



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 – February 27, 2025 – approved

The Hudson Zoning Board of Adjustment met Thursday, February 27, 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 7:02 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 and noted that on the Agenda is a Request for a Rehearing and that public input would not be received at this meeting, that it is a request for the Board to reconsider a decision previously made based on specific criteria.

Clerk Dion called the attendance. Members present were Gary Daddario (Regular/Chair), Tristan Dion (Regular/Clerk), Tim Lanphear (Regular), and Dean Sakati (Regular). Also present were Dillon Dumont, Selectman Liaison, Louise Knee, Recorder (remote) and Chris Sullivan, Zoning Administrator. Excused were Normand Martin (Regular/Vice Chair) and Zachary McDonough (Alternate). All Regular Members voted. 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 APPLICATION BEFORE THE BOARD:

1. **Case 165-037 (02-27-2025):** Alexander C. Galloway, **3 Kenyon St., Hudson, NH** requests a Variance to allow the parking of an approx. 22,000 lb. work vehicle (truck) at the residence where outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds is prohibited. [Map 165, Lot 037, Sublot-000; Zoned Town Residence (TR); HZO Article III: General Regulations; §334-15 B (2), Parking and Article V: Permitted Uses; 334-22, Table of Permitted Accessory Uses]

Mr. Sullivan read the Case into the record, referenced his Staff Report initialed 2/12/2025 and noted that there were no concerns or comments received from the Town Engineer, Inspectional Services or the Associate Town Planner.

Not Official until reviewed, approved and signed.
Approved 3/27/2025 as edited

Alexander Galloway sat at the Applicant table and introduced himself and stated that proceeding with four (4) Members was satisfactory. Mr. Galloway addressed the criteria for the granting of a Variance and the information shared included:

- (1) *not contrary to public interest*
 - The only time the vehicle is running is when it is leaving or parking in my yard
 - I live in the first house on the road, just off Webster Street, and am I do not driving up and down the Kenyon Street
 - Generally I leave my house after most of my neighbors have already left for their work and arrive back before the end of their work day
- (2) *will observe the spirit of the Ordinance*
 - The vehicle will be parked on the property
 - *The spirit is observed/met – it is just a matter of weight
- (3) *substantial justice done*
 - Substantial justice would be done as I will be able to continue to park my work truck that contains all my tools at my house
 - There is no work done at my house
 - I would not have to consider moving to another district
 - It would eliminate the very costly storage/parking rentals
- (4) *not diminish surrounding property values*
 - The vehicle is only parked for the night and on weekends – much like a school bus at a driver's house
- (5) *hardship*
 - The only special condition, I believe, is that this property is the first house on the road that borders a very busy road in which large trucks frequently use
 - In my opinion, it is a perfect location to allow this variance
 - The vehicle will be on the property at night and on weekends
 - The vehicle is rarely started before 8 AM and is rarely back after 3 PM
 - It is reasonable

Mr. Dumont asked about the truck and Mr. Galloway responded that it is a freightliner service truck with a utility body on the back. Mr. Lanphear asked about nearby businesses and Mr. Galloway confirmed that there a few garages down on Tolls Street and there is a two-bay garage down the street, and confirmed that there is crushed asphalt on his property where he parks his vehicle.

Public testimony opened at 7:20 PM.

- 1) John Colby, 11 Kenyon Street, direct abutter, there is no noise issue, it's just a big truck, never has had an issue, and it would be more of a hardship to have him park it somewhere else and force him to get a vehicle to drive to his work vehicle, customers do not come to his house and fully supports the granting of this variance.
- 2) Edward Thompson, 22 Burns Hill Road, stated that he is not really opposed but is concerned as to how it will be monitored and questioned whether the Board is setting a precedent.

