



TOWN OF HUDSON

Zoning Board of Adjustment



Normand Martin, Acting Chairman

Dillon Dumont, Selectmen Liaison

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MEETING MINUTES – MAY 22, 2025 - Approved

The Hudson Zoning Board of Adjustment met Thursday, May 22, 2025 at 7:00 PM in the Community Development Paul Buxton Meeting Room located 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 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.

Acting Clerk McDonough called the attendance. Members present were Normand Martin (Regular/Vice Chair/Acting Chair), Tim Lanphear (Regular), and Zachary McDonough (Alternate/Acting Clerk). Excused were Tristan Dion (Regular/Clerk) and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Alternate McDonough was appointed to vote. Mr. Martin noted that there were only three (3) Members where there would normally be five (5) and offered the Applicants the opportunity to defer their case to the next meeting in hopes there would be five (5) Members present. A brief discussion and reference to the State Statutes occurred regarding whether an actionable vote would constitute only if all three (3) Members voted the same or whether a majority of two (2) would be actionable. The interpretation was that a motion would pass by majority vote of the Members present.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

DEFERRED HEARING:

1. **Case 245-012 (05-22-25) (deferred from 04-24-25):** 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

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Residential-One (R-1); HZO Article VII: Dimensional Requirements; §334-27, Table of Minimum Dimensional Requirements and NH RSA 674:33-a.I.]

Mr. Martin read the Case into the record along with the email received from the Applicant's attorney, Elizabeth Hartigan of Gottesman & Hollis, PA dated 5/22/2025, requesting a continuance to the next meeting with a full Board present.

Mr. Lanphear made the motion to grant the request and continue the hearing until the next meeting on 6/26/2025. Mr. McDonough seconded the motion. Vote was unanimous at 3:0. Case continued to the June meeting.

NEW HEARINGS:

2. **Case 161-019 (05-22-25):** Richard N. Breault, **72 Windham Rd., Hudson, NH** [Map 161, Lot 019, Sublot-000; Zoned General-One (G-1)] requests two (2) Variances as follows:

A. A Variance to allow a "proposed" additional single-family dwelling (approx. 972 SF) to remain in the rear of the lot. The structure was previously a garage but the dwelling was constructed w/o a building permit thus changing the Use on the lot to three (3) dwelling units or a multifamily dwelling Use where this is not permitted in the General-One (G-1) district. [Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

B. A Variance to allow a "proposed" Accessory Dwelling Unit (ADU) greater than 750 SF in the basement of the principal structure to remain where the size of an ADU shall not be greater than 750 square feet. The ADU currently exists constructed w/o a building permit. [Article XIII A: Accessory Dwelling Units; § 334-73.3 H. Provisions]

Mr. Sullivan read both Variance applications into the record, referenced his Staff Report dated 5/22/2025, noted that both were constructed without Building Permits or Inspections and that Inspectional Services/Fire Department commented that both will have to be assessed to determine compliance to current State Adopted Building and Fire Codes and that the Associate Town Planner noted that Site Plan approval would be required if the Variance is granted for the detached dwelling unit. It was also noted that the first violation was noted in 2012 and according to the Property Owner then, the Accessory Dwelling Unit was removed and house returned to single-family status.

Richard Breault introduced himself, stated that he purchased the property five to six years ago with the intention to get out of the city and retire so he could have his family around him and a place for his grandchildren to come and run around. About a month after signing papers, his wife speech started to slur. He has a disabled son who is blind and has been raising a grandson since he's been around eleven and who is about to turn eighteen. His wife was diagnosed with ALS and after forty-eight years of marriage, she passed away a year later. It has all been overwhelming. He reached out to his other son and stated that he needs help. He

bought the house with the kitchen already downstairs but it was listed as a single family and he thought nothing of it because the downstairs is an open concept big game room and the kitchen is only used when they have outside barbecues. He was totally unaware permits were not pulled and the only improvements he has done is to replace the old heating system and lay down some laminate flooring and hired Window World to replace old windows. Mr. Breault asked that his son be allowed to address the applications.

Variance A – conversion of detached garage to dwelling unit

Mr. Breault addressed the criteria for the granting of a Variance and the information shared included:

(1) not contrary to public interest

- the proposed use of the building as living space does not conflict with the character of the neighborhood
- the structure has already been transformed into a dwelling unit and is not being use for any commercial or high=-traffic purposes
- it will remain a residential use
- the use is consistent with surrounding properties and poses no threat to public health, safety or welfare

(2) will observe the spirit of the Ordinance

- the spirit of the Ordinance is met as the transformation of the garage into a residence retains the intended residential use of the property in a low-density zone
- the new living space does not increase density beyond what is typical or permitted I the area and the unit is consistent in design and use with other properties in the neighborhood

(3) substantial justice done to property owner

- Without the variance, the owner would suffer financial and personal hardship from having created a safe and livable dwelling space that now cannot be legally occupied
- The variance would allow the property owner to use the space as intended without negatively affecting the community or neighbors

(4) will not diminish surrounding property values

- the structure has already been converted to a neat modern residential unit which improves the overall appearance and usability of the property
- there are no commercial or disruptive elements
- nearby properties will not be affected in value and the neighborhood's character is preserved

