



TOWN OF HUDSON

Zoning Board of Adjustment



Normand Martin, Acting Chairman

Dillon Dumont, Selectmen Liaison

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MEETING MINUTES – April 24, 2025 - approved

The Hudson Zoning Board of Adjustment met Thursday, April 24, 2025, 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

IV. SEATING OF ALTERNATES

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

Clerk Dion called the attendance. Members present were Tristan Dion (Regular/Clerk), Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair).and Dean Sakati (Regular). Excused was Zachary McDonough (Alternate). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. It was noted that there would only be four (4) Voting Members where there would normally be five (5) and the Applicants were offered the opportunity to defer their case to the next meeting in hopes there would be five (5) Members present.

V. PUBLIC HEARING OF SCHEDULED APPLICATION BEFORE THE BOARD:

1. **Case 198-077 (04-24-25):** Raffi Massouyan, **14 Lorraine Street, Hudson, NH** requests a Variance to build a detached, 24 ft. x 24 ft., two-car garage with storage above which encroaches into the side yard setback 9.5 ft. leaving 5.5 ft. of setback where 15 feet is required. [Map 198, Lot 077, Sublot-000; Zoned Town Residence (TR); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements.]

Mr. Sullivan read the Case into the record, referred to his Staff Report initialed 4/11/2025 and noted that In-House comments have been received from the Town Engineer, Inspectional Services/Fire Department and the Associate Town Planner. The Town Engineer noted that a driveway permit should be pulled at the same time as the Building Permit. The Fire Department noted that the separation between the existing house and the proposed detached garage is less than five feet (5') so it would require a one-hour fire resistive rating on the exterior wall of the adjacent dwelling. The Associate Town Planner stated that the plan should show easement

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associated with the sewer and that the driveway distances from the side property line.

Raffi Massouyan introduced himself, stated that he wants to add a detached two-car garage on the opposite side of where his driveway is currently and proceeded to address the criteria required for the granting of a Variance. The information shared included:

(1) not contrary to public interest

- there will be very little impact on the aesthetics of the neighborhood
- the goal of the build is to stay within the zoning laws and to make sure the safety of everyone is not jeopardized

(2) will observe the spirit of the Ordinance

- there will be no safety issues or anything to harm the neighborhood
- everything will be supervised during the build and will be carefully monitored
- it will not alter the character of the neighborhood

(3) substantial justice done to property owner

- placing the garage in the proposed spot is the only option due to the size of the lot and the sewer easement

(4) will not diminish surrounding property values

- do not believe I will be doing any harm to the value of my neighbors homes
- am only looking to improve my garage and driveway while keeping everyone's concerns in mind

(5) hardship

- the lot is small
- while looking into redoing the garage, the survey revealed that on one side there is Town sewer
- the only place the two-car garage can be located is on the other side in the proposed space
- the proposed use is reasonable

Meeting opened for public comment at 7:15 PM. No one addressed the Board.

Mr. Martin asked if both driveways would be kept. Mr. Massouyan responded that they would not. Mr. Sakati asked about the existing garage and Mr. Massouyan responded that the existing garage would become part of the house. Mr. Dumont asked the distance of the neighboring garage to the property line and Mr. Massouyan responded that it is about nine and a half feet (9.6'). Mr. Dumont noted that the distance of the new driveway must be at least five feet (5') from the property line. Mr. Lanphear noted that there is approximately three feet (3') between the house and proposed garage and asked why a detached garage is being pursued instead of an attached garage as that could reduce the amount of encroachment into the setback. Mr. Massouyan responded that it was considered but discarded because of the chimney on that side of the house and it would cost more money to attach. Mr. Lanphear asked if the In-House comments received should be conditions of approval and Mr. Sullivan responded that they would be addressed during the permitting process and don't have to be made conditions to the Variance.

Discussion arose on the differences between the TR Zone and the Residential Zone, the recent change to reduce driveway setbacks, whether a precedent was being set, and whether ZORC (Zoning Ordinance Review Committee) should review.

