



TOWN OF HUDSON

Zoning Board of Adjustment

Gary M. Daddario, Chairman Dillon Dumont, Selectmen Liaison

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MEETING MINUTES – January 23, 2025 - draft

The Hudson Zoning Board of Adjustment met on Thursday, January 23, 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

Chairman Daddario called the meeting to order at 7:06 PM, apologized for the delay, 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 Martin called the attendance. Members present were Gary Daddario (Regular/Chair), Tim Lanphear (Regular), Normand Martin (Regular/Vice Chair) and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Tristan Dion (Regular/Clerk) and Zachary McDonough (Alternate). All Regular Members voted, no Alternate was appointed to vote. Mr. Daddario noted that there would be only four (4) Members voting when there are normally five (5) and offered the opportunity to continue a hearing to the next meeting in hopes that there would be five (5) Members present.

V. PUBLIC HEARING OF SCHEDULED APPLICATIONS BEFORE THE BOARD:

1. **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 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, referenced his Staff Report and noted that Inspectional Services/Fire Department supplied comments that noted that the structure was built without a Building Permit and that the Foundation Only Permit clearly stated that a certified foundation plan is required prior to the issuance of a Building Permit.

48
49 Bradford Baker of 23 Fairway Drive introduced himself, stated that he hired a
50 contractor to place the foundation and erect the building. The rebar and forms
51 were inspected and the foundation poured. Once the concrete cured we raised the
52 kit for the roof supports in order to get the material off the ground and the project
53 started. It was many months before he returned to do the rest. When I went to
54 print a copy of the permit I then realized I needed an as built certified plan and
55 immediately hired a surveyor only to reveal that this discrepancy occurred. It was
56 discovered well after the fact.

57
58 Mr. Baker stated that it is his belief that the contractor misread the plot point when
59 he measured and by all outward appearance of the form, the placement appeared to
60 be correct. The intent was to follow the proposed design meeting all setbacks. It
61 was an innocent mistake and only discovered with the as built plan and does not
62 cause a nuisance as the building is only a few feet from its intended position and
63 still within the property and won't change the building's appearance. Mr. Baker
64 stated that there will be no vehicles pulling into the garage from the street as the
65 garage doors will face backwards towards the Target industrial property and the
66 front of the garage will resemble a residential home. Mr. Baker stated that he
67 understands folks have taken issue with the current appearance of the structure
68 and offered the fact that it is not yet complete, there is to be siding on it, with
69 windows and will resemble a resemble a home, not an industrial building, and a
70 rendition was posted. Mr. Baker added that he basically lives on a corner and there
71 is very little traffic, that in fact there no reason for anyone to travel except to visit
72 his neighbor or himself.

73
74 Mr. Baker stated that to relocate the garage would be a total loss of the materials
75 used and expenses up until this point – approximately \$65,000 plus the demolition
76 cost and noted the negative impact that would result.

77
78 Mr. Baker also submitted an email dated 1/19/2025, from his direct abutter
79 Samantha King, 21 Fairway Drive, who has no issue with the placement and
80 supports his request. Mr. Dumont inquired about the proposed fencing she
81 mentioned and Mr. Baker confirmed there is no issue for either the plantings or the
82 fence.

83
84 Mr. Sakati asked for a recap of the timeline as it appears to him that it has lasted
85 for more than a year. Mr. Baker confirmed that it has been a long time, that this
86 contractor did not want to pour the foundation and he had to fine someone else and
87 he contacted many who just ended up ghosting him. Discussion ensued that
88 included alternatives to extending the foundation and moving the structure out of
89 the front setback by panels, if at possible. Discussion branched to other Cases the
90 Board has reviewed where the foundation was laid that violated setbacks.

