



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 – March 28, 2024 - draft

The Hudson Zoning Board of Adjustment met on Thursday, March 28, 2024 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

III. ATTENDANCE

Chairman Gary Daddario called the meeting to order at 7:03 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.

Members present were Gary Daddario (Regular/Chair), Tristan Dion (Alternate/Clerk), Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair), Marcus Nicolas (Regular) and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Alternate Dion was appointed to vote in Mr. Nicolas place on Case #166-31 as he was in attendance at the February meeting when the Case was first heard.

IV. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

DEFERRED/CONTINUED HEARING:

- 1. Case 166-031-001 (03-28-24) (Continued from 02-22-24):** Gregory McAdams, **7 St John Street, Hudson, NH** [Map 166, Lot 031, Sublot 001; Zoned Town Residence (TR)] requests a Home Occupation Special Exception to operate a seasonal party rental home business office as permitted by special exception only with business equipment storage in the garage and outside parking of trailers within the required setbacks from the side lot line. [HZO Article V: Permitted Uses; §334-22, Table of Permitted Accessory Uses and HZO Article VI: Special Exceptions; §334-24, Home Occupations.]

Mr. Sullivan read the Case into the record, noted that it was continued from the 2/22 meeting and stated that since then that a Site Walk was held on 3/2/2024 where it was observed that the food truck has been removed from the property and that an email has been received from abutter Jeff Ferentino of 5 St. John Street dated 2/28/2024.

Greg McAdams confirmed that the food truck is no longer at the property and that all storage will be in the garage. Mr. McAdams clarified that the term “food truck” is not a truck and is actually is a trailer as it has no motor and requires electricity to keep the refrigeration running.

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48 Public testimony opened at 7:10 PM. No one addressed the Board.

49 Mr. Sakati stated that it was good to have the Site Walk, that it is a tight space and
50 one vehicle appeared close to the setback but there is no screening and suggested that
51 screening could be a condition of approval. Mr. Martin stated that the TR Zone does
52 have houses close to one another and that at the Site Walk he heard the Abutter's
53 concerns regarding flooding and pointed out that the concern falls under the purview
54 of the Planning Board and not the Zoning Board and that there will be no employees.
55 Mr. Dumont clarified that the Applicant can hire employees but cannot have
56 employees to the house. Mr. Martin stated that the bouncy houses are being stored in
57 the garage. Mr. Daddario stated that at the first hearing, the Applicant stated that the
58 bouncy houses are not washed at the property but at the rental site. Mr. McAdams
59 stated that he has three (3) 10'x20' storage units in Pepperell, MA and that there will
60 be no employees to his house.

61

62 Mr. Sakati stated that in his opinion there should be screening to the right of the
63 house. Mr. McAdams stated that that side of the house is all woods, that he did speak
64 with his neighbor and his only concern seemed to be with the food truck, which has
65 been removed and added that he is okay if the Board requires any screening.
66 Discussion arose on the type of screening, vegetative or a six foot high fence, whether
67 it would be of sufficient height to shield the logo on the trailer and truck and that
68 discretion could be left to the judgment of the Zoning Administrator. Mr. Daddario
69 suggested that perhaps the condition could be "screen to be installed of sufficient
70 height to shield the logo on the truck to be approved by the Zoning Administrator".

71 Mt Lanphear made the motion to approve the Home Office Special Exception (HO-SE)
72 with the condition that screening be installed of sufficient height to shield the logo on
73 the truck and that screening be approved by the Zoning Administrator.

74 Direct abutter Jeff Ferentino of 5 St John Street asked the Board to please require no
75 screening, fence or bushes, because there already exists a big water issue between
76 these two lots and any land disturbance for any screening would just make matters
77 worse. Mr. Daddario stated that the lettering on the Applicant's truck is not
78 considered a sign. Mr. Dumont agreed with Mr. Daddario and the Abutter. Mr.
79 McAdams stated that if in the future his neighbor changes his mind, that he is okay
80 with adding screening, but he too would not like to exacerbate the water issue.