Mr. Sullivan stated that if noise starts at 5AM, he gets a call. Mr. Sakati asked if the Variance is approved does it stay with the property and Mr. Sullivan responded that it can be specified to just this Applicant and to such a vehicle. Mr. Dumont added that Variances are Case specific, that there is a Noise Ordinance in Town and that the Applicant does have support from his neighbors. Mr. Galloway added that he has been parking this vehicle at his home since 2018 and has only received one (1) complaint. Mr. Dumont asked where the vehicle is parked and Mr. Galloway identified the location as next to his garage and confirmed that it is visible from the road. Mr. Dumont noted that if there is a violation of the Noise Ordinance then the matter would become a Code Enforcement issue and probably end up back before the Board. Mr. Dion questioned whether the Board should consider setting operating hours to which Mr. Dumont responded that there would be no need because of the Noise Ordinance, that the Board need only authorize the weight difference and noted that there would not be any precedence being set. Mr. Daddario concurred that abiding by the Noise Ordinance should suffice. Mr. Lanphear asked if the Applicant gets to respond to “midnight calls” and Mr. Galloway responded that he hasn’t had to in over five (5) years.

Being no one else to address the Board, public testimony ended at 7:30 PM.

Mr. Lanphear made the motion to grant the Variance with the stipulation that it abides by the Noise Ordinance. Mr. Sakati seconded the motion.

Mr. Lanphear spoke to his motion stating that there are other area businesses nearby and it does not pose a public health or safety issue and will not be out of character with the neighborhood with its location, it is his work truck, will not diminish surrounding property values, and as this is his job truck used to make his living it is a fair and reasonable request. Mr. Lanphear voted to grant with the stipulation that it abide by the Town of Hudson Noise Ordinance.

Mr. Sakati spoke to his second stating that it is not contrary to public interest and presents no safety issues, that it does not alter the character of the neighborhood, that substantial justice is done as the benefit to the property owner outweighs any benefit to the public, that there will be no change to surrounding property values and that it is a reasonable use. Mr. Sakati voted to grant with the stipulation that the Noise Ordinance is abided.

Mr. Dion voted to grant as it is not contrary to public interest or the Zoning Ordinance, it does observe the Zoning Ordinance, there’s been no complaints and there is no alteration to the neighborhood and does not diminish surrounding property values, that the Applicant needs the vehicle to work and it is a reasonable request.

Mr. Daddario voted to grant with the stipulation and noted that it is the first house on the street and the applicant does not drive it through the neighborhood so there is no impact to the neighborhood, that the Applicant has Abutter support, that it poses no harm to the public, that the Variance is specific to the weight of the vehicle, that justice would be provided to the Applicant, that there has been no evidence or testimony pertaining to property value impact, and that the special condition is that it is the first house on the street (Kenyon Street) just off a very busy street (Webster

Street), that there has been no complaints lodged against the truck and that the request is reasonable.

Vote was 4:0 to grant the Variance with one (1) stipulation. The 30-day Appeal period was noted.

VI. REQUEST FOR REHEARING:

1. **Case 211-067 (12-12-24):** George Hurd, Mgr., Tumpney Hurd Clegg, LLC, 39 Trigate Rd, Hudson, NH by and through its counsel, Colin Jean, Esq. requests a rehearing of a Variance request for 72 Burns Hill Rd., Hudson, NH which was denied on 12/12/2024 by the Zoning Board of Adjustment. The request was for a proposed construction of four (4) self-storage units totaling 18,950 SF in the rear portion of the vacant 24.816 acre lot previously zoned as General (G) but re-zoned to Residential-Two (R-2) where this Industrial Use (E-13) is not permitted. Self-storage use is permitted only in the Industrial (I) and General-One (G-1) Zones. [Map 211, Lot 067, Sublot-000; Zoned Residential-Two (R-2); HZO Article V: Permitted Uses; §334-21, Table of Permitted Principal Uses]

Mr. Sullivan read the request into the record. Mr. Daddario referred to the letter received from Atty. Jean dated 1/9/2025 for the Motion to Rehear and reaffirmed that there would be no public input received at this meeting, that the matter before the Board is to review the material included in the Motion to Rehear and determine whether it satisfied the four (4) criteria necessary to warrant a rehearing.

