



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

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MEETING MINUTES – May 25, 2023 – approved

The Hudson Zoning Board of Adjustment met on Thursday, May 25, 2023 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 Gary Daddario called the meeting to order at 7:05 PM, apologized for the late start, invited everyone to stand for 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), Tim Lanphear (Alternate), Normand Martin (Regular/Vice Chair), Jim Pacocha (Regular), Dean Sakati (Regular) and Edward Thompson (Alternate/Clerk). Also present were Bruce Buttrick, Zoning Administrator, Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote), and Chris Sullivan, New Zoning Administrator. Excused was Marcus Nicolas (Regular). Alternate Lanphear was appointed to vote.

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

1. **Case 151-009 (05-25-23):** Mari Fontaine, VP, Timber & Stone Outdoor Spaces, 96 Allen St., Manchester, NH requests a Variance for **30 Barretts Hill Road, Hudson, NH** to build a proposed 35 ft. x 8 ft. covered farmers porch on an existing non-conforming structure which further encroaches into the front yard setback an additional 8 feet leaving 8.6 feet where 50 feet is required. [Map 151, Lot 009-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Mr. Buttrick read the case into the record, referenced the Staff Report initialed by Mr. Sullivan and dated 5/17/2023, noted that it is an existing non-conforming lot of record and that no comments have been received from Town Officials.

Mari Fontaine introduced herself as representing the Property Owner and stated that a Variance is being sought to construct a covered 8'W x 35'L farmer's porch along the

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easterly front of the structure that will encroach into the front setback leaving 8.6' where 50' is required.

Ms. Fontaine addressed the criteria necessary for the granting of a Variance. The information shared included:

- (1) *not contrary to public interest*
 - the porch does not pose a public hazard and is not contrary to public interest
 - the porch would not alter the essential character of the neighborhood
 - the porch would enhance the neighborhood by improving the home's features and attractiveness of the front yard space
- (2) *will observe the spirit of the Ordinance*
 - Zoning Ordinances are designed to protect public safety, ensure appropriate land use, prevent pollution, limit overcrowding, facilitate public utilities and conserve property values
 - The proposed porch is consistent with the Spirit of the Ordinance
 - The proposed porch would not pose a hazard to public safety, would not interfere with public utilities or transportation, would not cause over crowding and would not create pollution
 - the proposed porch would improve the front yard space of a single family home, conforming with current land use, which is residential
 - the proposed porch is not an inappropriate use of land
 - the project would be an enhancement to the esthetic of the home and subsequently the neighborhood
- (3) *substantial justice done*
 - the proposed porch would not cause suffering to the general public but it would enhance the community
 - the Variance would allow the owner to invest money and time into improving their home
 - homeowners who aim to maintain and improve their homes contribute to a greater spirit of care and maintenance in the neighborhood and this project would contribute to an overall attitude towards home maintenance and upkeep in the community
- (4) *not diminish surrounding property values*
 - the farmer's porch would not hinder the view of neighbors, would not decrease the aesthetic of the neighborhood, would not affect either traffic or parking in the neighborhood and would not pose dangers to the public
 - the addition of the porch would add an attractive element to the home and contribute to greater home values in the area
 - property values tend to increase when homes in the neighborhood are well maintained
- (5) *hardship*
 - the house was built in 1800, well before the Town adopted a Zoning Ordinance

- the classification of the house as being non-conforming was imposed by the Town when it adopted a Zoning Ordinance with front setback requirements
- this hardship is not self-imposed by the owner and is a result of the peculiar situation that the home predates the Ordinance
- it would be fair and reasonable to grant the variance that allows the homeowners to improve their living conditions
- a farmer's porch at the front of the home would provide a sturdy entryway with code compliant railings and steps for the homeowners to use as they age
- an Ordinance that prevents optimal access to the home would be a hardship for the homeowners
- the age of the home is a special condition
- a farmer's porch is a reasonable and common attachment to a home
- the impact of the proposed farmer's porch would be minimal on the neighborhood since the open green space across the street from the home is also owned by the owners
- there are no affected homeowners across the street
- the speed limit on Barretts Hill Road is 30 mph
- the porch will not encroach the front setback as much as the front entryway on the easterly side of the home
- to deny the variance would result in unnecessary hardship to the homeowners because it would prevent them from improving their living space in a way that has no negative impact on the neighborhood

Public testimony opened. No one addressed the Board.

Mr. Daddario asked and received confirmation that the proposed porch would not be the closest portion of the residence to the property line; that the encroachment of the proposed porch into the front setback is not as much as the encroachment that currently exists from the front entryway on the easterly side of the home. Mr. Dion inquired about the roofline of the proposed farmer's porch – how the roofline would blend with existing home roofline and whether the eight-foot (8') distance presented on the undated plan prepared by Jeffrey Land Survey, LLC that has been stamped by LLS (Licensed Land Surveyor). Mr. Buttrick stated that there were no construction drawings available/submitted and added that roof overhangs typically range from one to two feet (1'-2'). Ms. Fontaine stated that constructions drawings have not yet been prepared as the thinking was to obtain the variance first before incurring any more expense. Mr. Lanphear noted that if the variance is approved for eight feet (8'), as requested and as depicted on the plan, than the footprint width of the proposed farmer's porch would need to be less. Mr. Lanphear stated that he would be willing to make a motion with that as a condition of approval. Mr. Dumont noted that it does not need to be a condition of approval as it will become a code enforcement issue after-the-fact. Mr. Martin questioned creating a potential code enforcement issue at all – either defer until construction drawings can be provided or stick to the eight feet (8') as requested. Mr. Daddario stated that the Applicant can make that decision. Ms.

Fontaine stated that her preference would be to defer/continue the meeting to allow time to prepare construction drawings and identify the exact measurements needed for the variance.

