



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—February 13, 2020

The Hudson Board of Appeals met in the Town Hall Auditorium, 2nd floor Town Hall, Hudson, Massachusetts. At 7:00 PM, Vice Chair Darja Nevits called the meeting to order.

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

Other Attendees: Kristina Johnson, AICP, Assistant Planning Director

It should be noted that the Vice Chair Darja Nevits presided over the meeting as Chair.

Petition #2019- 15 279 Brigham Street (continued)

Present were: No one was present.

Vice Chair Nevits noted that this public hearing is a continuance from last month, and read a letter aloud from Attorney Norris, Counsel for the appellant requesting a withdrawal of the appeal of the Building Commissioner's enforcement action. Kristina Johnson, Assistant Planning Director mentioned that the granite fabrication business has vacated the premises and returned the property to its original condition, and noted that the Building Commissioner inspected the property and is satisfied with its condition.

Darja Nevits seconded by Jason Mauro moved to approve the withdrawal of the aforementioned appeal without prejudice. 7-0-0. Unanimous.

Petition #2020- 01 11 Brent Drive

Present were: Ryan Cohen, Top Shelf Cannaseurs (petitioner)
Scott Bulkeley, Top Shelf Cannaseurs (petitioner)
Blake Mensing, Attorney for the Petitioner

Vice Chair Nevits stated that prior to proceeding with the Public Hearing there was immediate business the Board needed to discuss relative to a legal opinion furnished by the petitioner's attorney. Ms. Nevits proceeded to hand the microphone over to Ms. Johnson to provide an overview of the issue at hand for the Board.

Ms. Johnson explained that Section 5.13.6 (2) of the Marijuana Industrial Overlay District regulations state that **“as a requirement of the submission of a special permit application, that the applicant furnish copies of all required registrations, licenses, and permits...”** Planning staff and the Board on prior marijuana petitions have interpreted that provision to mean that the applicant shall have a provisional license from the CCC prior to filing with the Zoning Board of Appeals for a Special Permit. Prior marijuana petitioners—both Native Sun (37 Coolidge Street) and Temescal Wellness (252 Coolidge Street) submitted a provisional license prior to filing; see attached. Ms. Johnson noted that Counsel representing the petitioner has questioned this interpretation, and has submitted a legal opinion for the Board to consider. Finally, Ms. Johnson noted that it was Staff’s recommendation to the Chair that this issue be taken up in the “sunshine” prior to opening the public hearing, as they needed to decide to accept the opinion of the petitioner’s attorney and proceed, or vote to engage Town Counsel for a legal opinion.

Members of the Board deliberated over the appropriate procedural action to take, and ultimately decided that it would be most prudent to seek a legal opinion from Town Counsel on whether the petitioner has standing to be before the Board, or whether the Board could proceed and open the public hearing.

Jason Mauro seconded by Pamela Cooper moved to engage Town Counsel for a legal opinion on how the Board should best proceed and continue the meeting without public testimony to Thursday, March 13, 2020 at 7:00 PM. 7-0-0. Unanimous.

Petition #2020- 02 22 Richardson Road

Present were: Steven Figueiredo (petitioner)
Joe Moreira, Attorney for the Petitioner

Vice Chairman Nevits read aloud the public hearing notice for the petition which entails a request for a Special Permit to construct a 869 ± square foot accessory dwelling unit pursuant to Section 5.2.6 of the Town of Hudson Zoning By-Laws and requesting a variance from Section 6.4.1 of the Town of Hudson Zoning By-Laws to construct said accessory dwelling unit within the front yard setback. The subject property is located at 22 Richardson Road, Assessors’ Map 42, Lot 68 within the SA-8 Residential Zoning District. The Board may consider any other action relative to the subject petition.

Jill Shafer, Clerk read the right of appeal.

Joe Moreira introduced the petitioner and gave an overview of the petition and the proposed accessory dwelling unit (ADU). He described the plan which calls for a bump out of six (6) feet of the ADU structure so that the entrance can be perpendicular to the house. Attorney Moreira highlighted the constraints of the lot and the placement of the existing ranch-style house, and argued that the orientation of the house and the location of the driveway causes a hardship with respect to the setback from the street.

Attorney Moreira further argued that Section 5.2.6. k (2) of the ADU by-laws allows for deviation from the stated conditions to facilitate access and mobility for disabled persons.