Mr. Daddario read the five-page (5) Motion for Rehearing into the record. Mr. Sakati stated that he takes exception to point #3 discounting the opposition received was based on either misinformation and that the matters they raised belonged before the Planning Board (PB) and noted that the Zoning Board has the responsibility to listen to the public. Mr. Daddario concurred and noted that the ZBA is vigilant about acknowledging which issues are PB issues and which fall within the ZBA purview. Mr. Dumont added that even the Supreme Court supports the public to speak out. Mr. Dion stated that the property should be viewed in a vacuum, that this Case is not about the dump that abuts this property or the two (2) dump monitoring wells on the property. Mr. Dumont noted that even the Variance criteria elude to the neighborhood and that the uniqueness of the property includes comparison to neighbors.

Mr. Lanphear inquired about the location of the wells, noted that he assumes they were incorporated into the deeds many years ago, at their initial drilling, and that they have been investigated and recalls that the Applicant's delay in pursuing development had nothing to do with the wells but was as a result of a death in one of their partners. Mr. Dion shared the same recollection and questioned how long is to long and noted that that is a slippery slope. Mr. Daddario stated that he saw no new of different evidence in their Atty.'s letter, just where they felt ZBA was wrong but nothing new was presented and the fact remains that the Applicant had to satisfy all five (5) Variance criteria, which they did not.

Mr. Dumont suggested the Board go through the criteria for the granting of a Rehearing. Mr. Daddario concurred and the results were as follows:

- (1) Any new evidence presented? Board consensus was no – just a compacted rehash of statements made at the December meeting
- (2) Error made in law? Board consensus was no
- (3) Procedural error made? Board consensus was no.
- (4) Good reason stated? Board consensus was no

Mr. Lanphear asked that if the Board had this letter in December would it have made a difference?

Mr. Sakati made the motion to deny the Request for a Rehearing. Mr. Dion seconded the motion.

Mr. Sakati spoke to his motion noting that there was no new evidence presented, that the Board made no error in law, that no procedural errors were made and that no good reason was provided by the Applicant. Mr. Sakati voted to deny the request.

Mr. Dion spoke to his second stating that no new evidence was presented, there were no unlawful errors made, no error in procedure made and no good reason(s) stated and noted that the Atty.'s letter would not have changed his original vote to deny the Variance back in December. Mr. Dion voted to deny the Request for a Rehearing.

Mr. Lanphear voted to grant the rehearing because even though he agrees that there was no new evidence presented, that there were no errors made in law or procedure, the presentation of the compacted restatement could have swayed his vote in December.

Mr. Daddario voted to grant the motion and deny the Request for a Rehearing, that receipt of the Rehearing letter would not have swayed his vote in December, that the Rehearing request has presented no good reason or evidence to rehear, that no error in law was made, that no procedural errors were made and that no new evidence was presented.

Vote was 3:1. Motion carried. Request for Rehearing denied

VII. REVIEW OF MINUTES:

- 12/12/2024 edited draft Meeting Minutes
- 01/09/2025 edited draft Meeting Minutes
- 01/23/2025 edited draft Meeting Minutes

Board reviewed the Edited versions and made no additional changes. Mr. Lanphear made the motion to approve the 12/12/2024, the 1/9/2025 and the 1/23/2025 Minutes as edited. Mr. Daddario noted that all his edits were incorporated and seconded the motion to approve all three (3) sets of Minutes. Vote was 4:0. Minutes approved as Edited.

VIII. OTHER BUSINESS:

Discuss Home Occupations

Not Official until reviewed, approved and signed.
Approved 3/27/2025 as edited

Mr. Sullivan stated that inquiries regarding the need have increased significantly, especially since COVID, that he receives four to five (4-5) inquiries a week, and noted that other Towns in the State have changed their Ordinances to permitting Home Occupations by Right. Several Members cited recent examples where they agreed obtaining a Special Exception was just a formality based on the Ordinance and also noted other examples where it definitely needed Board review. Requiring Board review included such concerns pertaining to equipment, trucks/special vehicles, customers to site, hours of operation, outdoor storage. Mr. Sullivan to present proposed changes to ZORC (Zoning Ordinance Review Committee).

IX. ADJOURNMENT:

Motion made by Mr. Lanphear, seconded by Mr. Sakati and unanimously voted to adjourn the meeting. The 2/27/2025 ZBA Meeting adjourned at 8:24 PM.

Respectfully Submitted,

Gary M. Daddario, Chairman