



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—June 10, 2021

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 March 11, 2021 via a remote participation platform.

Chair Nevits called the meeting to order at 7:10PM. 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 called the roll.

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

Members Absent: None

Other Attendees: Tom Gregory, Town Administrator
Kristina Johnson, AICP, Director of Planning

Petition 2021-01 59 Apsley Street (continued)

Present: Dave Rykpost, Petitioner and Property Owner

Chair Nevits resumed the discussion of 59 Apsley Street and whether the temporary storage structure is allowed by right or requires a variance. She noted correspondence from the petitioner regarding the intended length of time the structure was to be used and updated information about employee parking, and inquired if the petitioner had any additional information to share with the Board.

Dave Rykpost expressed his belief that his update memorandum to the Board addresses the questions raised regarding the number of employees working in the building and the number of spaces necessary to accommodate the workforce on site. He noted that there are more employees working in the building than available parking spaces.

Chair Nevits reiterated the Building Commissioner's determination that the temporary storage container is an accessory structure subject to applicable setbacks; and, therefore, requiring a variance. She noted that the Board is split on whether the temporary storage container should be allowed by-right or requires a variance. She then asked Mr. Mauro if the updated information furnished to Board would change his perspective on the matter.

Mr. Mauro stated that, although he believes this structure is not an accessory structure, the Zoning by-laws does not include a definition for temporary storage structures or regulations that govern their usage.

Mr. Rykpost noted that there are temporary storage structures all around Town that appear to be unregulated. Chair Nevits explained that the Board can only react to what is presented in front of them, and that other structures around Town may comply with setbacks, etc., and that the matter would not be before the Board if the Building Commissioner did not determine that a violation of the setback requirements. Chair Nevits expressed belief that a one-year placement of the structure (as indicated in the correspondence by the petitioner) is more permanent than temporary.

Mr. Rykpost inquired if the Board could assign a timeframe for the temporary structure. Mr. Mauro stated that absent any regulations in the Zoning by-laws, it would be arbitrary for the Board to assign a timeframe for this particular use.

Chair Nevits inquired as to the specific action that the Board would be taken if the matter was brought to a vote. Ms. Johnson explained that a two-pronged approach would need to be taken. She recommended that the Board first determine whether the structure was indeed temporary, and then the action would be vote to overturn the determination of the Board. If the Board determines that the structure was permanent in nature and subject to the dimensional requirements, then, she explained, the Board would have to go through the exercise of discussing the three (3) findings for a hardship. Ms. Johnson noted that the Board went through the exercise at their last meeting and determined the hardship may be self-imposed.

Mr. Mauro reiterated his belief that the structure is temporary should be allowed by-right and questioned why the matter is even before the Board to discuss. Notwithstanding, the Board generally agreed that there was no hardship present to vary the setback requirements and there was no mechanism in the Zoning by-laws that would allow to Board to make a determination the structure is temporary. Mr. Rykpost noted that he needed the parking spaces for the existing tenants in the building, and stated that he would ultimately lose this new tenant without any storage options.

Mr. Rykpost requested to withdraw the petition without prejudice.

Chair Nevits seconded by Vice Chair Schafer moved to accept Mr. Rykpost's request to withdraw Petition 2021-01 without prejudice. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **yea**; Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous

Petition 2021-03 40 Rolling Lane (continued)

Present: Michael Chaves, Contractor for the Petitioner
Flaviano and Diane Oliveira, Petitioners

Chair Nevits resumed the discussion of the petition and noted the correspondence received from Ms. Johnson that provided an explanation of the Building Commissioner's determination about why this proposed construction requires a special permit. The correspondence noted that the Building Commissioner is concerned that this space once finished could be used as an illegal apartment.

Chair Nevits asked if the petitioner had any additional information to present, or feedback on the correspondence, to which he said he did not.

Members were all in agreement that the proposed construction of the living space in the basement does not constitute an accessory dwelling unit. The following reasons were stated: 1) finishing one's basement as a living area is a pretty standard practice allowed by-right; 2) it is not realistic to require a permit based on potential future violation; and 3) the basement area is located within the dwelling and is not a separate self-contained living space subordinate to the main dwelling.

Chair Nevits seconded by Vice Chair Schafer moved to enter deliberative session. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **not voting**; Justin O'Neill, Associate Member: **not voting**; Ronald Sorgman, Associate Member: **yea**. 5-0-0. Unanimous.

Mr. Mauro seconded by Mr. Russell moved to reverse the determination of the Building Commissioner that the proposed construction of the living space within the basement of the main dwelling constitutes an Accessory Dwelling Unit, as it is not a "self-contained housing unit" clearly subordinate to the main dwelling unit as defined in Section 5.2.6 of the Town of Hudson Zoning By-laws.