After discussion, members of the Board concluded that the aforementioned section cited for the variance request is not applicable to this petition, as that Section pertains to specific deviations from the ADU by-law, not deviations from the dimensional requirements of the zoning districts. Vice Chair Nevits strongly suggested that the Attorney Moreira focus the request for a variance from the requirements of Section 6.2.2.1.

Thomas McCoy, 25 Richardson Road inquired whether the ADU could be rented out if the parents no longer live on the premise. Vice Chair Nevits explained that the homeowner must live on the premise regardless of who is living in the ADU unit.

Melissa Smith, 24 Richardson Road expressed concern about the poor drainage in the area and noted that because of the sloping conditions waters flows directly into her yard. Ms. Smith also inquired about the true locations of the property lines in relation to her house, and expressed significant concerns about the height of the ADU unit. Vice Chair Nevits inquired if the property lines were marked on the ADU plan, to which the petitioner said no, but indicated he would have this shown on the as built plans.

Sarge Francolini, 15 John Robinson Road inquired about the construction timeframe and requested that construction not occur in the middle of summer. Mr. Francolini also expressed concerns about the potential for the contractor's crew to enter his property on wooded side of his yard. Vice Chair Nevits stated that the Board cannot dictate the commencement and the completion of the work, and that all work has to comply with the appropriate Town by-laws.

Vice Chair Nevits seconded by Jill Schafer moved to enter deliberative session. 7-0-0. Unanimous.

Pamela Cooper seconded by Darja Nevits moved to grant the special permit under Section 5.2.6 of the Town of Hudson's Protective Zoning By-laws to allow the petitioner to construct an accessory dwelling unit according to plans dated January 16, 2020 on the subject property located at 22 Richardson Road with the following conditions:

1. The petitioner or successor owner (s) shall never add bedrooms, a kitchen, and/or bathrooms in the attic and/or basement spaces associated with the accessory dwelling unit.
2. Any successor owner of the subject property shall file an occupancy affidavit with the Town of Hudson Building Commissioner to ensure compliance with Section 5.2.6.4 of the Town of Hudson Protective Zoning By-laws.

5-0-0. **Voting on the special permit:** Darja Nevits, Vice Chair; Dorothy Risser, Clerk; Jill Schafer, Member; and Jason Mauro, Member; Ronald Sorgman, Associate Member.

Jason Mauro seconded by Jill Schafer voted to grant relief in the amount of 4.2 feet from the requirements of Section 6.2.2.1 to allow for the construction of the Accessory Dwelling Unit with the ADA-compliant ramp with the following findings:

1. The subject property is located in the SA-8 Residential District.
2. That owing to unique circumstances relating to the soil, shape, and topography of the land or structures, specifically the topography of the lot which has dictated the placement of the existing accessory structures relative to the construction of the Accessory Dwelling Unit results in a safety hardship for the petitioner. It has been demonstrated that a literal enforcement of the Zoning by-laws **Section 6.2.2.1 requiring any building, or part thereof, except the outside steps shall be erected or altered, so as to be nearer than thirty (30) feet to the street line...** would diminish the feasibility and effectiveness of the project, and would cause a safety hazard for the occupant who is handicapped.
3. Desired relief from Section 6.2.2.1 to construct the Accessory Dwelling Unit within the front yard setback may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of the by-law as adverse effects are mitigated through conditions herein.
4. Desired relief of 4.2 feet from Section 6.2.2.1 to construct the Accessory Dwelling Unit with the ADA-compliant ramp supports the intent of the Accessory Dwelling Unit By-Law as stated in 5.2.6 **to develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle and provide housing units for persons with disabilities.**

5-0-0. **Voting on this variance:** Darja Nevits, Vice Chair; Dorothy Risser, Clerk; Jill Schafer, Member; and Jason Mauro, Member; Ronald Sorgman, Associate Member.

Vice Chair Nevits seconded by Jill Schafer moved to come out of deliberative session.
7-0-0. Unanimous.

Minutes

- Vice Chair Nevits seconded by Jill Shafer moved to approve the minutes of January 9, 2020. 7-0-0. Unanimous

Adjournment

Vice Chair Nevits seconded by Jason Mauro by moved to adjourn the meeting at 8:47 PM. 7-0-0. Unanimous.