



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—October 8, 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.

Vice Chair Schafer 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.

Vice Chair Schafer then called the roll:

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

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

Jill Schafer served as the Chair of the meeting as Chair Nevits was on vacation.

Petition #2020- 08 19 Glendale Road

The petitioner requested a continuance of the public hearing until the November 12, 2020 Zoning Board Appeals meeting. Vice Chair Shafer, seconded by Jason Mauro moved to accept the continuance of the public hearing until November 12, 2020. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous

Petition #2020- 09 156 Manning Street

Present were: Thomas Curley, Petitioner
Daniel Wolfe, David R. Ross Associates

Vice Chair Schafer opened the public hearing and the legal notice for the above-referenced petition which entails a request for a special permit to construct +/-590

square foot accessory dwelling unit pursuant to Section 5.2.6 of the Town of Hudson Zoning By-Laws and a special permit to construct the accessory dwelling unit within the Floodplain/Wetland District pursuant to the provisions of Section 5.7.4.3 of the Town Hudson Zoning By-Laws. The subject property is located at 156 Manning Street Assessors' Map 11, Parcel 229 within the SA-8 and C-4 Zoning Districts.

Jason Mauro, Clerk read the right of appeal.

Mr. Wolfe provided an overview of the petition. He noted that the accessory structure will contain 590 square feet of habitable living space. Mr. Wolfe stated that the unit is being constructed so that the petitioner's mother can move into the unit, and noted that there was an affidavit submitted with the petition acknowledging residency requirement to live on the premise. Mr. Wolfe explained that design of the structure was done so in such a way to resemble the look and feel of the main dwelling and match the single-family character of the neighborhood.

Mr. Wolfe also explained that a portion of the accessory structure involves encroaching onto a portion of the floodplain. He noted that the proposed structure is below the floodplain elevation at 5.23 feet, and will be filled and relocated in accordance to the an Order of Conditions issued by the Conservation Commission. Mr. Wolfe finally noted that 412 cubic feet of floodplain will be filled, and 417 cubic feet of floodplain will be replicated nearby.

Vice Chair Schafer inquired whether the petitioner had comments from the Board of Health or the Planning Board. Ms. Schafer noted that Section 5.7.4.3 requires that the petition be submitted to the Planning Board, Conservation Commission, and the Board of Health for any comments. Mr. Wolfe responded that aside from the Conservation Commission, he did not submit the petition to the Board of Health or Planning Board for review. Kristina Johnson offered her apologies for not circulating the petition to the Planning Board and the Board of Health and for not being aware of the provision within the by-law that required this action. Mr. Curley asked if there was any way the Board could meet prior to November, and Mr. Wolfe inquired if there was any way the Board could conditionally approve the petition subject to the review by the Planning Board and the Board of Health. Vice Chair Schafer indicated a preference to adhere to the required 30 days, and noted that the Board of Appeals could not predict any comments from the Planning Board and the Board of Health.

Ronald Sorgman inquired about the number of bedrooms in the accessory unit and the architecture details relative to the proposed elevations. Mr. Wolfe provided some clarifying remarks on the architectural design.

Vice Chair Schafer inquired about how the pre-existing non-conforming front setback is increasing from 28.9 feet to 30.4 feet. Mr. Wolfe explained that the 28.9 is from Manning Street from which the property has its frontage.

Vice Chair Schafer asked the Board if there were any questions regarding the Accessory Dwelling Unit (ADU). There were no additional comments or questions. Both Vice Chair Schafer and Mr. Mauro stated their belief that the petitioner has complied with all the ADU by-law requirements. Furthermore, she asked if there were members of the public who wish to speak on the petition; to which, Ms. Johnson said that no one in the virtual audience requested to speak.

Vice Chair Shafer, seconded by Jason Mauro moved to continue the public hearing until November 12, 2020. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous

Petition #2020- 10 71 Parmenter Road

Present were: Robert DiBenadetto, Hancock Associates, Engineer for the petitioner

Vice Chair Schafer read aloud the hearing notice for the above-referenced petition, which entails the request of a special permit to construct an attached 10,000 square foot warehouse, an expanded parking lot, two staging areas, a stormwater management system, and a new water line pursuant to Section 3.3.10 (Watershed Protection District) of the Town of Hudson Protective Zoning By-Laws. The subject property is located at 71 Parmenter Road, Assessors' Map 47, Parcel 20 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.

