



TOWN OF HUDSON

Zoning Board of Adjustment



Gary M. Daddario, Chairman

Dillon Dumont, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

MEETING MINUTES – December 14, 2023 – approved

The Hudson Zoning Board of Adjustment met on Thursday, December 14, 2023 at 7:00 PM in the Community Development Paul Buxton Meeting Room in the lower level of Hudson Town Hall, 12 School St., Hudson, NH.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

Acting Chairman Normand Martin called the meeting to order at 7:01 PM, 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.

III. ATTENDANCE

Members present were Tristan Dion (Alternate), Tim Lanphear (Alternate), Normand Martin (Regular/Vice Chair/Acting Chair), Marcus Nicolas (Regular), Jim Pacocha (Regular) and Edward Thompson (Alternate/Clerk). Also present were Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Gary Daddario (Regular/Chair) and Dillon Dumont, Selectman Liaison. Dean Sakati (Regular) arrived at 7:17 PM. Alternate Dion was appointed to vote in Mr. Daddario's absence. Alternate Lanphear was appointed to vote in Mr. Sakati's absence.

IV. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:

1. **Case 148-071 (12-14-23):** Jason and Rena Hand, **18 Towhee Dr., Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow a shed to remain in its current location which encroaches approx. 6 ft. into the rear yard setback leaving approx. 9 ft. where 15 feet is required. [Map 148, Lot 071-000, Zoned Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and NH RSA 674:33-a.I.]

Mr. Nicolas questioned whether this Case should be before the Board as the setbacks were recently reduced to five feet (5'). Both Mr. Sullivan and Mr. Martin confirmed the recent reduction in the setback requirement had occurred but not in this R-1 Zone.

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 12/5/2023 and noted that the Town Officials had reviewed but had no concerns or comments.

Jason Hand introduced himself and addressed the four (4) criteria for an Equitable Waiver. The information shared included:

a) discovered too late

- the structure was in place when property was purchased in 2017
- first became aware of the issue when notice was sent in connection with a plot plan submitted for an unrelated extension to the main house
- believe shed has been in place for more than ten (10) years, but cannot substantiate this
- aerial views from 2005, 2015 and 2022 show the shed

b) innocent mistake

- when purchasing the property due diligence was done and did not discover the issue
- when lot was surveyed for an accurate plot plan for the proposed addition to the main house, it was discovered that the shed was almost entirely in the setback

c) no nuisance

- the shed has never received a complaint for its placement
- a minor intrusion with a modest garden shed

d) high correction cost

- the shed is installed on a concrete foundation and has no joists or other flooring making it hard to move
- moving would involve removing and replacing the foundation and probably need to include replacing the structure itself as it may not be able to move it intact and when its all said and done could end up costing \$25,000

Public testimony opened at 7:13 PM. No one addressed the Board. Email received 12/12/2023 at 10:06 AM from Abutters Joseph and Karen Bakunczyk of 15 Meadowlark Drive stating that the shed poses no issues to them and they have no objection to allowing it to remain. Public testimony closed at 7:14 PM.

Motion made by Mr. Nicolas and seconded by Mr. Lanphear to grant the Equitable Waiver of Dimensional Requirement as all four (4) conditions have been met, it was discovered too late, it provides no nuisance, it was probably an innocent mistake by previous property owner and there is a high correction cost. Both Mr. Nicolas and Mr. Lanphear voted to grant the request.

Mr. Martin voted to grant and noted that the shed was in place when the home was purchased and has not presented a nuisance but does present a high cost to correct, that even though there is no evidence that an innocent mistake was

made when shed was installed, the current property owner is innocent of its placement and there is no evidence that it was discovered too late.

Mr. Pacocha voted to grant and stated that all four (4) criteria have been met. Mr. Dion voted to grant and noted that all four (4) criteria have been met.

Roll call vote was 5:0. Equitable Waiver of Dimensional Requirement granted. The 30-day Appeal period was noted.

Mr. Sakati arrived at 7:17 PM. Mr. Lanphear returned to Alternate status.

2. **Case 118-049 (12-14-23):** Kenneth Doubleday, Jr. and Jennifer Doubleday, **58 Griffin Rd., Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow a shed to remain in its current location which encroaches approx. 10 ft. into the side yard setback leaving approx. 5 ft. where 15 feet is required. [Map 118, Lot 049-000, Zoned General-One (G-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and NH RSA 674:33-a.I.]