81 Mr. Lanphear restated his motion to approve the HO-SE with no condition. Mr. Dion
82 seconded the motion.

83 Mr. Lanphear spoke to his motion stating that the proposed is not provided on-site
84 and is secondary to the principal residential use and will be carried inside and have no
85 external storage or sign and will not present objectionable circumstances such as
86 noise or generate extra traffic to the neighborhood and parking shall be off-street, and
87 be conducted only by the residents of the dwelling and that the vehicle used for the
88 HO-SE is the property owner's personal truck. Mr. Lanphear voted to grant.

89 Mr. Dion spoke to his second and stated that in his opinion all the criteria for a HO-
90 SE have been satisfied noting that the proposed use is for services provided (offsite)
91 and will be secondary to the principal use as a residence with all activity contained to
92 the residence and garage, that there will be no sign or exterior storage or display
93 indicating that the business exists, that there will be no increase of traffic to the
94 neighborhood and parking will be off-street and that the vehicle used for the business
95 will be the property owner's personal truck.

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96 Mr. Martin voted not to grant as only half of the criteria have been satisfied. The
97 criteria satisfied: proposed use is secondary to the principal use as a residence as the
98 bouncy houses will only be stored in the garage if his rental is top be in a closer
99 vicinity to Hudson, that the traffic generated will not be substantially greater in
100 volume to the neighborhood, that parking will be off-street and that there will be no
101 employees at the residence. The criteria not satisfied include that the proposed use
102 does not involve goods produced or services provided on site, that there will be
103 external display of the business as advertised on the owner's vehicle, that there will be
104 objectionable circumstances and there is no screening provided.

105 Mr. Sakati voted to grant as all but three (3) of the criteria have been satisfied and that
106 the criteria that were not satisfied include the fact that the business does not produce
107 goods or service on site and will not be carried on within the residence and that there
108 is exterior evidence of the business with the logo on the owner's truck.

109 Mt Daddario voted to grant as in his opinion all the criteria have been satisfied: the
110 proposed use does provide a service from the site and is secondary to the principal use
111 as a residence and will be carried out within the residence and garage by the resident,
112 and does not display any exterior indication that a business is run at the site as there
113 will be no exterior storage nor will there be any objectionable circumstances such as
114 noise and traffic will not increase in the neighborhood and all parking will be onsite
115 and the vehicle to be used for the business is the property owner's personal truck

116 Roll Call vote was 4:1. Mr. Martin opposed. Motion to grant passed. The 30-day
117 Appeal period was noted.

118 Mr. Nicolas reinstated as the Voting Member. Mr. Dion returned to his Alternate non-
119 voting status.

120 **NEW HEARINGS:**

121 **2. Case 190-162 (03-28-24):** Orrin & Laura Clegg, Trustees of the Clegg Family
122 Revocable Living Trust of **16 Oak Ave., Hudson, NH** [Map 190, Lot 162, Sublot
123 000; Zoned Town Residence (TR)] requests a Variance for the construction of a
124 proposed 16 ft. x 30 ft. addition on an existing nonconforming single family
125 structure (side yard & front setback encroachments) where a nonconforming
126 structure may not be altered or expanded, except by variance. [HZO Article VIII:
127 Nonconforming Uses, Structures and Lots; §334-31 A., Alteration and expansion
128 of nonconforming structures.]

129 Mr. Sullivan read the Case into the record, referenced his Staff Report initialed
130 3/18/2024 and noted that the house is a non-conforming structure and that it was
131 constructed in 1926 prior to the Town having implemented a Zoning Ordinance.

132 Atty. Colin Jean of Nashua, NH introduced himself as representing the Property
133 Owners and that Michael Grainger, LLS, was present to answer any questions. Atty.
134 Jean stated that Oak Street is a dean-end road and the subject property is at the
135 end with a vacant lot to its right. Atty. Jean stated that the house was constructed
136 in 1926 prior to Zoning being adopted by the Town and is deemed a non-conforming
137 lot due to the side setback encroaching approximately two feet and front setback
138 encroachment by about nine feet to requirements of the TR Zone. The GIS map was
139 displayed on the screen. It was noted that most houses on Oak Street are close to
140 the road, not observing the front setback requirement of the TR Zone.

