



# TOWN OF HUDSON

## Zoning Board of Adjustment



J. Bradford Seabury, Chairman

Marilyn McGrath, Selectmen Liaison

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

### HUDSON ZONING BOARD OF ADJUSTMENT MEETING MINUTES August 27, 2015

#### I. CALL TO ORDER

Mr. Martin called this meeting of the Hudson Zoning Board of Adjustment to order at 7:30 pm on Thursday, August 27, 2015, in the Paul Buxton Meeting Room in the Town Hall basement. Mr. Martin then requested Clerk Dearborn to call the roll. Those persons present along with various applicants, representatives and interested citizens, were as follows:

##### **Members**

**Present:** Normand Martin, Donna Shuman, Jim Pacocha

##### **Members**

**Absent:** J. Bradford Seabury, Maryellen Davis

##### **Alternates**

**Present:** Clerk Gerald Dearborn, Kevin Houle, Maurice Nolin, Charles Brackett

##### **Alternates**

**Absent:** None

##### **Staff**

**Present:** Dave Hebert, Town Liaison

##### **Other**

**Present:** Marilyn McGrath, Selectman Liaison

**Recorder:** Melissa Mack

#### II. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Mr. Martin is seated as Chairman in place of Mr. Seabury this evening. Mr. Nolin is seated for Ms. Davis and Mr. Brackett is seated for Mr. Seabury.

For the benefit of all attendees, Mr. Martin noted that copies of the agenda for the meeting, as well as an outline of the rules and regulations governing hearings before the Zoning Board of Adjustment, were available at the door of the meeting room. He noted the outline includes the procedures that should be followed by anyone who wished to request a rehearing in the event the Board's final decision was not felt to be acceptable.

Mr. Martin pointed out that the Board allowed re-hearings only if collectively convinced by a written request that the Board might have made an illogical or illegal decision or if there were positive indications of new evidence that for some reason was not available at the hearing.

The curfew for the meeting is 11 pm.

Mr. Martin advised there is no smoking inside the building. Please turn off cell phones or put them on vibrate.

### **III. PUBLIC HEARINGS OF SCHEDULED APPLICATIONS BEFORE THIS BOARD**

- 1. Case 210-010 (8-27-15): Dan Lamb c/o Presentation of Mary Academy, 182 Lowell Road, Hudson, NH, requests a Variance to construct a compliant gym addition that includes a stair and elevator tower to serve all floors of the existing non-compliant structure that will exceed 38 feet in height. [Map 210, Lot 010; Zoned R-2, HZO Article III & VIII, Section 334-14 & 334-31, Building Height & Alteration and Expansion of Non-conforming Structures.]**

Clerk Dearborn read aloud the posted notice, as recorded above.

Mr. Dennis Mires, Architect, approached the podium. Also present are Sister Henry and Dan Lamb, Facilities Director of PMA campus.

Mr. Mires presented the proposal. The GIS tax map on the video screen shows the main facility. There is a pre-existing non-conforming building which is the tallest building in Hudson. It was built prior to the existing height ordinance. The building has four floors with basement and is set a great distance back from the road. The addition is proposed for the North end of the building. They do not anticipate set-back issues. They are here before the Board to request a Variance to add to the existing non-conforming building. The elevator, stair tower and porches will be enclosed. The addition is a gym on the North side of the building which will have a stage and pull-out bleachers. It will be a multi-purpose facility for the K-8 educational program.

In front of the building will be a one story canopy to receive visitors to the gym and will divide the traffic for pick-up and drop-off. Kids can queue up under the canopy for pick up and drop off. The gym addition will be fully compliant. The newly enclosed elevator and stair towers will connect the existing building to the new addition.

Application Questions:

1. The K-8 school is a permitted use and has been operating in this 4-story building for many years. The addition exceeds the Ordinance height limit as it provides egress stairs and elevator access to all floors of the existing non-conforming structure.
2. The addition will not alter the essential character of the neighborhood as it is directly adjacent to the existing building and far removed from abutters and the street.
3. Substantial justice will be achieved by providing code compliant egress stair and ADA compliant access to all floors of the existing building with no impact to the general public or other individuals.

4. The proposed use will not diminish the surrounding properties since it is architecturally similar to the existing building, remote from abutters and continues a permitted use.
5. Since the existing building exceeds the height limit of the Town, the compatible addition that does not exceed the existing height is a reasonable addition and the life safety and accessible aspects of the addition are reasonable given the height of the existing building.

Mr. Martin asked Mr. Hebert why this case is before the Board.

Mr. Hebert advised they are before the Board seeking a Variance to add a 25,400 sq. ft. gymnasium addition, exceeding maximum height of 38'. It exceeds the max height allowed by 18'. The total height will be 56'. The addition will add ADA compliance and egress to that existing building.

