



Town of Hudson

Planning Board

78 Main Street, Hudson, MA 01749
Tel: (978)562-2989 Fax: (978)568-9641
Email: kjohnson@townofhudson.org

Minutes of Meeting – April 18, 2023

Chair Robert D’Amelio, called the meeting to order at 7:01 PM and noted that pursuant to Chapter 2 of the Acts of 2023 extending the remote meeting provisions of March 12, 2020, Executive Order suspending certain provisions of the Open Meeting Law, this meeting of the Hudson Planning Board is being held in a hybrid fashion. Before moving into the public hearings, he reminded the Board and meeting attendees that all votes will be taken as roll-call voice votes.

Board Members Participating: Robert D’Amelio, Chair (participating remotely)
Rodney Frias, Vice Chair
David Daigneault
Darryl Filippi
Andrew Massa (participating remotely)

Staff Members Participating: Kristina Johnson, AICP, Director of Planning
Katie Evangelisti, Administrative Manager

55 Cottage Street (cont’d from 4.4.2023)

Chair D’Amelio reopened the public hearing for 55 Cottage Street, which entails the application of 55 Cottage Street Realty Trust for a Site Plan Review of the redevelopment of the existing site into a five (5) unit multi-family use with a reduction in Front Yard Setback pursuant to the provisions of Section 7.1.7 and 5.1.6.1 of the Town of Hudson Zoning By-laws. The subject property is located at 55 Cottage Street within the SB General Residence District, Assessors’ Map 19 Parcel 18 & 19.

This hearing was continued from April 4, 2023, pending a legal opinion from Town Counsel. Late in the afternoon today, Tuesday, April 18, 2023, the legal opinion from Town Counsel was sent to the board and forwarded to the applicant’s Attorney, Christopher Yates, Esq., Fletcher Tilton, PC. Chair D’Amelio advised the board that after reading the opinion a few times he still didn’t know what it says. Chair D’Amelio inquired if this was, in fact, a two or three-family house, as the application states three but the legal opinion reflects it being a two-family. Planning Director Kristina Johnson informed the board her interpretation of the legal opinion was that the enlargement of a three to five family or two to five family was under the jurisdiction of the Zoning Board of Appeals (“ZBA”). He then asked Ms. Johnson to pull up the Town of Hudson Zoning By-law for Section 5.1.6.3, then expressed that this Section is what he applies to this application. Chair D’Amelio also stated that he believes this application belongs in front of the ZBA before the Planning Board.



Town of Hudson

Planning Board

78 Main Street, Hudson, MA 01749
Tel: (978)562-2989 Fax: (978)568-9641
Email: kjohnson@townofhudson.org

Minutes of Meeting – April 18, 2023

Attorney Yates advised the board at the time the house was built, it was a two-family home, at some point in the 1960's it became a legal three-family, by law since six (6) years have passed since the status has changed without challenge. Attorney Yates advised the board 5.1.6.3 is not applicable (not damaged or destroyed), it will be going before the ZBA under section 5.1.6.1 because they are expanding a pre-existing non-conforming use. Chair D'Amelio maintained his belief that the ZBA should decide regarding conformity before Site Plan Review. He has had this informal discussion with the Board in regards to other cases in the past, which board should be seen first, and that the order operations should be determined on a case-by-case basis. He noted that this application would be the first to be handled in this manner.

Chair D'Amelio feels that if the ZBA approves the Special Permit then it will come back to the Planning Board for review and approval. Attorney Yates stated that while not necessarily disagreeing with that process the procedure that the Town of Hudson has and had at the time of the submittal of the project is for the Planning Board to complete Site Plan Review first then the matter is heard by the ZBA. Attorney Yates further went on to say that the Town cannot just "take it on a case-by-case basis." Chair D'Amelio expressed his disagreement with Attorney Yates and noted that this procedure isn't written anywhere and that the Board does have the authority to send this application to the ZBA.

The board members agreed with Chair D'Amelio, who made a motion to have the petition heard by the Zoning Board of Appeals before it goes through Site Plan Review. The motion was seconded by Member Daigneault. Chair D'Amelio asked if this was any discussion.