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 12/5/2023 and noted that the Town Officials had reviewed but had no concerns or comments.

Ken Doubleday introduced himself, sat at the Applicant's table and proceeded to address the criteria for the granting of an Equitable Waiver of Dimensional Requirements. The information shared included:

- a) *discovered too late*
 - not sure why this was not discovered before, like when the permit was pulled for the above ground pool as the shed was in this spot at that time
- b) *innocent mistake*
 - as a first time homeowner, Mr. Doubleday stated he was unaware of the rules/laws of where he could place his shed
 - at the time of purchase there was a large carport in this spot so I saw no harm in taking that down and replacing it with a small shed
 - was not trying to cause any problems
- c) *no nuisance*
 - this is not a large shed and it is not falling apart and it is in my backyard almost out of sight
 - don't see a problem for others or it being an eyesore for anyone to be looking at seeing as its in the corner part of my backyard
- d) *high correction cost*
 - to have to move this shed would cost more than the shed is worth, especially since I had to pay a lot (~\$1,400.00) to move it once and

with prices now it would probably cost more to move it again and it just doesn't make sense to pay to move it again

Public testimony opened at 7:24 PM. No one addressed the Board. Email received 12/8/2023 at 11:07 AM from Scott Sherman and Jacqueline Smith of 60 Griffin Road stating that they have no objection to the placement of the shed so close to the property line and requested that any future additions honor the fifteen foot setback and asked that the culvert continue to be maintained and pumped. Mr. Martin stated that the culvert request is a civil matter and is not before the Board. Mr. Doubleday stated he is unaware but would address with his neighbor. Public testimony closed at 7:26 PM.

Mr. Pacocha made the motion to grant the Equitable Waiver. Mr. Nicolas seconded the motion. Mr. Pacocha spoke to his motion stating that it was discovered too late and was the result of an innocent mistake, that it is of no nuisance and presents a high cost to correct. Mr. Pacocha voted to grant.

Mr. Nicolas spoke to his second noting that all the criteria were satisfied, that it was discovered too late, that it resulted from an innocent mistake and provides no nuisance and is too high a correction cost. Mr. Nicolas voted to grant.

Mr. Sakati voted to grant noting that all four (4) criteria have been satisfied. Mr. Dion voted to grant and noted that that all four (4) criteria were satisfied. Mr. Martin voted to grant, stated that all the criteria have been satisfied, and added that the property is heavily wooded, and the shed will not be a nuisance to abutters.

Roll call vote was 5:0. Equitable Waiver if Dimensional Requirement granted. The 30-day Appeal period was noted.

V. REQUEST FOR REHEARING:

No requests were received for Board consideration.

VI. REVIEW OF MINUTES:

11/16/23 edited draft Minutes

Mr. Sakati made a correction to the spelling of his name on Page 8. No other amendments were offered. Motion made by Mr. Nicolas, seconded by Mr. Sakati and unanimously voted to approve the 11/16/2023 Minutes as edited and amended.

VII. OTHER:

- 2024 ZBA Meeting Schedule

Motion made by Mr. Nicolas, seconded by Mr. Dion and unanimously voted to adopt the 2024 ZBA Meeting Schedule as presented.

- Next Regular Scheduled ZBA Meeting- Thursday, January 25, 2024

So noted.

- Annual Election of Officers: Chair, Vice-Chair, Clerk- Thursday, January 25, 2024

So noted.

- Term Expirations

It was noted that both Mr. Pacocha and Mr. Thompson terms expire at the end of the year and both have opted not to renew. Mr. Thompson stated that he has enjoyed his time on the Board but the next couple of years will have him preoccupied elsewhere and that perhaps he may return. Mr. Martin thanked Mr. Pacocha for his thirty plus years serving the Town of Hudson and that he personally had him as a mentor when he first joined ZBA and that he would be missed. Members thanked both individuals for their service.

VIII. ADJOURN:

Mr. Pacocha made the motion to adjourn the meeting. Mr. Nicolas seconded the motion. Vote was unanimous. The 12/14/2023 ZBA meeting adjourned at 7:37 PM.

Merry Christmas and Happy New Year Everyone.

Respectfully submitted,

Normand G. Martin, ZBA Acting Chairman