Mr. Lanphear made the motion to grant the Variance as requested. Mr. Dion seconded the motion.

Mr. Lanphear spoke to his motion stating that the granting will bring no change to the neighborhood or threaten public health or safety; that it is in the spirit of the Ordinance; that it is the only location to place the garage due to the sewer line on the opposite side of the house; that it will not diminish surrounding property values; and that hardship is due to the sewer line and that the proposed use is reasonable. Mr. Lanphear voted to grant.

Mr. Dion spoke to his second noting the similar situations in the neighborhood; that it will not alter the character of the neighborhood with similar garages; that justice would be done with no harm to the public; that there would be no diminution to surrounding property values; that the lot is small and has the sewer easement to one side, and that the proposed use is reasonable. Mr. Dion voted to grant.

Mr. Sakati voted to grant as it does not alter the essential character and is consistent with this neighborhood; that there is no threat to safety; that there is no harm to the neighborhood; that there is no evidence or change to the neighborhood; that the hardship is met due to the sewer line on the other side and that the proposed use is very reasonable.

Mr. Martin voted to grant stating that it will not affect or injure public rights; that it observes the spirit of the Ordinance; that substantial justice would be done; that it could possibly enhance surrounding property values; that that hardship is met with the layout of the property and the sewer line on one side of the home does not allow the garage to be placed anywhere else and that the proposed use is reasonable because it cannot be placed on the other side of the building.

Vote was 4:0. Variance granted. The 30-day Appeal period was noted.

At the request of Atty. Hartigan addressed the Board and asked that the third Case (Case 245-012) be addressed next as they wish to request a continuance. Mr. Lanphear made the motion to address Case #245-012 next. Mr. Dion seconded. Vote was unanimous.

2. **Case 200-005 (04-24-25):** Joshua & Caitlin M. Fuentes, **93 Pelham Rd., Hudson, NH** [Map 200, Lot 005, Sublot-000; Zoned Residential-Two (R-2)] requests two (2) Variances:

- A.** A variance to build a proposed 1,003 SF addition onto an existing nonconforming 2-story house where a nonconforming structure may not be altered or expanded, except by variance. The nonconformance is due to Pelham Rd. being a Collector Rd. where fifty (50) feet of front yard setback is required. [HZO Article VIII: Nonconforming Uses, Structures and Lots; §334-31 A, Alteration and expansion of nonconforming structures]

- B.** A variance to allow the nonconforming proposed 1,003 SF building addition to encroach into the front yard setback 16.6 feet leaving 33.4 feet (same as the existing house) where 50 feet is required. [HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements]

Mr. Sullivan read both applications into the record, noted that no in-house comments were received and that the nonconformity of the lot is the result of Pelham Road being classified as a Collector Road with the increased front setback requirement and added that the propose addition requires two (2) Variances – one for the expansion of the non-conformity and one for addition to match the existing house in its encroachment into the front setback.

Variance A: expansion of a non-conforming structure

Joshua Fuentes introduced himself and noted that his contractor, Kevin Allard with Pathway Homes, 79 Courtland Drive, Bedford, NH was also present and available to answer questions if needed. Mr. Allen stated that when they were discussing the expansion, and its expansion onto the left side of the home, he contacted Keach-Nordstrom Associates (in Bedford) to make sure there were no setback violations. After receiving confirmation that there was no violation into the side setback, they proceeded with their plan, and pulled a Building Permit and then discovered that in October 1994 Pelham Road was re-classified to a Collector Road with increased front setback to fifty feet (50'). Mr. Allard stated that the house was originally built in 1960 and honored the front setback until 1994 when Pelham Road was reclassified. Mr. Allard also noted that several houses along Pelham Road were built in what is now considered the front setback.

