



## Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

### Minutes of Meeting—September 10, 2020

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Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, the Hudson Board of Appeals conducted a meeting on September 10, 2020 via a remote participation platform.

Chair Darja Nevits called the meeting to order at 7:05PM. Member She noted that the Board is convening remotely under the authority of the Governor's Emergency Declaration relative to COVID-19. Before moving into the public hearings, she reminded the Board and meeting attendees that the all votes will be taken a roll call voice votes and provided an overview of the flow of the meeting, and how/when members of the public can participate.

Chair Nevits then called the roll:

Members Present via Zoom Video: , Darja Nevits, Chair; Jill Schafer, Vice Chair; Jason Mauro, Clerk; Pamela Cooper, Member; Matt Russell, Member; Justin O'Neil, Associate Member; Ronald Sorgman, Associate Member,;

Other Attendees: Kristina Johnson, AICP, Assistant Planning Director

Jill Schafer chaired the first half of this meeting, as the Chair had not been present for Petition 2020-06.

#### **Petition #2020- 06 Chestnut Street (Countryside Estates)**

Present were: Thomas DiPersio, Engineer for the Petitioner  
Attorney Paul Giannetti

Attorney Giannetti reminded the Board that they had requested the Planning Board review and approve a version of the one-way traffic configuration. Attorney Giannetti noted that there were two iterations of the one-way traffic configuration presented to the Planning Board as a minor plan modifications, and the Planning Board deemed both as acceptable. Kristina Johnson via the screenshare function provided an overview of both iterations of the one-way traffic configuration. Ms. Johnson also noted that the Planning

Board found both iterations acceptable, and approve the minor modification accordingly.

Members of the Board engaged in a discussion about the proposed configurations and expressed their belief that it would be up to future condominium association/management company to determine which one-way iteration should be constructed.

Vice Chair Schafer moved to close the public hearing for the above-referenced petition. Seconded by Jason Mauro. Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous.

Vice Chair Schafer moved to enter deliberative session for the above-referenced petition. Seconded by Jason Mauro. Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous.

Vice Chair Schafer outlined and engaged in a discussion with the Board about petitioner's compliance with the regulations in Section 5.8 (Retirement Community Overlay District) of the Zoning By-laws.

1. The petitioner has submitted site plans that show a retirement community that will consist of 64 condominium units constructed expressly for use as housing for persons fifty-five or over, on one parcel or on contiguous parcels of land totaling 30.14-acres.
2. The petitioner has submitted site plans that show all buildings to be constructed within the retirement community will not exceed two (2) stories.
3. The petitioner has submitted site plans that show that each building will face a private way to be constructed within the community, that each building will have front yard setbacks of at least 28 feet, that each building will have side yard setbacks of at least 10 feet, and each building (principal or accessory) will have least 20 feet in between any of building.
4. The petitioner has submitted site plans that show each dwelling contains 1,600 square feet of living area on the first floor and 500 square feet of living area on the second floor, which complies with the requirement to have at least 66% of living area located on the first floor.
5. The petitioner submitted site plans that show 64 single-family condominium units to be constructed within the community.
6. The petitioner submitted site plans that show that lots within in the retirement community will contain at least 20, 514 square feet.
7. The petitioner submitted site plans that show that none of principal buildings will be located within 28 feet of any exterior lot lines.

8. The petitioner submitted site plans that show that each dwelling has its own attached yard area.
9. The petitioner submitted site plans that show two (2) parking spaces will be provided inside each garage, two (2) parking spaces outside of each garage, and nine (9) parking spaces at the community building.
10. The petitioner submitted site plans that show that the maximum lot coverage within retirement community will not exceed 26% of the total lot size.
11. The petitioner submitted site plans that show each lot within the retirement community will have access to Murphy Road and/or Chestnut Street, both public ways.
12. The Board of Appeals decided that the condominium association shall be responsible for crafting by-laws or similar retirement community regulations related to presence of children residing in the retirement community and/or limiting or prohibiting the presence in the retirement community of boats, boat trailers, or recreational vehicles.
13. The proposed retirement community will not have an adverse effect on present and future dwellings in the vicinity, or create traffic hazards or volume greater than the capacity of the streets affected