Ms. McGrath asked if the Hudson Fire Department had submitted any documentation on the request being proposed.

Mr. Pacocha noted that PMA probably did not get Fire Department approval because the existing building already exceeds the height limit.

Mr. Brackett reaffirmed that the issue before the Board is the tower because it's taller than 38'. It will be 56' high.

Mr. Mires noted that the existing elevator is undersized and not ADA compliant. Current building is fully compliant with sprinklers as will be the addition. The entire building is also compliant with fire alarms as will be the addition.

Mr. Brackett asked what will happen to the existing elevator. Will they keep it?

Mr. Mires noted they will keep it but it will be used as a service and freight elevator. He advised that PMA did do a preliminary review with the Fire Department and that they are also on the schedule for the next Planning Board meeting. The Fire Department advised putting a firewall in between the two buildings so there will be no impact to the existing building and that is in the plan. Ladder reach did not come up in the meeting with the Fire Department.

Mr. Brackett noted there is no documented record that the Fire Department has approved and he would like to see this get documented to ensure everyone has given their input.

Ms. McGrath asked what the tower is going to contain.

Mr. Mires noted it will enclose the existing porches, house new stairs and house an elevator that will serve four floors.

Mr. Pacocha asked if, during the meeting with the Fire Department, they saw all of the design plans.

Mr. Mires advised they saw conceptual designs. They saw how high the addition was. They suggested to treat as a separate building code-wise.

Mr. Brackett motioned to defer until PMA gets Fire Department's approval.

Ms. Shuman seconded the motion.

Mr. Brackett spoke to the motion. He has no problem with the request but wants Fire Department input to ensure compliance.

Ms. Shuman spoke to the second. She agrees with Mr. Brackett.

Mr. Martin advised they should be able to get input for September's meeting of 9/24.

Mr. Mires asked if deferring the motion jeopardizes their place on the agenda at the next Planning Board meeting.

Ms. McGrath advised they can still go before the Planning Board as a discussion. However, they cannot accept the application without ZBA Variance approval.

VOTE: Mr. Martin asked Clerk Dearborn to poll the Board on the motion and to record the members' votes, which were as follows:

Mr. Pacocha	To defer
Mr. Martin	To defer
Ms. Shuman	To defer
Mr. Nolin	To defer
Mr. Brackett	To defer

Mr. Martin declared that there having been five votes to zero, the motion is deferred to the September meeting.

- 2. Case 252-044-001 (8-27-15): Anthony & Stephanie Sabetti, 15 Nicole Drive, Lowell, MA, requests a Special Exception for an Accessory Living Unit (ALU) to be constructed within the basement of the existing single-family dwelling located at 32 Pine Road, Hudson, NH. [Map 252, Lot 044-001, Zoned G-1; HZO Article V §334-73.1, Accessory Living Unit.]**

Clerk Dearborn read aloud the posted notice, as recorded above.

Mr. Hebert advised the applicants are seeking a special exception. The existing home is a single family dwelling on a five acre lot in a G1 district.

Anthony Sabetti approached the podium. He and his wife are buying the house on Pine Road. Louis Hunter is also present. He is the father-in-law of Anthony Sabetti and, with this wife, Linda, will inhabit the in-law ALU. Also present are Stephen Hir, a builder from Town and Tony Ducharme, the Realtor. The intention is to have Town trades people do the work.

They are proposing a 900 sq. ft. in-law apartment in the basement with egress to a breezeway attached to the garage. Plot plans and construction plans have been provided to the Board.

As part of the application, an authorization letter has been provided, signed by the current owner of the home, Geraldine Dupont. The letter states “To whom it may concern, I, Geraldine Dupont, owner of 32 Pine Road, Hudson, NH, 03051 do hereby give authorization for Lewis Hunter, Linda Hunter, Anthony Sabetti and/or Stephanie Sabetti to speak on my behalf in regards to the application.”

A copy of the Purchase and Sale Agreement is also included in the application package.

Application Questions:

1. The ALU will be located in the basement, separate from the primary kitchen and bedroom area of the one-family.
2. The ALU will be located in the basement, see plans.
3. Stephanie Sabetti’s parents, Lewis and Linda Hunter, will reside in the ALU.
4. See drawings.
5. Proposing egress out left side into the breezeway. Stairs to primary house will remain intact. See drawings.
6. All utilities will be billed to principal dwelling. There will only be one electric meter, one propane tank and one septic system.
7. See drawings of proposed extension of current driveway.
8. ALU will be 900 sq. ft., with no encroachment on principal home.
9. All fire codes will be met.

All the items on the application have been initialed by all four applicants (Stephanie Sabetti, Anthony Sabetti, Lewis Hunter and Linda Hunter).