Mr. Fuentes addressed that criteria required for the granting of a variance and the information shared included:

(1) not contrary to public interest

- the proposed addition will not change the original use and will have no different effect upon the neighborhood
- the proposed addition could be considered a natural expansion of a house built in 1969
- the request is not contrary to public interest as it will not alter the character of the neighborhood or adversely impact public health, safety, welfare or rights
- the existing home was built in 1960 and is located closer than the now required 50-foot setback from Pelham Road
- many of the surrounding existing homes are also located at a similar distance from the roadway
- the location of the proposed addition was limited due to the restrictions from the existing home location, site topography and the layout of the home

(2) will observe the spirit of the Ordinance

- Ordinances change over time creating nonconformities where none previously existed
- in this case, the home was constructed before the road was reclassified and the front setback increased

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- the proposed change is consistent with the character of the neighborhood and the proposed expansion is consistent with the existing use and neighborhood and is not expected to impact the public interest and does observe the spirit of the Ordinance

(3) *substantial justice done to property owner*

- substantial justice is done as the Applicant is restricted by the existing conditions and topography of the property
- the home is located closer than 50 feet from Pelham Road and there is significant elevation change between the front and rear yards of the home
- the options for a reasonable expansion of the existing structure is limited
- the proposed addition is consistent with the existing use of the property and is not expected to negatively impact the public
- the granting of the variance would result in substantial justice being done

(4) *will not diminish surrounding property values*

- the proposed expansion of the structure is not expected to diminish the values of surrounding properties
- the addition is consistent with the current use of the property and the essential character of the neighborhood
- see letter from Rick Cardinal of Century 21 Cardinal dated 4/4/2025 attesting that the proposed addition would enhance the value of the home as well as positively contribute to the overall values of neighboring homes

(5) *hardship*

- the Applicant is restricted by the existing conditions and topography of the property
- the existing home is closer than 50 feet from Pelham Road and there is a significant elevation change between the front and rear yards of the home
- the addition will not change the original residential use and will not impact the neighborhood
- it would not be fair and reasonable to apply the 50' Collector road setback to the addition
- this is a reasonable expansion of a residential use in a residential district
- residential uses are permitted in the R-2 District
- the Applicant is proposing a reasonable expansion to their existing home

Meeting opened for public input. No one addressed the Board. Mr. Martin read into the record a letter received from Martha Dublin, 95 Pelham Road, in support of granting the variance.

General discussion arose that included the purpose of a Collector Road, the topography of the area, aerial review and the completeness of the application.

Mr. Dion made the motion to grant the Variance as requested with no stipulations. Mr. Sakati seconded the motion.

Mr. Dion spoke to his motion noting that the granting will not change the character of the neighborhood; will not harm the public; will not diminish surrounding property values; and hardship is met with the existing house already in the front setback and that the proposed use is a reasonable one. Mr. Dion voted to grant.

Mr. Sakati spoke to his second stating that there would be no change in the character of the neighborhood; that the proposal is consistent with the Ordinance; that it poses no harm to the public; that it will not diminish or change property value; that there is no fair or substantial relationship between the general public purpose of the Ordinance to this application and that the proposed use is a reasonable one. Mr. Sakati voted to grant.

Mr. Lanphear voted to grant stating that granting the Variance will not change the neighborhood or threaten public health or safety; with the newer restriction it is still the only place for the addition; it will help the family and do no harm to the public or individuals; it will not diminish surrounding property values; the hardship is that this is the only place to put the addition and that the proposed use is a reasonable one.

Mr. Martin voted to grant stating that it will not be contrary to the public interest; that it does not conflict with the purpose of the Ordinance; that substantial justice would be done; that expert opinion was received that the value of surrounding properties would not be diminished; that the zoning setbacks were changed after the house was built and there is no other location on the property for the proposed addition and the proposed use is a reasonable use.

Vote was 4:0. Variance granted. The 30-day Appeal Period was noted.

Variance B: allow construction of building addition into front setback

The distinction between the two (2) Variances needed for the proposed addition was vocalized as was the need for both.

Joshua Fuentes stated that the reasons/testimony cited for the first Variance are identical to this one. Public Hearing opened at 7:56 PM and no one addressed the Board. It was noted that both the Realtor letter and the Abutter letter apply to this Variance as well.

Mr. Lanphear made the motion to grant the Variance. Mr. Martin seconded the motion.