141 Atty. Jean stated that the owners propose to add a sixteen foot (16') wide addition to
142 the right hand side of the principal structure beginning at the foundation after the
143 open front porch that would encompass the two story height of the existing home

144 and would not further encroach the encroachment of the front setback by the
145 existing home and would not encroach the right side setback and would meet all
146 other conditions of the Ordinance for the TR Zone. Atty. Jean stated that allowing
147 the proposed addition would allow the owners to increase the enjoyment of their
148 property without in any way diminishing the intent of the Ordinance

149 Atty. Jean addressed the Variance criteria and the information shared included:

150 (1) *not contrary to public interest*

- 151 • The granting of the variance is not contrary to public interest because the
- 152 requested addition to the existing structure would not further encroach on
- 153 the pre-existing non-conforming setback requirement of the Ordinance
- 154 • All other Zoning regulations are met

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

- 156 • the proposed addition to the existing home will observe the spirit of the
- 157 Ordinances the nature and character of the neighborhood is populated
- 158 by residences constructed prior to the current setback requirements as
- 159 set out by the Ordinance
- 160 • the proposed addition would pose no threat to public health, safety or welfare
- 161 or otherwise injure public rights as the property would be a singly family
- 162 residence and there would be no increase to the existing non-conforming
- 163 use of the property

164 (3) *substantial justice done*

- 165 • Substantial justice would be done to the property owners because there
- 166 would be no harm incurred by neighbors or the community in general
- 167 • The allowance of the Variance would not enlarge the existing setback
- 168 deficiencies
- 169 • The existing non-conforming pre-existing conditions would remain as
- 170 previously recorded, with no intrusion into the setback where the
- 171 proposed addition would be located

172 (4) *not diminish surrounding property values*

- 173 • The value of the surrounding properties will not be diminished as this is a
- 174 well established and long developed area where most properties suffer
- 175 the same pre-existing non-conforming issues relative to the code
- 176 requirements (front setback)
- 177 • The proposed addition would add value to the existing property while not
- 178 enlarging the scope or severity of the existing setback conditions

179 (5) *hardship*

- 180 • Literal enforcement of the Ordinance would result in an unnecessary
- 181 hardship to the property in question because the purpose of the
- 182 Ordinance is to enforce setback requirements in a manner that protects
- 183 the development of property in accordance with the public good, existing
- 184 conditions of the neighborhood and assurance of continued public safety
- 185 and property value
- 186 • The proposed variance to construct an addition to a pre-existing non-
- 187 conforming property that does not enlarge the existing setback
- 188 requirement deficiencies simply serves to enhance an existing residence
- 189 without causing any ill effect contrary to frontage requirements is both
- 190 reasonable and consistent with the intent of the Ordinance
- 191 • Denial of the Variance request would not serve the purpose of the Ordinance
- 192 in a fair and reasonable way

- 193 • The special conditions associated with the subject property and request for
194 the Variance are rooted in the pre-existing non-conforming characteristic
195 of the property and the neighborhood in general
196 • The failure of the property to meet present day setback requirements is
197 directly related o the development of the general area prior to the present
198 day TR requirements
199 • The proposed addition is reasonable given the fact that it will not enlarge the
200 existing setback deficiency or create a new setback deficiency.
201

202 Mr. Lanphear stated that in looking at the GIS, it appears that almost all in the
203 houses in the neighborhood are close to the road and perhaps all could have placed
204 additions to the rear of their structures and questioned why this proposed addition
205 could not be added to the rear of the house. It was noted that there is an existing
206 deck at the rear of the house and the garage and shed are to the rear of the house.

207 Public testimony opened at 7:57 PM. Michael Beauchesne, 10 Oak Avenue,
208 addressed the Board, stated he lives two doors down, that al the houses are old and
209 were built in the 1920's, and is in favor of granting this Variance noting that it will
210 increase property values for the whole neighborhood. Being no one else to address
211 the Board, Public testimony closed at 7:59 PM.