91
92 Public testimony opened at 7:26 PM. The following individuals addressed the
93 Board:

94 (1) James Crowley, 4 Fairway Drive where he has lived for over thirty years
95 and submitted two (2) complaints, 12/21/2024 and submitted pictures
96 taken of the property. Mr. Crowley stated that his presentation would last

97 about ten (10) minutes and referenced his complaint. “It was discovered
98 too late” common since one does not take placement on a plan. “Need to
99 get material off the ground” just sets a sense of urgency where it could
100 just have been covered. Hard to believe he didn’t know he needed a
101 certified plan when he pulled the foundation permit himself and he never
102 pulled a framing permit. It was not an innocent mistake. With regard to
103 “no nuisance”, please see photograph 2 and 3 and see how it does not
104 resemble a single family home especially when one realizes that over 80%
105 of the driveways in the neighborhood have attached garages. And size
106 does matter, this is the largest and of you look at the pictures, there’s
107 easily going to be a second floor. The burden of proof is upon the
108 applicant. With regard to the high correction cost, it is because the owner
109 did not do his job and demolition and removal would improve the
110 neighborhood

111
112 Mr. Martin noted that there are second floors on the pictures submitted. Mr.
113 Sullivan responded to Mr. Crowley’s concern, that there will be inspection
114 during the building process so the Town will know if there is a second floor.
115 Discussion then led to roof types, and the definition of gambrel. Mr. Dumont
116 stated that the second floor is moot, just as is the “look” of it, and the Board
117 will always make the assumption that an applicant speaks truth. Mr.
118 Daddario concurred and noted that the applicant did pull a foundation
119 permit and Mr. Sullivan confirmed that the applicant stopped construction
120 until he came before the Board to seek and Equitable Waiver.

121
122 (2) Lynn Ashworth, 25 Fairway Drive, direct abutters, while the structure/
123 garage is non-compliant and the design does not fit the neighborhood – no
124 one the the neighborhood has a quonset hut and this will impact
125 surrounding property values.

126 (3) Richard Speer, 22 Fairway Drive, across the street for about 25 years and
127 stated that he is not opposed to a garage but this building is very tall and
128 very wide. Mr. Sullivan stated that the original plan was for a much
129 larger structure. Mr. Speer correlated the proposed garage to an army
130 structure, commonly called a quonset hut, and this one looks like it will
131 accommodate 8 vehicles. It is too close to the road. And it will negatively
132 impact their property values and cited examples. And looking at the lot,
133 there seems to be enough land to place the garage to the back of the
134 house and there are two neighbors who had to move their sheds out of
135 their front setback, so what is being asked is not unusual.

136 (4) Rita Banatwala, 29 Fairway Drive, 300’ away, noted that the structure is
137 very visible and because of it’s height, the encroachment is huge, the
138 nuisance issuance issue does matter, it does not fit into the
139 neighborhood, and yes a mistake was made but then it sat there and sat
140 on the lawn for almost a year.

141
142 Mr. Dumont clarified his previous statement – the Zoning Board get to decide
143 on Use, not style or type of a structure. Mr. Daddario concurred and stated
144 that even though the Board appreciates hearing people’s concerns, they are
145 restricted in what they can consider. Mr. Lanphear noted that if the

146 structure had not violated the setbacks, he would not be in front of the
147 Zoning Board. Mr. Sullivan confirmed that there is no Planning Board
148 involvement for a garage within setbacks.
149

150 (5) Edward Thompson, 22 Burns Hill Road, stated that when he did his
151 garage, he had inspections along the way and would it have been flagged
152 then. Mr. Sullivan stated that only occurs when the certified as built plan
153 is prepared.. Mr. Thompson stated that the fact remains that it is a
154 commercial building in a residential zone and he is opposed to it.
155

156 Mr. Martin stated that if the foundation was laid out of the setbacks, the applicant
157 would not need to be in front of the Board. Discussion ensued. The intended Use
158 of the building is not in front of the Board. Mr. Sullivan stated that he has emails
159 that it is not intended for commercial Use.
160

161 (6) Jerome Bento, 7 Muldoon (sp?) Drive, and has lived there since 1988 and
162 echoes all the previous speakers and would like to also focus on the
163 'substantial justice' to the homeowner and the negative benefits to the
164 neighbors
165

166 Mr. Daddario stated that the application before the Board is not for a Variance, that
167 there are only four (4) criteria when reviewing the validity of an Equitable Waiver of
168 Dimensional Requirements and that does not include looking at Hardship or
169 Impact/Substantial Justice.
170

171 Mr. Bento apologized. Mr. Bento stated that he is still opposed to the
172 project and does not see why the applicant does not go back to the
173 contractor or surveyor or whoever was involved for remediation. It is not
174 for the Town to endure this loss.
175