Mr. DiBenadetto presented the site plans and provided an overview of the existing site conditions and the proposed development of the 10,000 square foot building. He noted that there is an existing Television tower and building, which use to contain a television station. That building is being leased by Dex by Terra for their landscaping business and is under agreement with Vertical Bridge for purchase. In addition to the proposed warehouse building, Mr. DiBenadetto described the other components of the project:

- Revamping the existing parking lot and creating additional spaces for employees
- Creation of staging areas for the stockpiling of landscaping materials.
- Installing a new stormwater management system that will capture and infiltrate existing flows and any additional flow to significantly reduce the amount of stormwater flow off-site.

He then proceeded to discuss how the proposed petition complies with the Watershed Protection District regulations.

Jason Mauro inquired about the extent of the tree clearing being proposed. Mr. DiBenadetto explained that tress will be cleared behind the proposed warehouse and at the staging area, and then further explained the proposed site grading, limits of work, and the location of the “no touch zone.” Mr. Mauro asked if Mr. DiBenadetto to explain the specifications of the drainage structures. Mr. DiBenadetto then proceeded to describe the proposed “Storm Tek” drainage system.

Matt Russell inquired what the additional parking spaces will be used for. Mr. DiBenadetto explained that the parking spaces will be to accommodate employee parking, visitor parking, and parking for the service vehicles, and pointed out on the site plan where the different types of parking will be located.

Vice Chair Schafer inquired about requirement number 11 in the Watershed Protection District regarding the storage of commercial fertilizer and soil conditioners, and what specific measures are being put into place for the storage of the chemicals used to hydroseed. Mr. DiBenadetto explained that any chemicals related to hydroseeding will be storage securely in the shipping container.

Kristina Johnson provided an overview of the Planning Board’s review process and the condition in the site plan decisions relative to the soil tested. Ms. Johnson explained that the condition in the site plan decisions calls for the review (by the Planning Board’s peer review consultant) of the soils analysis and the groundwater testing results prior to the applicant applying for a building permit.

Vice Chair Schafer opened up the virtual floor for public comment.

Wayne Young- 79 Parmenter Road

Mr. Young inquired about the proposed retaining wall being constructed and whether it would also function as a noise attenuation measure. He expressed concerns about the potential noise generated from the industrial use of the site and the movement of delivery vehicles, especially the reverse beeping noise on site for loading and distribution. Mr. DiBenadetto indicated that the proposed retaining wall would help attenuate noise related to the business operations, but stated that it wouldn’t block all of sound.

Jason Mauro inquired whether the responses to the Planning Board’s peer review comments by the petitioner could be provided. Ms. Johnson screen shared the letter and Mr. DiBenadetto summarized the contents of the review letter.

Vice Chair Schafer seconded by Mr. Mauro. voted to close the public hearing and enter deliberative session. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O’Neil, Associate Member: **yea** 5-0-0. Unanimous

Vice Chair Schafer outlined the petitioner's compliance with the use regulations pursuant to Section 3.3.10.

- 1) The construction of the proposed warehouse building 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 use of the proposed warehouse building does not include the siting of a landfill, sludge and septage landfiling or the storage of the salt and road de-icing chemicals.
- 4) The use of the proposed warehouse building 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 use of the warehouse building 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 use of the proposed warehouse building will not involve the disposal of any solid waste.
- 7) The use of the proposed warehouse building will not involve the storage of liquid hazardous materials as defined in MGL 21E or liquid petroleum products.
- 8) The proposed use of the warehouse building will not involve the dumping of contaminated snow by de-icing chemicals brought in from outside the Watershed Protection District.
- 9) The use of the proposed warehouse for any storage of commercial fertilizers and soil conditioners, as defined in MGL, Chapter 128, Section 64 shall be stored in a container that is designed to prevent the generation and escape of contaminated runoff.
- 10) The use of the proposed warehouse building will not involve the storage of sludge and septage as defined in 310 CMR 32.05.
- 11) The use of the proposed warehouse building will not involve the removal of soil, loam, gravel, or any other mineral substances within four (4) feet of the historical high groundwater table elevation.
- 12) The use of the proposed warehouse building will 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,
- 13) The use of the proposed warehouse building 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.
- 14) The use of the proposed warehouse building will not involve an automobile graveyards and junk yards as defined by MGL Chapter 1B, Section 1.
- 15) That the use of the proposed warehouse building is appropriate to the natural topography, soils, and other characteristics of the site to be developed.