212 Mr. Martin stated that Oak Ave is a dead end roar and that it is not against public
213 interest to add onto home.

214 Mr. Martin made the motion to grant the Variance with no stipulations. Mr. Sakati
215 seconded the motion.

216 Mr. Martin spoke to his motion stating that the proposed Variance will have no
217 further encroachment that the existing encroachment to the front setback, that it is
218 in line with the character of the house and neighborhood and does not pose a threat
219 to the public, that it will increase this property's value and there was no evidence
220 presented that it would decrease other property values in the neighborhood and that
221 the purpose of the setbacks is not triggered here as the addition is within the
222 setbacks considering the setbacks were imposed well after the house was
223 constructed in 1926 and that it is reasonable and customary for a single family
224 home to seek an addition. Mr. Martin voted to grant the motion.

225 Mr. Sakati spoke to his second noting that no further encroachment would occur,
226 that it is not contrary to public interest and will not change the essential character
227 of the neighborhood, that there is no harm to the general public or to individuals,
228 that property values may increase and that an unnecessary hardship would occur to
229 the desire to expand house size and that the proposed use is a reasonable use. Mr.
230 Sakati voted to grant the motion.

231 Mr. Nicolas voted to grant the motion stating that it is not contrary to public interest
232 as other homes are of the same construction and character and the neighborhood
233 will not be altered, that there is no threat to public health, safety or welfare, that
234 harm to the general public is not outweighed by harm to individuals, that
235 surrounding property values will not diminish and that the hardship is on the
236 property when it was constructed prior to the implementation of the TR Zone and
237 that a reasonable use is being proposed.

238 Mr. Lanphear voted to grant the motion as all the criteria have been satisfied – the
239 layout of the property having been constructed in 1926, that there is no threat to the
240 public or safety or welfare, that substantial justice would be done, that it will not

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241 affect property values, and that the hardship due to the setbacks on the house
242 layout keep it with the layout of the house.

243 Mr. Daddario voted to grant the motion noting that there would be no further
244 encroachment, no threat to the public and will be in line with the character of the
245 neighborhood, that it will increase this property's value and that there was no
246 evidence presented that it would decrease other property values and that the
247 purpose of setbacks is not triggered as an addition is within the setbacks as the
248 initial non-conformity resulted from the Ordinance after the house was constructed
249 and that the proposed use is reasonable and customary for a single family home.

250 Roll call vote was 5:0. Motion granted. The 30-day Appeal period was noted.

251 **3. Case 168-038 (03-28-24):** Thomas O'Dowd and Tammy Jordan, **11 Jackson**
252 **Dr., Hudson, NH** [Map 168, Lot 038, Sublot-000; Zoned Residential-Two (R-2)]
253 requests an Equitable Waiver of Dimensional Requirement to allow an 8 ft. x 12
254 ft. shed to remain in its current location which encroaches approx. 5 feet into the
255 side yard setback leaving approx. 10 feet where 15 feet is required. [HZO Article
256 VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional
257 Requirements and NH RSA 674:33-a.II.]
258

259 Mr. Sullivan read the Case into the record, referenced his Staff Report initialed
260 3/18/2024, noted that the house was constructed in 1969 and that the shed has been
261 in existence since at least 2011, that the shed location was noted when a Plot Plan
262 prepared by WSP, Inc. of Merrimack, NH dated 2/22/2024, stamped by David Prince,
263 LLS, was submitted for a proposed three hundred and eight square foot (308 SF)
264 addition and that no comments were received from Town Officials.
265

266 Tom Dowd introduced himself and stated that the shed was there when he purchased
267 the property in June of 2019, that the house was built in the mid 1990's and that he
268 had no knowledge that the shed was located in violation of the setback requirements.
269

270 Mr. Dowd addressed the criteria for the granting of an Equitable Waiver of
271 Dimensional Requirement and the information shared included:
272

273 *Has existed ten years or more*

- 274 • Aerial photos show that the shed has been in existence since 2010
- 275 • Internal Town records show no previous code enforcement that the shed falls
276 within 10' of the property line

277 *No nuisance*

- 278 • It is a small shed within 10' of the property line that abuts a power line
279 corridor which is not used by the abutting property owner
- 280 • The shed is not visible by the abutting property owner
- 281 • The shed is totally within the property, and is into the setback

282 *High Correction Cost*

- 283 • The shed is small (8'x12')
- 284 • The shed is built on a concrete foundation
- 285 • Moving the shed and destroying the foundation is too costly