Attorney Yates asked the Chair under what legal authority the Planning Board has, after submission, publication, and notice, to send this to the Zoning Board, questioning if the board was asking to continue the case for however long it takes to get through the ZBA. Chair D'Amelio, thinks that was inferred in the motion, Ms. Johnson strongly advised the board it has to be continued to a date certain to avoid a constructive approval. Attorney Yates asked Chair D'Amelio how long has it been since the Planning Board has requested this of an applicant, and asked if it's been more than forty (40) years, Chair D'Amelio said it's the first time it's been done but probably about the 30th time it's been debated. Attorney Yates tried to confirm how many years has passed with the Planning Board never following this process, Chair D'Amelio referenced the incorporation of the town. Attorney Yates confirmed this will be the first time in forty (40) years, after about a year of discussions with the town, meetings with different departments, and submission of the application, publications, etc. that the Planning Board is voting to send a matter to the Zoning Board for approval before it will be heard, Chair D'Amelio confirmed that is 100% what is being done.



Town of Hudson

Planning Board

78 Main Street, Hudson, MA 01749
Tel: (978)562-2989 Fax: (978)568-9641
Email: kjohnson@townofhudson.org

Minutes of Meeting – April 18, 2023

The standing motion on the table was raised, and Ms. Johnson once again strongly advised the board that if they were looking to continue the matter they need to have a date certain. Chair D'Amelio suggested a six (6) week's continuance until the ZBA can hear this and decide. Attorney Yates advised the board they would not be able nor be prepared to file and go before the Zoning Board until July 2023, Chair D'Amelio suggested continuing to the first meeting of August which would be August 1, 2023. He further went on to say that if the Zoning Board hasn't decided by August 1, 2023, they will just continue further, which should be incorporated into the motion. Roll Call Vote was made: Chairman D'Amelio: *yea*; Andrew Massa, Member: *yea*; David Daigneault, Member: *yea*; Vice Chair Rodney Frias: *no*; Darryl Filippi, Member: *yea*. 4-1-0. Motion passed.

Ms. Johnson informed the public at the meeting, both in person and on Zoom, of the procedure that would be followed and the next steps.

Administrative Business - ANR Endorsement- Brigham Street – Lots 4, 5, 6, 7, and 8

Chair D'Amelio moved on to the next agenda item, which he stated was a late submission, an ANR plan; his first inclination would be to not hear it because it was submitted past the filing deadline. Ms. Johnson advised the board that the dates for submission deadlines, as the procedure has always been, are for only items that need public hearing so that time is available for administrative process, publication, and notice deadlines. The process of adding administrative-only items, allowing 48-hour agenda posting statutes, dates back to 2015 (by this board), but moving forward we will honor the board's request. Chair D'Amelio voiced his dislike with the process, so items aren't being added to the agenda at the last minute. Ms. Johnson confirmed this was added with the allowed 48-hour posting time. Attorney Yates reminded the board of the last-minute submission of the legal opinion of the prior petition at 4:00 p.m. on the date of the hearing, he was directed by the chair to present. Attorney Yates provided the setbacks and square footage, all of which met the lot requirements. There was some discussion amongst the board about driveways, tree locations, and further approvals of development, none of which apply to the ANR. Member Daigneault, seconded by Vice Chair Frias, motioned to endorse the ANR. Roll Call Vote was made: Chair D'Amelio: *yea*; Andrew Massa, Member: *yea*; David Daigneault, Member: *yea*; Vice Chair Rodney Frias: *yea*; Darryl Filippi, Member: *yea*. 5-0-0. Endorsement passed.

Approval of 4/4/2023 Minutes

Motion made by Member Daigneault, seconded by Member Chair D'Amelio, to approve the meeting minutes of April 4, 2023. Roll Call Vote was made: Chair D'Amelio: *yea*; Andrew



Town of Hudson

Planning Board

78 Main Street, Hudson, MA 01749
Tel: (978)562-2989 Fax: (978)568-9641
Email: kjohnson@townofhudson.org

Minutes of Meeting – April 18, 2023

Massa, Member: *yea*; David Daigneault, Member: *yea*; Vice Chair Rodney Frias: *yea*; Darryl Filippi, Member: *yea*. 5-0-0. Unanimous.

Adjournment

Chair D'Amelio, seconded by Vice Chair Frias, motioned to adjourn the meeting at 7:46 p.m. 5-0-0. Unanimous.

Cc: Town Clerk