Chair Nevits seconded by Vice Chair Schafer moved to come out of deliberative session. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**;

Justin O'Neill, Associate Member: **yea**, Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous.

Petition 2021-04 41-41A Winter Street- Administrative Appeal

Present: Attorney Jose Moreira

Chair Nevits read the public hearing notice for the petition, which entails Jose Barros , petitioner for the property at 41-41A Winter Street, Assessors Map 30, Parcel 153 in the SB Zoning District to seek an administrative appeal of the Hudson Building Commissioner pursuant to Chapter 40A Section 13 to overturn a cease and desist order regarding the use of the premise as a three (3) family dwelling pursuant to the provisions of Chapter 40A Section 6, Chapter 40A Section 7, and Section 5.1.6.1 of the Town of Hudson's Zoning By-laws. The Board may take any action deemed necessary relative to the subject petition.

Jason Mauro, Clerk read the right of appeal.

Attorney Jose Moreira stated for the record that the underlying action is an appeal of a cease and desist order issued against the subject property by the Building Commissioner. Attorney Moreira noted that the Building Commissioner reversed his decision and agreed that the cease and desist order was not warranted and the use of the property as a three-family is allowed by-right.

Attorney Moreira formally requested a withdrawal of the administrative appeal without prejudice.

Chair Nevits seconded by Jason Mauro moved to grant the withdrawal of Petition 2021-04 without prejudice . By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea** ; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **yea**, Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous.

Petition 2021-05 72 Chestnut Street

Present: Valli Sukuru, Design Engineer, Woodard and Curran

Chair Nevits read the public hearing notice for the petition which entails the Town of Hudson Department of Public Works requesting a special permit pursuant to Section 5.7 of the Town of Hudson's Zoning Bylaws to construct a 2,800 square foot PFAS treatment facility on Chestnut Street adjacent to the Town's Chestnut Street Water Filtration Plant within the Floodplain District. Said project is located at 72 Chestnut Street, Assessors' Map 33 Parcel 14 within the M-6 Manufacturing District. The Board may consider any other action deemed necessary relative to the subject petition.

Jason Mauro, Clerk read the right of appeal.

Chair Nevits noted that this project received an Order of Condition from the Conservation Commission and that the Planning Board waived the requirement for site plan review. Chair Nevits then turned over the virtual floor to Vali Sukuru, project engineer and representing the Department of Public Works, and requested that the presentation focus on compliance with the use regulations of Section 5.7 of the Zoning By-laws.

Ms. Sukuru provided an overview of the construction process and timeline for the facility, and explained how the new facility will remove PFAS from the water supply. She noted that this location is the only practical location for the facility from an engineering standpoint. Members of the Board asked questions related to the design of the facility, the facility's equipment, and the timeline for construction.

Chair Nevits seconded by Vice Chair Schafer moved to enter deliberative session. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **yea**, Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous.

Members of the Board agreed that the construction of the PFAS treatment facility complies with the use regulations specified in Section 5.7 of the Zoning By-laws.

Chair Nevits seconded by **Jill Schafer** voted to grant the Special Permit pursuant to Section 5.7.4.3 for the construction of a 2,800 square foot PFAS treatment facility on Chestnut Street within the Floodplain/Wetland District finding the following:

1. The construction of the PFAS Treatment Facility is an allowed use in the underlying zoning district and has been designed and placed in such a way to offer minimum obstruction to the flow of water.
2. The construction of the PFAS Treatment Facility complies with the Floodplain/Wetland use regulations.
3. Copies of the petition were referred to the required Town departments: Board of Health, Planning Board, and the Conservation Commission for review and comment.
4. Pursuant to Section 5.7.4.3 (a) (1), a written statement and engineered site plan dated May 2021 prepared by Woodard and Curran was submitted as part of the petition.

And with the following conditions:

1. The petition shall comply with the Order of Conditions issued by the Hudson Conservation Commission on June 7, 2021.
2. No chemical de-icers or fertilizers will be utilized.

By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **not voting**, Ronald Sorgman, Associate Member: **not voting**. 5-0-0. Unanimous.

Chair Nevits seconded by Vice Chair Schafer moved to come out of deliberative session. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **yea**, Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous.

Minutes- May 13, 2021

Chair Nevits seconded by Vice Chair Schafer moved to approve the meeting minutes. By voice roll call vote: By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Ronald Sorgman, Associate Member: **yea**; Pamela Cooper, Member: **abstain**; Justin O'Neill, Associate Member: **abstain**. 5-0-2.

Adjournment

Chair Nevits seconded by Jason Mauro moved to adjourn the meeting at 8:50 PM. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Matt Russell, Member: **yea**; Pamela Cooper, Member: **yea**; Justin O'Neill, Associate Member: **yea**, Ronald Sorgman, Associate Member: **yea**. 7-0-0. Unanimous.