286
287 Mr. Dumont noted that the shed was too small to require a Building Permit and is why
288 there was no inspection when placed.
289

290 Public testimony opened at 8:13 PM. No one addressed the Board. Public testimony
291 closed at 8:14 PM.

292

293 Mr. Lanphear made the motion to grant the Equitable Waiver of Dimensional
294 Requirement as it has existed for more than ten years, presents no nuisance and is
295 too costly to correct. Mr. Martin seconded the motion noting that there was no
296 Building Permit due to the size of the shed and therefore no inspection was ever
297 performed performed, that it has existed for over a decade with no knowledge
298 communicated that it violated the setback, that it has provided no nuisance and that
299 the cost to correct is too costly.

300

301 Mr. Nicolas voted to grant the Equitable Waiver of Dimensional Requirement stating
302 that it has existed for more than ten (10) years, that it has and does not present a
303 nuisance and that there is too high a correction cost.

304

305 Mr. Sakati voted to grant the motion noting that evidence showed it has existed for
306 more than a decade and has not poised a nuisance and that the cost of correction is
307 too high.

308

309 Mr. Daddario voted to grant the Equitable Waiver of Dimensional Requirement stating
310 that the requirements for the granting have all been satisfied, that it has existed for
311 over ten (10) years as evidenced by Google Maps, that it has poised no nuisance and
312 has never received notice or complaint, and abuts the power line corridor and that the
313 cost to correct is too high, especially considering the concrete pad it resides on.

314

315 Roll call vote was 5:0. Motion granted. The 30-day Appeal period was noted.

316

317

318

319 **V. REQUEST FOR REHEARING:**

320

321 No requests for Rehearing were presented for Board consideration.

322

323 **VI. REVIEW OF MINUTES:**

324

325 02/22/2024 draft Meeting Minutes

326 Board reviewed the draft Minutes presented and discussion/edits were made to Lines
327 245-247, 656-658, 690, and 702-705. Motion made, seconded and unanimously
328 voted to approve the 2/22/2024 draft Minutes as edited.

329

330 03/02/2024 edited draft Site Walk Minutes

331 Motion made, seconded and unanimously voted to approve the 3/02/2024 draft Site
332 Walk Minutes as edited.

333

334

335 **VII. OTHER:**

336 • ZBA (overflow) Meeting- Please reserve **April 11, 2024, 7:00 PM** on your calendar.

337 So noted.

338

339 • **SAVE THE DATE: Saturday, May 11, 2024 from 8:45 AM to 3:30 PM** for the
340 2024 NH Office of Planning and Development's Spring 2024 Planning and Zoning
341 conference. The cost is free. Registration Opens: April 1, 2024. Please note that this

342 year’s conference will be held virtually (online). There will be three tracks including
343 Planning Board, Zoning Board of Adjustment, and Historic Preservation & Housing.
344 Each session will be recorded and available after the conference. More details,
345 including a tentative agenda, will be available soon on the [conference web page](#) or
346 scan the QR code below.



347
348
349 So noted.

350
351 • ZORC – Zoning Ordinance Review Committee – Meeting 4/29/2024 7PM
352 Both Mr. Sullivan and Mr. Martin noted that the process is beginning earlier this year.
353 Mr. Dion and Mr. Lanphear expressed interest in participating. Mr. Dumont stated
354 that anyone can and that it is acceptable to send comments along to the Committee.

355
356 • Warrant Article on open questions to Boards
357 Mr. Sakati noted the Warrant Article and wondered if five minutes should be set aside
358 at the beginning of a meeting for open questions. Mr. Dumont stated that the ZBA
359 does a good job with opening up the meeting for public comment on every Case
360 presented and suggested seeking Town Counsel input.

361
362 **VIII. ADJOURNMENT**

363
364 Mr. Martin made the motion to adjourn, seconded by Mr. Sakati and unanimously
365 voted to adjourn. The 3/18/2024 ZBA meeting adjourned at 8:40 PM.

366
367
368 Respectfully submitted,

369
370 Louise Knee, Recorder

371
372 _____
Gary M. Daddario, Chairman

