



## Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

### Minutes of Meeting—December 10, 2020

---

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 October 8, 2020 via a remote participation platform.

Chair Darja Nevits called the meeting to order at 7:05PM. 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 all votes will be taken as 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.

Other Attendees: Kristina Johnson, AICP, Acting Director of Planning

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

Present were: Attorney Paul Giannetti  
Glenn Davis, Project Architect

Chair Nevits noted that this petition has been continued a number of time, and requested that Attorney Giannetti provide an update on the status of the project.

Attorney Giannetti thanked the Board for granting the continuances, as this has allowed the petitioner to address the issues raised by the Board when the public hearing was opened. He noted that during this time the petitioner had hired architect Glenn Davis to prepare a set of architectural plans for the proposed accessory unit, and stated that it would be a good idea to have Mr. Davis provide a summary of the new renderings.

Ms. Johnson screen shared the new architectural renderings. Mr. Davis stated that the proposed accessory unit would be located in existing barn structure at the ground level, and described the internal layout of the unit, which complies with the 900 square foot

requirement in the by-law. Mr. Davis noted that other parts of the barn will be used as an unheated garage/storage area, and could also function as a vestibule for the occupants of the accessory unit. Chair Nevits inquired if the unit was actually one story and a half, to which Mr. Davis concurred with that assessment. Ms. Johnson proceeded to screen share a bird-eye perspective rendering of how the proposed unit is laid out within the existing barn, and shows the two proposed parking spaces to the right of the proposed accessory unit.

Jason Mauro requested confirmation that the existing garage that is depicted on the plot plan would still be remain on site. Mr. Davis confirmed that the garage would remain, but that the accessory unit will be located in the barn structure.

Chair Nevits inquired if members of the public had any questions or comments on the proposed petition.

Linda Smith, 15 Glendale Road, noted that the petition stated that the property at 19 Glendale Road is served by Town sewer, but she then stated that none of the properties on this street are served by Town Sewer

Attorney Giannetti stated that this information is contrary to what the petitioner had told him, and was unaware that the property was served by a private septic system. Attorney Gianetti requested a brief recess in order to call his client and discuss the matter before proceeding; Chair Nevits granted Attorney Giannetti the opportunity to consult with his client. After conferring with his client, Attorney Giannetti acknowledged that the subject property is not served by Town Sewer but rather a private septic system, and requested a continuance to the January meeting to assess the capacity of the current system. Ms. Johnson noted that the Board of Health reviews all septic system plans.

Chair Nevits seconded by Vice Chair Schafer moved grant the petitioner a continuance until the January 14, 2021 meeting. 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** Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous

#### **Petition #2020-11 81 Hunter Avenue**

Present were: Attorney Christopher Yates  
Kathleen Adams, petitioner

Chair Nevits read a loud the public hearing notice for the above-referenced, which entails an administrative appeal pursuant to Chapter 40A Section 13 and Chapter 40A Section 16 to reverse the decision of the Hudson Building Inspector denying a building permit for failure to comply with Section 5.1.6.1 of the Town of Hudson Protective Zoning By-Laws and determine if the proposed construction of an attached two- car

garage is allowed by-right or requires the issuance of a special permit pursuant to Section 5.1.6.1 of the Hudson Zoning By-laws.

Jason Mauro read the right of appeal.

Attorney Yates presented an overview of the petition. He stated that the petitioner is seeking an administrative appeal to overturn the decision of the Hudson Building Commissioner to require a special permit for the construction of an attached garage with a second floor recreation space. Attorney Yates expressed his belief that proposed construction is allowed by right, as it's attached to main dwelling by a permanent roof connector structure and would therefore not be considered an accessory structure. He also mentioned that the petitioner was before the Board in 2018 seeking a variance to knock down the existing garage and build a new garage, which was subsequently withdrawn as the petition did not meet the criteria for granting a variance

Attorney Yates noted that the Building Commissioner denied the building permit based on the proposed project not being in compliance with Section 5.1.6.1 and requiring a Special Permit from the Board of Appeals. Attorney Yates screened shared a copy of the construction plans for the proposed the garage structure, which depicted the proposed structure attached to the dwelling. Because of the attachment, Attorney Yates argued that 5.1.6.1 does not apply in this instance.