(5) hardship

- the property had an existing garage structure that was converted into livable space
- it is a unique lot in terms of layout and topography and the use as a second dwelling unit is appropriate to the space without overcrowding
- the restriction creates a hardship by not allowing use of an already existing and improved structure

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- the property is large enough to support multiple units without causing overcrowding or place a strain on utilities
- the garage-to-living space conversion makes practical use of the space while maintaining the residential nature of the area
- it does not alter the look or density of the neighborhood

In response to Board questions, Mr. Breault stated that he did add electric heat but noted that the space already had electricity and that the property was transferred/purchased in 2019. Mr. Lanphear noted that according to Zilla it was listed as a “finished family”. Mr. Dumont noted that changes are being considered in the legislature is changing and it may soon allow detached ADUs as well as greater square footage.

Meeting opened to public comment at 7:29 PM. No one addressed the Board.

Mr. Lanphear made to motion to grant the Variance allowing the second dwelling unit onto the property. Mr. McDonough seconded the motion.

Mr. Lanphear spoke to his motion noting that the granting is not contrary to the public interest and does not threaten public health, safety , welfare or otherwise injure public rights; the spirit of the Ordinance is observed; that substantial justice is done to the property owner in the granting if the variance; that there has been no decline to property values; that it was an established ADU (Accessory Dwelling Unit) prior to the current owner, and that it is a reasonable use. Mr. Lanphear voted to grant.

Mr. McDonough spoke to his second noting that that is no change to the neighborhood; that it is a reasonable use; that justice is done; that there is no harm to the general public; that there is no diminution to property values; and that the changes were made by the previous property owner. Mr. McDonough voted to grant.

Mr. Martin voted to grant noting that the granting would not be contrary to public interest, that it ill observe the spirit of the Ordinance, that substantial justice would be done to the property owner, that it would not diminish surrounding property values, and that hardship exists because the ADU was put in by a previous owner and that the proposed use is reasonable.

Vote was 3:0. Variance granted. The 30-day Appeal Period was noted.

Variance B – ADU > than 750 SF in principal dwelling unit

Mr. Breault stated that the ADU existed when the property was purchased, that all they have done to it is upgrade the flooring, that it is not used as an ADU but as a game room, that it provides a bedroom for him, that his son and grandson sleep upstairs, and that their responses to the variance criteria are the same as with their first Variance request.

Mr. Dumont stated that if the kitchen was eliminated, then a variance would not be needed. Mr. Sullivan agreed, in theory, and added that there is historical precedence and evidence that these types of corrections don't last long, that as soon as the Town's attention is diverted elsewhere, the ADU resumes and noted that this occurred at this residence in 2012 where written testimony was received from the then property owner returning the building back to single-family. Mr. Dumont asked if a reasonable accommodation could be considered as his son is disabled. Mr. Sullivan stated that a Variance would still be needed for the size.

At 7:42 PM, meeting opened for public comment. No one addressed the Board.

Mr. Lanphear made to motion to grant the Variance allowing the ADU (Accessory Dwelling Unit) of greater than 750 SF in size. Mr. McDonough seconded the motion.

Mr. Lanphear spoke to his motion noting that the granting will not change the public health, safety or welfare or safety, it will not conflict as the ADU was built many years ago with no threat to public health, that it does not conflict with the spirit of the Ordinance and does not harm the public, that it does not diminish surrounding property values, that the ADU has existed for many years before the proposed owner purchased and moved in and bought from a Real Estate person who listed the existence of a "finished basement" prior to 2019, and that the proposed use is a reasonable one. Mr. Lanphear voted to grant.

Mr. McDonough spoke to his second noting that the public is not harmed and the property remains visually in line with the character of the neighborhood, that the ADU fits the spirit and does not harm the public, that the property was purchased this way and it would be an unnecessary hardship to not allow this use, that the house was purchased due to this feature, that this feature adds value and it would be an unnecessary hardship to not allow, that the proposed use is a reasonable one and would be a reasonable accommodation for a disabled person. Mr. McDonough voted to grant.

Mr. Martin voted to grant noting that it would not affect public rights, that it observes the spirit of the Ordinance, that substantial justice would be done in the granting, that it will not diminish the values of surrounding properties and that hardship exists prior to this property owner causing this hardship, and that it is a very reasonable use.

Vote was 3:0. Variance granted. The 30-day Appeal period was noted.

VI. REQUEST FOR REHEARING: No requests were presented for Board consideration.

VII. REVIEW OF MINUTES:

03/06/2025 edited draft Meeting Minutes
03/20/2025 edited draft Meeting Minutes
04/24/2025 edited draft Meeting Minutes

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Motion made by Mr. Lanphear, duly seconded by Mr. Martin and unanimously voted to approve the 4/24/2025 Minutes as presented

VIII. OTHER BUSINESS:

Mr. Sullivan stated that there is a new Member to the Board.

IX. ADJOURNMENT:

Motion made by Mr. Lanphear, seconded by Mr. Martin and unanimously voted to adjourn the meeting. The 5/22/2025 ZBA Meeting adjourned at 7:46 PM.

Respectfully submitted,

Normand G. Martin, Acting Chairman