176 (7) Kerry Nevin, 3 Eagle Drive, stated that she has been a resident of Green
177 Meadow Estates for forty plus (40+) years and have had to deal with a lot
178 over recent years, like Amazon and Target, and should not have to deal
179 with this setback issue. She has never seen such a monstrosity
180 built/constructed built in the front yard and so close to the neighbor and
181 asked who would ever want to live with this right next door and assumes
182 many folks in Green Meadow feel the same and knows that several emails
183 have been sent in opposing this project. Ms. Nevin questioned the
184 purpose of this extremely large 'garage', is it going to be a business, either
185 parking of its equipment or storing of its materials – and if it is, this is not
186 the right location for it. It is the largest garage she has ever seen – and
187 the garages in the neighborhood are only about 500 SF and this one is
188 over 1,600 SF. This 'garage' is not compatible with the neighborhood and
189 noted that most garages in the neighborhood are in their backyards, not
190 the front yard and none are constructed out of steel. This will impact our
191 property values negatively and is concerned their front yard will be used
192 as a parking lot. The Owner simply did not comply. Ms. Nevin asked who
193 addresses the style of a structure that is allowed in Town?
194

195 There was some discussion regarding the size and the fact remains that there are
196 several garages in Town that are this large and in people's front yard and that the
197 Board has no say in the matter of size, just whether the size fits onto the property
198 and out of the setbacks.

199

200 (8) George Powell, 18 Par Lane, stated that he agrees with what his neighbors
201 have testified and if he was sitting on the Board he could not be happy to
202 approve this Equitable Waiver to it being where it is.

203 (9) Todd Boyer, 2 Merrill Street, stated that he does not live close to this
204 project but he has built structure in this Town before and explained the
205 process, the need for a certified plot plan and how that is intended to be
206 corrected and prevent a structure from being constructed in a setback.
207 The applicant stated that he had a surveyor do the survey and yes it will
208 cost some money to correct.

209

210 Being no one else to address the Board, Mr. Martin read the two (2) emails received.

211

212 (10) Email dated 1/19/2025 from Chris Mulligan, 23 Fairway Drive, who
213 has lived there for 30 years and voiced his opposition and stated it "will
214 establish a terrible precedent in the neighborhood and the town as it will
215 clearly suggest that you can build anywhere you want without regard for
216 town requirements, and as long as you build fast enough and there are
217 significant costs involved, you can simply ask for forgiveness."

218 (11) Email dated 1/21/2025 from Scott Wade, I Fairway Drive, in
219 opposition of the proposal and stated that it is not up to the Town to
220 rectify the property owner's mistake, innocent or not.

221

222 The Applicant was given the opportunity to address the comments just heard. Mr.
223 Daddario noted that the size and design do not factor in the criteria nor the Board's
224 decision; however, several concerns were raised regarding and asked Mr. Baker to
225 comment. Mr. Martin objected to hearing about the Use, it is intended for personal
226 Use for the parking of vehicles and if it is not, then that would become a Code
227 Enforcement issue. Mr. Martin left the room. Mr. Dumont stated that the only
228 reason he mentioned it was that it adds, to his mind, whether or not it is a nuisance
229 or not, and the reason for Zoning pertains to safety and health, not architecture.
230 Mr. Sakati concurred, that it would not factor into his decision and he is curious.

231

232 Mr. Baker stated the intended Use is purely residential, that they have fairly
233 sizeable property right on the river with a lot of landscaping in the backyard and
234 that have a lot of agricultural equipment like tractors that they use to maintain
235 their property and he owns six (6) vehicles registered to him. Mr. Baker stated that
236 he runs a business, has a separate building in Town, larger than this one with a ten
237 (10) year lease. Mr. Martin returned to the meeting room.

238

239 Mr. Martin thanked Mr. Crowley for all the information he provided and commented
240 on the other garages in the neighborhood and over time and noted that the State
241 has changed the requirements from having to satisfy one of the criteria to having to
242 satisfy every criteria. Mr. Martin stated that in his mind, this has satisfied two(2)
243 and did not satisfy two (2).

244
245 Mr. Dumont questioned which criterion was not satisfied. Mr. Martin responded
246 “discovered too late”. Discussion ensued on the process. Mr. Dumont commented
247 that the Board has heard many such cases based on the result of a certified plot
248 plan and maintained that it may be different but the process is the same. “Innocent
249 mistake” is also debatable. Mr. Martin noted that an Equitable Waiver used to
250 apply to something “old”, that has existed for over a decade and to his way of
251 thinking, the property owner should have applied for a Variance, not and Equitable
252 Waiver.