Jason Mauro inquired whether the existing garage was damaged. Attorney Yates stated that the existing garage is very old, not functional, and poses a safety hazard for vehicles backing out of the driveway. Attorney Yates also screened shared some similar examples of garage structures in the front yard attached to the main dwelling in other neighborhoods in Hudson.

Justin O'Neill inquired how the petitioner can preserve the neighbor's view of the water without having an unenclosed roof connector between the garage and the main dwelling. Attorney Yates explained that the petitioner's rationale for not having a fully enclosed connector was to preserve the neighbor's view of the lake front and to not incur the additional cost of moving all of the utilities.

Vice Chair Schafer expressed her understanding of the Building Commissioner's rationale for denying the building permit under 5.1.6.1, as Mr. Wood is considering the structure an accessory unit, and therefore, the recreational room on top of the garage is a change of use. Vice Chair Schafer wondered if the audio recording from the 2018 meeting was saved somewhere and could be played.

Ms. Johnson stated that the audio recording has since been deleted, but she expressed her recollection of what transpired at the meeting. She noted that the Board's only action was approving the withdrawal of the petition without prejudice, but noted that the

Board offered suggestions to the petitioner that would not require the issuance of a variance, including attaching the structure to the house.

Jason Mauro inquired if Section 5.1.6.2 applies to this circumstance since the garage is old, non-functional, and damaged. Ms. Johnson noted her understanding that this section applies to damage caused by fire or other “acts of God” like hurricanes, tornadoes, and earthquakes. Attorney Yates concurred with this interpretation.

Ms. Johnson provided the Board an overview of the Building Commissioner’s interpretation of the term “accessory structure.” Ms. Johnson explained that the Building Commissioner has deemed the proposed garage structure as accessory, as it’s his opinion that it’s subordinate to the main dwelling regardless if is attached or detached. She further explained that Counselor Yates believes that the structure is not subordinate to the main dwelling if it’s attached and becomes part of the principal structure. Ms. Johnson noted that the Board has the authority to issue a Special Permit at tonight’s meeting if that is the regulatory approach deemed appropriate.

Chair Nevits stressed that the Board should decide whether a special permit is required and move forward with issuing a decision at tonight’s meeting. She also expressed her belief that the connector roof deems the structure an “attached structure” and therefore part of the main dwelling pursuant to the definitions in the zoning bylaws. Justin O’Neil concurred with Chair Nevits and stated that the connection would be made stronger with the addition of screened-in windows.

Vice Chair Schafer asked the Board to think about which section of the zoning bylaws would be applicable to this circumstance for the issuance of the special permit. Ms. Schafer stated her belief that Section 5.1.6.1 does not apply here as the petitioner is not using any portion of the existing garage structure for the construction of the new structure. Ms. Schafer inquired whether Mr. Mauro’s idea of using Section 5.1.6.2 would be more appropriate in this circumstance. Ms. Adams stated that a demolition permit was pulled for the existing garage but never acted upon, and whether “demolishing” the existing building would meet the standards of 5.1.6.2. Attorney Yates stated his understanding that 5.1.6.2 deals with structures being destroyed by fire or other “acts of god.”

Pamela Cooper expressed her belief that the proposed garage does not need a special permit, but was still questioning what constitutes a valid connection to the main dwelling. Matt Russell stated that the proposed garage structure could be viewed as a carport, as a carport is similar in its connection with a main structure.

Chair Nevits asked if there were any comments from the public on this matter. There were none. She inquired whether entering into deliberative session would be a good idea, as there would be no opportunity to ask questions of the petitioner about the matter or discuss any additional information. Ms. Johnson expressed her belief that it was unclear if any “new” additional information would be brought to light and inform the

discussion in a different way. Ms. Johnson noted that a continuance would most likely only buy the Board some additional time to reflect on the matter.