Mr. Martin advised that if/when the home is sold; the new owners cannot use the ALU as an in-law apartment. The new owners would have to come before the Board again for approval.

Mr. Sabetti advised he wants to build a better life for his family in Hudson. They will be hiring local employees and look forward to enrolling their children in the Hudson school system.

Tony Ducharme, Realtor for the application, approached the podium. He lives in Hudson and vouches for how much the family wants to live in Hudson.

Stephen Hir, Builder, also approached the podium. He has built two in-laws in the neighborhood and is familiar with conforming to the look of the home. The addition will look like a Great Room on the side of the house and will add to the neighborhood.

Ms. McGrath noted that the plan submitted to the Board shows a proposed driveway and garage; however, according to the tax records the home already has a garage.

Ms. Sabetti confirmed they are adding on a second attached garage, separate from the existing garage.

Ms. Shuman asked if the home has been closed on yet.

Mr. Sabetti advised the closing is scheduled for the next day (8/28/15).

Ms. Shuman is hesitant to grant an ALU to someone that doesn’t yet own the home. Her issue is that often times closings end up not happening and then the Board will have granted an ALU to someone that will not end up living there.

Ms. McGrath advised that, if this is an issue for the Board, to defer the granting of the ALU to the next ZBA meeting. At that point the closing will have happened.

Mr. Brackett asked if the approval of the ALU was a condition of the sale.

Mr. Sabetti advised it is not, they will buy the home regardless.

Mr. Ducharme, Realtor, noted that the reason for the existing homeowner signing the letter was to get around the fact that the closing had not yet taken place. He noted that a copy of the Purchase and Sale Agreement was also enclosed in the application package.

Mr. Brackett suggested the Board could approve with a stipulation that they must close and if they don't the approval is void.

Ms. McGrath advised that even if the Board gives conditional approval, keep in mind that anyone can appeal the decision of the Board within 30 days. It would be wise not to start construction until that 30 day period expires.

Mr. Brackett noted that he's having a problem with the proposed second garage because it will be harder to convert the home back to a single family dwelling when the house is sold.

Mr. Pacocha noted that if the Board approves the ALU and the applicant's don't close, nothing can be done on the home anyhow so he's not sure what purpose it serves to put in the stipulation.

Ms. McGrath noted that once a Variance is granted it goes with the land, it doesn't go with the owners. As indicated in the application, if they sell the property the ALU approval ceases to exist.

Ms. McGrath advised there are two ways to go about this: 1. Defer until after they close. 2. Approve with the stipulation that they must close and also that they don't start construction until proof is provided that they own the property.

Mr. Brackett advised he would be more comfortable deferring it. However, he is still having a hard time with the proposed second garage.

Ms. McGrath confirmed with Mr. Sabetti that there will be two garages. The entire second driveway and garage would have to be removed if they sell since ALU becomes obsolete.

Discussion took place about alternatives for the second garage. Mr. Sabetti advised he can't add on to existing garage because of septic.

Mr. Dearborn advised that if sold, the property could be re-sold as an ALU.

Mr. Ducharme advised he sells a lot of homes in NH and MA. When an in-law exists and the property is sold, the deed states that the new owners have to go back in front of the Board to re-apply for the ALU.

Mr. Brackett noted that part of the ALU process is to make it easy for the next owner to remove the ALU (the driveway and extra garage in this case).

Mr. Brackett made a motion to defer.  
Ms. Shuman seconded the motion.

Mr. Brackett spoke to his motion: Since the applicants do not yet own the property, he would be more comfortable granting the ALU after the closing.

Ms. Shuman spoke to her second. She agrees with Mr. Brackett.

Mr. Pacocha noted that since the existing plan isn't too appealing to some members of the Board, if the motion is to defer, then the Board should discuss alternative plans with the applicants.

VOTE: Mr. Martin asked Clerk Dearborn to poll the Board on the motion and to record the members' votes, which were as follows:

Mr. Brackett	To defer
Ms. Shuman	To defer
Mr. Pacocha	Not to defer
Mr. Martin	To defer
Mr. Nolin	Not to defer

Mr. Martin declared that there having been three votes to two, the motion to defer until September 24 carries.

Mr. Martin advised that the second garage could be the sticking point at the next meeting.

#### **IV. APPROVAL OF MEETING MINUTES**

No meeting minutes discussed.

#### **V. CLOSING DISCUSSIONS**

No closing discussions or announcements.

#### **VI. ADJOURNMENT**

Ms. Shuman motioned to adjourn.

Mr. Brackett seconded the motion.

VOTE: All members voted in favor. The motion passed unanimously.

Mr. Martin declared the meeting adjourned at 8:42 PM.

Date: August 27, 2015

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Normand Martin, Acting Chairman