- 16) That use of the proposed warehouse building will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district.
- 17) That the use of the proposed warehouse buildings will not adversely affect an existing or potential water supply.
- 18) That the use of the proposed warehouse building will not create traffic hazards or significantly increase volume.
- 19) That the use of the proposed warehouse complies with the general or specific provisions set forth within the zoning by-law.

Mr. Mauro seconded by Matt Russell moved to grant the Special Permit pursuant to Section 3.3.10 of the Town of Hudson's Protective Zoning By-laws to allow Terra by Dex, Inc. to operate a marijuana cultivation facility within the Watershed Protection District at 11 Brent Drive. Finding the following pursuant to Section 3.3.10:

- 1) The petition has been reviewed by the Board of Health, Conservation Commission, and the Department of Public. It was noted by all three Departments through email correspondence to the Board of Appeals that the petition satisfactorily complied with the provisions of the Watershed Protection District.
- 2) The petition is in harmony with the intent and the purpose of this by-law, and will promote the purpose of the Watershed Protection District, as the petitioner has demonstrated that there are safeguards in place to ensure odor control and proper waste management of the cannabis plant materials.
- 3) The petition is appropriate to the natural topography, soils, and other characteristics of the site to be developed, as the petition to operate the proposed marijuana cultivation facility is located within a well-established industrial park.
- 4) The petition will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district, as the proposed use of the existing building for a marijuana facility will not involve any construction.
- 5) The petition will not adversely affect an existing or potential water supply, as the petitioner has demonstrated that there will be proposed safeguards in place to ensure proper disposal of cannabis waste and that the proposed irrigation system will not present any impacts to the existing water supply within the industrial park.

With the following Conditions

1. Prior to holding a pre-construction meeting, the petitioner shall produce previously conducted soil testing and/or groundwater testing, to be reviewed as to location and appropriateness by the Planning Board's peer review Licensed Site Professional (LSP) engineer. If required by the Planning Board's peer review LSP engineer, the applicant shall conduct independent soil tests and

corresponding analysis. If necessary, all construction shall commence under any and all DEP and Board of Health regulations.

2. The petitioner shall comply with all conditions of the Planning Board Site Plan approval date August 21, 2020.
3. Any storage of commercial fertilizers and soil conditioners, as defined in MGL, Chapter 128, Section 64 shall be stored in a container that is designed to prevent the generation and escape of contaminated runoff.
4. That the relevant Town departments shall be allowed reasonable access to confirm the proper handling, storage, and disposal of potential contaminants.
5. No chemical de-icers or fertilizers will be utilized.
6. No loading or delivery activities shall occur between the hours of 5:00AM and 7:00 AM.

By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous

Vice Chair Schafer seconded by Mr. Mauro. voted to leave deliberative session. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous

Minutes

Vice Chair Schafer seconded by Matt Russell moved to approve the July 9, 2020 meeting minutes. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous.

Ronald Sorgman seconded by Matt Russell moved to approve the September 10, 2020 meeting minutes with the edits submitted to Ms. Johnson. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous.

Other Business- Appointment to Executive Assistant Search Committee

Ms. Johnson explained to the Board that the Executive Assistant will be retiring in May 2021, and a search committee has been established to assist in the hiring process. The Chair of the ZBA, or her designee has been selected to be a representative on the search committee. Ms. Johnson stated that she reached out to Chair Nevits to gauge her interest in participating, and Ms. Nevits indicated her willingness to serve on behalf of the ZBA. Ms. Johnson requested a confirmatory vote to that effect.

Vice Chair Schafer seconded by Mr. Mauro moved to appoint Chair Darja Nevits to serve on the Executive Assistant Search Committee. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald

Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous.

Adjournment

Vice Chair Schafer seconded by Mr. Mauro moved to adjourn the meeting at 9:05PM. By voice roll call vote: Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk; **yea**; Matt Russell, Member: **yea** Ronald Sorgman, Associate Member: **yea**; Justin O'Neil, Associate Member: **yea** 5-0-0. Unanimous.