Vice Chair Jill Schafer seconded by Jason Mauro moved to grant a special permit under Section 5.8 of the Hudson Zoning By-Laws to allow PAK LLC to construct a retirement community on a 30.14-acre parcel off of Chestnut Street in accordance with the engineering site plans dated July 25, 2019, as amended December 10, 2019, November 18, 2019, and August 10, 2020. With the following conditions:

1. There shall be no on-street parking;
2. The internal roadway network shall be a one-way configuration; and
3. The waiver language contained on Section 8.3 of the Condominium Documents shall be stricken,

By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous.

Vice Chair Schafer outlined and engaged in a discussion with the Board about petitioner's compliance with the regulations in Section 3.3.10 (Watershed Protection District). During the discussion, Attorney Giannetti and Tom DiPersio clarified information and answered the Board's questions.

- 1) The proposed construction of a retirement community on the subject property is allowed in the underlying district.
- 2) Copies of the applicant's proposal have been referred to the required Town departments (Board of Health, Conservation Commission, and Department of Public Works).

- 3) The proposed retirement community does not include the siting of a landfill, sludge and septage landfilling or the storage of the salt and road de-icing chemicals.
- 4) The proposed retirement community will not involve the construction of any building, structure, land disturbance activities, or excavations within 25 feet of the normal highwater line of all water bodies and courses within the Watershed Protection District.
- 5) The proposed retirement community will not involve the siting of an animal feedlot, pasture, confinement area or drainage from such activities within 25 feet from the seasonal highwater line of all water bodies and courses, or involve the storage of animal manure.
- 6) The proposed retirement community will not involve the disposal of any solid waste.
- 7) The proposed retirement community will not involve the storage of liquid hazardous materials as defined in MGL 21E or liquid petroleum products.
- 8) The proposed retirement community will not involve the dumping of contaminated snow by de-icing chemicals brought in from outside the Watershed Protection District.
- 9) The proposed retirement community does not involve the siting of petroleum fuel oils or heating oil bulk stations and terminals including but not limited to those listed under the Standard Industrial Classification codes 5171 and 5983,
- 10) The proposed retirement community will not involve the siting of any facilities that generate, treat, store, or dispose of hazardous waste as defined by MGL Chapter 21C and 310 CMR 30.00.
- 11) The proposed retirement community will not involve an automobile graveyards and junk yards as defined by MGL Chapter 11B, Section I.
- 12) The proposed retirement community will not involve the storage of sludge and septage, as defined in 310 CMR 32.05.
- 13) The proposed retirement community will not involve the storage of commercial fertilizers and soil conditioners, as defined in Massachusetts General Laws, Chapter 128, Section 64.
- 14) The proposed retirement community will not involve the removal of soil, loam, sand, gravel, or any other mineral substances 18 within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), as confirmed by the topographic analysis contained in the approved site plans dated July 25, 2019, as amended December 10, 2019, November 18, 2019, and August 10, 2020.
- 15) The proposed retirement community will not result in the rendering impervious of more than fifteen (15) per cent or 2500 square feet of any lot.
- 16) The proposed septic system that will serve the 64 units in the retirement community was reviewed and approved by the Town of Hudson Board of Health on June 4, 2020 and meets the requirements of 310 CMR 15.00 ("Title 5").
- 17) The proposed retirement community will not involve treatment works that are subject to 314 CMR 5.00.

- 18) That the proposed retirement community has been designed to minimize impervious surfaces and is in harmony with the natural topography, soils, and other characteristics of the site to be developed.
- 19) The proposed retirement community will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district.
- 20) The proposed retirement community will not adversely affect an existing or potential water supply.
- 21) The proposed retirement community will not create traffic hazards or significantly increase volume.
- 22) That the proposed retirement community complies with the general or specific provisions set forth within the zoning by-law.