Mr. Lanphear spoke to his motion noting that the reasoning is identical as the previous Variance and proceeded to review the criteria noting that each was satisfied. Mr. Lanphear voted to grant.

Mr. Martin spoke to his second stating that he too shared the same reasoning and agreed that each criterion was satisfied. Mr. Martin voted to grant.

Both Mr. Sakati and Mr. Dion both voted to grant each citing that the same reasoning applied as well as the same determination.

Vote was 4:0. Variance granted. The 30-day Appeal Period was noted.

3. **Case 245-012 (01-23-2025)**: Bradford Baker Sr., **23 Fairway Drive, Hudson, NH** requests an Equitable Waiver of Dimensional Requirement to allow a newly built detached 41.3 ft. x 39.6 ft. metal garage on a cast-in-place concrete

foundation to remain which encroaches into both the side and front yard setbacks leaving 13 feet and 22.3 feet respectively where 15 feet and 30 feet are required. [Map 245, Lot 012, Sublot-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. Sullivan read the Case into the record. Atty. Elizabeth Hartigan of Gottesman & Hollis, PA introduced herself as representing the Property Owner and requested a continuance/deferment to the next meeting in hopes that a full Board would be present. Motion made by Mr. Lanphear, seconded by Mr. Dion, discussed and unanimously voted 4:0 to grant the requested deferment.

VI. REQUEST FOR REHEARING:

Case 165-021 Brendan & Julie Burke, 12-14 Gambia Street, Hudson, NH 03051
Variance denied 3/20/2025

Mr. Sullivan read the request into the record. Mr. Dumont asked if any new information has been provided. Mr. Sullivan responded

Mr. Martin stated that Reasonable Accommodation comes into play only if the Variance criteria cannot be satisfied and according to his research it applies to homeowners and cited an example and noted that in this particular Case, the Reasonable Accommodation would never expire because the “family members” keep changing. Mr. Martin also stated that it is the Board’s job to make assessments, to take public input into consideration all with understanding and without prejudice. Mr. Martin added that there was no evidence presented nor that there was an error made in either law of procedure.

Mr. Sakati agreed, that there was no new evidence presented, no error in judgement, that the Board has been incredibly thoughtful to the property owner and even brought in the Town’s Legal Counsel to insure that the Board was doing the right thing.

Mr. Dion made the motion to not grant the request for rehearing. Mr. Sakati seconded the motion.

Mr. Dion stated that nothing has been presented to warrant a rehearing, no new evidence was presented, the Board did not make an error either in judgement or procedurally or in law and to the extent that the Applicant is stating that the Board’s action was discriminatory is just unfounded and contrary to the reality documented in the Minutes and recordings.

Mr. Sakati agreed and voted not to grant. Mr. Lanphear agreed and voted not to grant. Mr. Martin voted not to grant.

Vote was 4:0 not to rehear as no new evidence was presented, there was no error made in law, there were no procedure errors made.

VII. REVIEW OF MINUTES:

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Approved 05/22/2025.

03/06/2025 edited draft Meeting Minutes
03/20/2025 edited draft Meeting Minutes
03/27/2025 edited draft Meeting Minutes

Only the 3/27/2025 draft Minutes were presented and reviewed. Typographical errors were noted on Page 3. Motion made by Mr. Lanphear, seconded by Mr. Martin and unanimously voted to approve the 3/27/2025 Minutes as amended.

VIII. OTHER BUSINESS:

- **REMINDER: Registration is open for the NH Office of Planning and Development's Spring 2025 Planning and Zoning Online Conference, Saturday, May 10, 8:45 AM - 3:30 PM.** Each session will be recorded and available after the conference. The cost is free.

So noted.

IX. ADJOURNMENT:

Motion made by Mr. Lanphear, seconded by Mr. Sakati and unanimously voted to adjourn the meeting. The 4/24/2025 ZBA meeting adjourned at 8:14 PM.

Respectfully submitted,

Normand G. Martin, Acting ZBA Chairman