Motion made by Mr. Martin and seconded by Mr. Lanphear to defer the hearing to the June 22, 2023 ZBA meeting. Roll call vote was 5:0. Case continued to the June meeting.

- 2. Case 247-131 (05-25-23):** Erich & Kerry Uhlendorf, **3 Jacqueline Street, Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow an approx. 189 sqft. shed to remain in its current location which encroaches approx. 12 ft. into the side yard setback leaving approx. 3 ft. where 15 feet is required. [Map 247, Lot 131-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Mr. Buttrick read the case into the record, referenced the Staff Report initialed by Mr. Sullivan and dated 5/17/2023, noted that it is an existing non-conforming lot of record, that no comments have been received from Town Officials and that an aerial view from 2010 showed the existing shed.

Erich Uhlendorf introduced himself and addressed the criteria necessary to support an Equitable Waiver of Dimensional Requirement and the information shared included:

- (a) violation existed more than 10 years
 - the shed was built in 2003 and installed in 2004 by the previous homeowner
- (b) violation has caused no nuisance
 - the violation has caused no nuisance
 - please see attached letter from Abutters Brustas of 5 Jacqueline Street dated 5/4/2023 testifying that they are aware and have no issue
- (c) there is a high correction cost to correct
 - moving the shed would need to also include moving the foundation as well as electrical
 - please see estimate received 3/28/2023 from NH Elevation, LLC, for a total of \$3,200 to relocate the shed
 - there is also a stone walkway to the shed that will need to be addressed

Mr. Martin inquired how this came to the Board's attention. Mr. Buttrick responded that the Uhlendorf wanted to add an addition to their home and that required a plot plan and that plot plan identified the shed three feet to the property line.

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

Mr. Martin made the motion to grant the Equitable Waiver of Dimensional Requirement as the violation occurred more than a decade ago, that it has posed no nuisance and it would be too high a correction cost to correct. Mr. Sakati seconded the motion with the same reasoning. Roll call vote was 5:0. Equitable Waiver of Dimensional Requirement granted. Mr. Daddario stated that normally they advise an Applicant of the 30-day Appeal period, but since this has existed for over a decade, it is still at the Applicant's discretion whether to wait

- 3. Case 147-016 (05-25-23): Derry & Webster LLC, c/o Vatche Manoukian, Manager, 253 Main St., Nashua, NH requests four (4) Variances for **181 B Webster St., Hudson, NH** [Map 147, Lot 016-000; Zoned Residential-Two (R-2)] as follows:**
- a.** To allow an existing (non-permitted) landscaping business to remain/continue where landscaping use is not permitted in the R-2 district.; [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 - b.** To allow an existing (non-permitted) landscaping business to continue to sell retail landscaping products where this use is not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses.]
 - c.** To allow the continued use of existing (non-permitted) garaging or parking of commercial vehicles and equipment where the garaging or parking of two or more light commercial vehicles or heavy commercial vehicles and equipment are not permitted in the R-2 district. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses.]
 - d.** To allow the continuation of additional mixed uses on the lot where mixed uses on a lot are not permitted in the R-2 district. [HZO Article III: General Regulations; §334-10A., Mixed or dual use on a lot.]

Mr. Buttrick read the requests into the record, referenced his Staff Report initialed 5/17/2023, noted that the request is a result of Code Enforcement action with quite a bit of history, provided a historical overview of actions taken, noted that it is before the Board subsequent Superior Court Final Order, that an Abutter letter was received speaking against the requests and that the Town Planner submitted seven (7) comments.

Atty. Andrew Prolman of Prunier & Prolman, PLLC introduced himself as representing the Property Owner and noted that Vatche Manoukian of Derry & Webster LLC and Tony Basso, PE of Keach-Nordstrom, Inc. were also present. Atty. Prolman stated that the Court Order placed a deadline of April 3, 2023 and he apologized for missing the deadline, that it was his doing and not the Property Owner for the delay.

Atty. Prolman asked the Board to do a Site Walk. Mr. Daddario stated that there are new faces on the Board and a Site Walk is a good idea. Mr. Martin concurred and noted that if the first Variance request is not granted, the remaining become moot. Mr. Pacocha asked if the Existing Condition Site Plan is accurate. Atty. Prolman stated that there is a more detail plan prepared for the Change of Use application to the Planning Board that he could provide the ZBA. Mr. Dion asked if the new plan included the new building and Atty. Prolman did not think so.

Board discussion focused on potential dates for the Site Walk. Conflicts appeared for every Saturday in June.

Motion made by Mr. Martin and seconded by Mr. Lanphear to schedule a Site Walk for Saturday 7/8/2023 @ 9:00 AM and to continue the Case to Thursday 7/13/2023 @ 7:00 PM. Vote was 5:0.

V. REQUEST FOR REHEARING:

No request received for Board Consideration

VI.

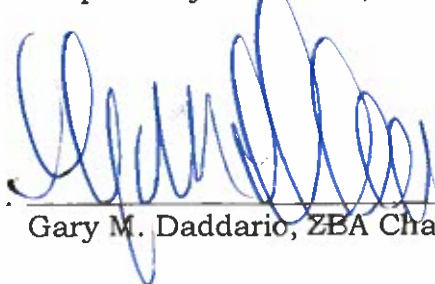
VII. REVIEW OF MINUTES:

04/27/23 edited Draft Minutes

Motion made by Mr. Martin, seconded by Mr. Lanphear and unanimously voted to adopt the 4/27/2023 Minutes as edited.

Motion made by Mr. Martin, seconded by Mr. Sakati and unanimously voted to adjourn the meeting. The 5/25/2023 ZBA meeting adjourned at 8:11 PM.

Respectfully submitted,



Gary M. Daddario, ZBA Chairman