Vice Chair Schafer seconded by Matt Russell moved to grant a special permit under 3.3.10 of the Hudson Zoning By-Laws to allow PAK LLC to construct a retirement community on a 30.14-acre parcel off of Chestnut Street in accordance with the engineering site plans dated July 25, 2019, as amended December 10, 2019, November 18, 2019, and August 10, 2020. With the following conditions:

1. The relevant Town departments shall be allowed reasonable access to confirm the proper handling, storage, and disposal of potential contaminants.
2. No chemical de-icers or fertilizers will be utilized.

By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous.

Vice Chair Schafer moved to leave deliberative session for the above-referenced petition. Seconded by Jason Mauro. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous.

Darja Nevits resumed Chairing the meeting

#### **Petition #2020- 08 19 Glendale Road**

Present were: Attorney Paul Giannetti

Chair Nevits opened the public hearing and read verbatim the Public Hearing Notice for the above-referenced petition, which entails the a request for a Special Permit to construct a 900 square foot accessory dwelling unit pursuant to Section 5.2.6 of the Town of Hudson Zoning By-Laws. The subject property is located at 19 Glendale Road, Assessors' Map 32, Parcel 18 within the SA-5 Residential Zoning District. The Board may consider any other action relative to the subject petition.

Jason Mauro read the right appeal.

Attorney Paul Giannetti on behalf of the petitioner, Dennis Silva presented an overview of the proposed petition. Attorney Giannetti noted that the existing property contains a single family dwelling and a long barn structure and is fully served by Town water and sewer. He described the proposal to construct an accessory dwelling unit within the barn structured, and underscored his belief that the accessory unit complies with the provisions of Section 5.2.6. of the Zoning By-laws.

Chair Nevits expressed concerns that the petition is missing a lot of materials for the Board to consider the proposed accessory unit. In particular, she noted that the internal layout plan for the accessory unit shows three (3) bedrooms. Furthermore, Chair Nevits expressed concerns that the Board does not have any information or visuals to get an understanding of how the inside of the barn will look with the proposed accessory unit.

Kristina Johnson screened shared the required affidavit from the petitioner stating the he will reside on the premises.

Despite clarifying remarks from Counselor Giannetti, members of the Board expressed concerns about the lack of information in the petition, including architectural plans and elevations, details about the use of the third “room” within the dwelling unit, and parking. Chair Nevits requested the following information be furnished to the Board for review at next month’s meeting:

1. A final set of plans that show the proposed unit in relation to existing dwelling
2. Architectural renderings that show the façade and exterior elevations in relation to the neighborhood context.
3. A final plan that shows the proposed use of the 2<sup>nd</sup> floor of the barn
4. A final plan that shows outside entrance will be located in the side or the rear of the building
5. A final plan that provides more information on existing parking and proposed parking to serve the accessory dwelling unit

Chair Nevits moved to continue the public hearing for the above-referenced petition to October 8, 2020. Seconded by Vice Chair Schafer. By voice roll call vote: Darja Nevits Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O’Neil, Associate Member: **yea** 7-0-0. Unanimous.

## Minutes

Chair Nevits moved to approve the June 11, 2020 meeting minutes with the noted changes. Seconded by Vice Chair Schafer. By voice roll call vote: Darja Nevits Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O’Neil, Associate Member: **yea** 7-0-0. Unanimous

Chair Nevits moved to approve the August 13, 2020 meeting minutes with the noted changes. Seconded by Jason Mauro. By voice roll call vote: Darja Nevits Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 7-0-0. Unanimous.

### **Adjournment/Executive Session**

Chair Nevits moved seconded by Vice Chair Schafer to adjourn the regular meeting session and enter into Executive Session pursuant to Massachusetts General Laws, Chapter 30A, Section 21(3) to discuss existing litigation in that an Open Meeting may have a detrimental effect on the litigation position of the Zoning Board of Appeals and the Chairman so declare: *Lawrence L. Blacker, individually and as Trustee of Blacker Family Trust v. Top Shelf Cannaseurs, LLC, Pamela Cooper, Jason Mauro, Darja Nevits, Justin O'Neil, Jill Schafer, Land Court, Docket No. 20 MISC 000293.*

By voice roll call vote: Darja Nevits Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 7-0-0. Unanimous.