Attorney Yates stated that the petitioner would appreciate a decision being rendered on this matter in short order, as they had originally started this process in 2018. He further stated that the current construction plans were submitted to the Building Department in July 2020 and a denial was not formally issued until October of 2020.

Chair Nevits seconded by Jason Mauro moved to the close the public hearing for Petition 2020-10 . Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous

Chair Nevits seconded by Jason Mauro moved to enter deliberative session . Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous

Chair Nevits seconded by Jason Mauro moved to reverse the decision of the Hudson Building Commissioner to deny the issuance of a building permit to construct a garage structure attached to the dwelling at the subject property located at 81 Hunter Avenue for failure to comply with Section 5.1.6.1 of the Town of Hudson Zoning By-laws finding the following:

- 1) The subject property is located in the SB Residential Zoning District.
- 2) The proposed attached garage structure as depicted conforms with dimensional requirements of Section 6.3.2.1 of the Town of Hudson Zoning By-laws
- 3) The proposed attached garage structure as depicted will be enclosed with windows and screens as appropriate.
- 4) The proposed attached garage structure as depicted with the additional enclosures constitutes a continuation of the use of the existing dwelling on the property.
- 5) The proposed garage structure as depicted does not constitute an accessory structure; therefore, is allowed by-right.
- 6) The proposed garage structure is in harmony with the general purpose and intent of the Town of Hudson's Protective Zoning By-laws,

By roll call voice vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **no**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Justin O'Neil, Associate Member: **not voting** 4-1-0.

Chair Nevits seconded by Jason Mauro moved to leave deliberative session. Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Pamela Cooper, Member: **yea**; Matt Russell, Member: **yea** Justin O'Neil, Associate Member: **yea** 6-0-0. Unanimous

#### **Petition 2020-12- 27 Harriman Road**

Present were: Deoris Jordin, Petitioner

Chair Nevits read aloud the public hearing for the above referenced petition, which entails a request for a special permit to construct an +/- 850 square foot Accessory Dwelling Unit at 27 Harriman Road pursuant to Section 5.2.6 of the Town of Hudson Zoning By-laws. The subject property is located in the SA-7 Zoning District, Assessors Map 52 Lot 026. The Board may consider any action deemed necessary relative to the subject petition.

Jason Mauro read the right of appeal.

Chair Nevits turned the virtual floor over to the petitioner for a presentation and overview of the proposal.

Deoris Jordan stated that her and her husband would like to construct an accessory dwelling unit in order for her daughter to move back home. After the brief presentation, many Board members noted that the architectural plans provided to the Board were incomplete and did not depict the information needed for the Board to render a decision. Ms. Jordan experienced many technical difficulties in trying to screen share the architectural renderings, and emailed the plans to Ms. Johnson to screen share for the Board. Once received, these plans were screen shared and it was noted that a front door to the accessory unit was shown, which is in violation of Section 5.2.6. Chair Nevits explained that the by-law requires a side or rear entry for an accessory unit in order to maintain the look and feel of a single-family house. Also missing from the architectural renderings was a drawing showing a dimensioned internal layout of the proposed unit to demonstrate compliance with the 900 square feet or less requirement habitable living space.

Ms. Jordan requested that the petition be continued until the next Zoning Board of Appeals meeting on January 14, 2021, and that she would follow up with the requested information.

Chair Nevits seconded by Vice Chair Schafer moved grant the petitioner a continuance until the January 14, 2021 meeting. 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** Justin O'Neil, Associate Member: **not voting** 5-0-0. Unanimous

## Minutes

Chair Nevits seconded by Jason Mauro moved to approve the meeting minutes from November 17, 2020 meeting with the changes sent to Ms. Johnson. 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: **not voting** 5-0-0. Unanimous.