253
254 At 9:04 PM, public input closed and the matter before the Board.
255

256 Mr. Lanphear asked if it were possible to add conditions of approval to an Equitable
257 Waiver and specifically okaying the two-foot side setback intrusion but not the
258 seven-foot front setback. General consensus was both setbacks as a package deal
259 as that is what is before the Board.

260
261 Mr. Sakati asked Mr. Sullivan to speak to the purpose of setbacks. Mr. Sullivan
262 stated that one purpose is to allow access to the backyard and that there is
263 separation between neighbors.

264
265 Mr. Martin made the motion to deny the Equitable Waiver of Dimensional
266 Requirement. Mr. Sakati seconded the motion.

267
268 Mr. Martin spoke to his motion and stated that it was not discovered too late, would
269 have been discovered sooner if the process was followed, that it was not an innocent
270 mistake on part of the contractor, that it is a nuisance to the neighborhood and that
271 is a high correction cost. Mr. Martin voted to deny.

272
273 Mr. Sakati spoke to his second, that it wasn't an innocent mistake, it was installed
274 without a building permit and there was a failure to inquire, that it is a nuisance to
275 the immediate neighbors and is too close to the street but almost thirty percent
276 (30%). And the size creates an imposition. There is a high correction cost. It was
277 discovered too late but it could have been avoided. Mr. Sakati voted to deny.

278
279 Mr. Lanphear voted to deny. It was discovered too late, it may have been an
280 innocent mistake on part of the homeowner but not the contractor, that it is a
281 nuisance to some, not other, and there is a high correction cost.

282
283 Mr. Daddario voted to grant the Equitable Waiver. It was discovered too late – it is a
284 metal arch, the applicant got a surveyor, hired a contractor pulled a permit and
285 only discovered after her got an as-built plot plan created. It was an innocent
286 mistake as the owner has been dealing with the Town toward a correction. With
287 regard to being a nuisance, he understands the neighbors do not like the looks of it
288 but the no nuisance criteria does not pertain to the architectural aspect but the
289 dimensional violation and whether that poses a nuisance and noted that every
290 property owner has the right to build what he wants within his building envelope.
291 With regard to the high correction cost it has no basis on the arch, just the concrete
292 foundation.

293
294 Vote was 3:1. The Equitable Waiver of Dimensional Requirement not granted. The
295 30-day Appeal period was noted.

296
297
298

299 **VI. REQUESTS FOR REHEARING:** None

300
301 No requests were presented for Board consideration.

302

303 **VII. REVIEW OF MINUTES:**

304

305 12/12/2024 edited draft Meeting Minutes

306

307 The edited version was not included in the Supplemental Folder. The spelling of an
308 Abutter name was questioned. Mr. Lanphear made the motion, seconded by Mr.
309 Martin and unanimously voted to defer review.

310

311 **VIII. OTHER BUSINESS:**

312

313 Election of Zoning Board of Adjustment Officers

314

315 Discussion initially focused on Mr. Daddario being able to complete his next term and
316 the end of the discussion was to allow the natural sequence to unfold, that when/if
317 the Chairman resigns, the Vice Chair becomes Chair and the Clerk becomes Vice.

318

319 Motion made by Mr. Sakati, seconded by Mr. Martin and unanimously voted to
320 appoint Mr. Daddario as Chairman.

321

322 Motion made by Mr. Lanphear, seconded by Mr. Daddario and unanimously voted to
323 appoint Mr. Martin as Vice Chairman.

324

325 Motion made by Mr. Lanphear, seconded by Mr. Martin and unanimously voted to
326 appoint Mr. Dion as Clerk.

327

328 Mr. Sullivan stated that the Town is still seeking Alternates for the Board

329

330 **IX. ADJOURNMENT:**

331

332 Mr. Martin made the motion, seconded by Mr. Lanphear and unanimously voted to
333 adjourn the meeting. The 1/23/2025 ZBA meeting adjourned at 9:36 PM

334

335

336 Respectfully submitted,

337

338 _____
Louise Knee, Recorder

339