar panels and geothermal
- (5) *hardship*
- Special conditions exist considering the property is along the Merrimack River and the land slopes down to the river which restrict how far back the house can be placed on the property
  - Approving the variance will allow the new home to be less non-conforming than the existing house and allow for a small backyard
  - The property is within 250' of the river. By using a 20' front setback will allow satisfying the NH DES Environmental Shoreline Permit Requirements keeping change to less than 20% - meeting the 30' required setback would push the change over 20% and not meet Shoreline Permit Requirements.

Mr. Daddario asked and received confirmation that currently the house is fifteen feet (15') from the road (ROW/Property Line) and the proposed house would be twenty feet (20') from the road thereby reducing the encroachment into the required thirty foot (30') front setback by five feet (5'). Mr. Daddario stated that in reviewing the plan, the garage and the house line up in the front and asked if the garage could be move further back and be out of the setback so that less of a distance would require a variance. Mr. Lanphear noted that it could be more architecturally appealing with the garage moved back. Mr. Welsh stated that if the garage was moved back out of the setback it would affect the roofline, as the back part of the house is a deck, and it would require the driveway to be extended and the end result would create more impervious surface which would not satisfy NHDES limitation of 20% impervious surface. Mr. Sakati asked and received confirmation that the impervious surface cannot be increased.

Mr. Etienne noted that the style of the house resembles a colonial and asked what style is proposed for the rebuild. Mr. Welsh responded that the new house will be vinyl paneled in a salt box style. Mr. Etienne also noted that this neighborhood experienced flooding about a hundred (100) years ago.

Mr. Etienne read the Town review comments into the record. The Town Engineer stated that the “applicant shall provide Shoreland Protection permit at the time of the new building permit.” The Fire Department noted that “a demolition permit for the existing structure will be required.”

Mr. Dion questioned the RV parking on the proposed plan. Mr. Welsh responded that he owns an RV and needs a place to park it, that in all likelihood that is where he and his wife will reside while their new house is constructed and noted that it will be “paved” with pervious pavers and added that the driveway will be paved with asphalt. Mr. Dion asked if the driveway could also be paved with pervious pavers and Mr. Welsh responded that doing so could interfere with and be impacted by winter maintenance. Mr. Dion asked about the wellhead in the middle of the driveway. Mr. Welsh responded that the wellhead is another planned improvement and will be removed from the driveway.

Public testimony opened at 7:47 PM. No one addressed the Board.

Mr. Etienne stated that the proposed plan will make the lot less non-conforming, that the TR Zone has consistent issues and creates hardship and this lot is also has a river impact invoking Shoreland protection. Mr. Sakati agreed that the proposed plan is an improvement and asked if the impervious restriction should be a condition of approval. Mr. Daddario stated that it should not be a condition as it is governed by a separate regulatory body and not ZBA. Mr. Buttrick stated that the Board could stipulate that the Applicant must obtain a Shoreland Protection Permit or no CO (Certificate of Occupancy).

Mr. Martin made the motion to grant the Variance with two (2) stipulations:

- (1) that there be no additional expansion beyond what is proposed in this application. Any need to expand or change will require additional approvals from the Town of Hudson and
- (2) that that no Building Permit shall be issued without first obtaining the Shoreland Protection Permit from NH Department of Environmental Services.

Mr. Pacocha seconded the motion.

Mr. Martin spoke to his motion noting that the granting of the Variance will not be contrary to the public interest, will observe the spirit of the Ordinance, will provide substantial justice to the property owner, will enhance property values and that there was no evidence presented that this project would diminish values and that the hardship is the limitation of the wetland buffer within fifty feet (50') to the river. Mr. Pacocha spoke to his second noting that the

requested variance will not be contrary to the public interest and does not alter the essential character of the neighborhood as there is no change proposed for the neighborhood, that it will observe the spirit of the Ordinance, that substantial justice would be done to the property owner with no harm to the general public, that it will not diminish property values of surrounding properties and that hardship is satisfied due to the size of the property and the environmental restrictions due to the proximity to the Merrimack River.

Roll call vote taken. Mr. Etienne voted to grant with the two (2) stipulations and noted that the request is in keeping with the character of the neighborhood homes, that the extent of the non-conformity is reduced, that there is no harm to the general public and that there is limited space, only twenty percent (20%), to build on this lot. Mr. Sakati voted to grant with the two (2) stipulations noting that the granting of the Variance will be better for the Town/neighborhood and while the offset is not perfect, it is better than the existing house, that every effort was made to increase the offset and maintain the impervious surface area, that the granting of the variance will allow the applicant to improve his property, that there is no diminution to surrounding property values and that unnecessary hardship exists due to the river's setback requirements. Mr. Daddario voted to grant with the two (2) stipulations noting that there is no harm to the public, that it fits the character of the neighborhood, that the existing non-conformance of fifteen feet (15') is being reduced to ten feet (10'), that it allows for a new home with no harm to the public, that there is no diminution to surrounding properties and that the hardship criteria is satisfied as the lot is subject to Shoreland Protection with its buffer requirements and the declining slope of the land to the river limits useable space.

Vote was unanimous at 5:0. Variance granted with two (2) stipulations. The 30-day Appeal period was noted.

**V. REQUEST FOR REHEARING:** None

There were no requests presented for Board consideration.

**VI. REVIEW OF MINUTES:**

11/17/22 edited Draft Minutes –

Board reviewed the edited draft Minutes. Mr. Thompson offered two (2) additional edits – Line #64 should be “Colin” and line #88 should have the words “there is”. Mr. Buttrick explained the process of electronic editing of the Minutes and noted the bracketed initials in the footnote of the Minutes and emphasized the importance of sending edits to the Recorder, with a copy to him, in a timely fashion so that they can be applied before the meeting instead of during the meeting. Motion made, seconded and unanimously voted to approve the Minutes as edited and amended.

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**VII. OTHER:**

2023 ZBA Meeting Schedule –

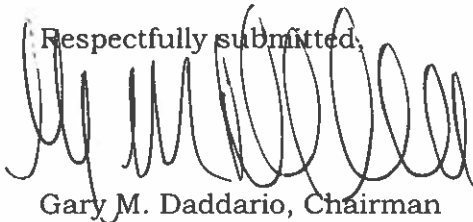
Board reviewed the proposed 2023 Meeting Schedule. Mr. Buttrick noted that traditionally the fourth (4<sup>th</sup>) Thursday has been selected with the exceptions of November and December where the second (2<sup>nd</sup>) Thursday was selected. Motion made by Mr. Martin, seconded by Mr. Etienne and unanimously voted to adopt the Schedule as presented.

Term Expiration for Brian Etienne

Mr. Buttrick stated that Mr. Etienne's term on the Board expires at the end of the year and that this is his last ZBA meeting and thanked Mr. Etienne for his service – a sentiment shared by other Board Members who also wished him well. Mr. Etienne thanked the Board.

Mr. Sakati made the motion to adjourn. Mr. Etienne seconded that motion. The vote was unanimous. The 12/8/2022 ZBA meeting adjourned at 8:02 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gary M. Daddario', written over the typed name below.

Gary M. Daddario, Chairman