



# Town of Hudson

## Zoning Board of Appeals

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### Minutes of Meeting — September 8, 2022

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Pursuant to Chapter 107 of the Acts 2022 extending remote meeting provisions of Governor Baker's March 12, 2020 Executive Order suspending certain provisions of the Open Meeting Law, this meeting of the Hudson Planning Board was conducted fully-remote via Zoom.

Chair Nevits called the meeting to order at 7:00 PM. She noted that the Board is convening remotely under the extension of the suspension of certain provisions of the Open Meeting Law 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.

Board Members Participating:

Darja Nevits, Chair  
Jill Schafer, Vice Chair  
Jason Mauro, Clerk  
Pamela Cooper, Member  
Matt Russell, Member  
Tony Mancini Jr., Associate Member

Board Members Absent:

Ronald Sorgman, Associate Member

Staff Members Participating:

Kristina Johnson, Director of Planning and  
Community Development

#### **Public Hearing – Petition 2022-08 – 14 Kane Industrial Drive (continued from 8/11/2022)**

Chair Nevits re-opened the above-referenced petition, and noted that the petitioner requested in writing to continue the public hearing to the Board's next regularly scheduled meeting on September 8, 2022 at 7PM, as they were not placed on this month's agenda for the Cannabis Control Commission. Chair Nevits read the request from the petitioner into the record.

**Darja Nevits seconded by Vice Chair Schafer moved to continue the public hearing for 14 Kane Industrial Drive to the Board's next regularly scheduled meeting on October 13, 2022.** By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Pamela Cooper: **yea**; Matt Russell, Member: **yea**; Tony Mancini Jr., Member: **yea**. 6-0-0. Unanimous.

### **Public Hearing – Petition 2022-09 – 27 Cox Street and 54 Lake Street**

Chair Nevits re-opened the public hearing for the above-referenced petition. Present for this petition was Attorney Michael Norris and Paul Litchfield, contractor for the petitioner. Chair Nevits noted that the Board should have received revised plans and a legal brief from Attorney Norris.

Attorney Norris noted that he had watched the ZBA meeting footage from the July meeting and stated his understanding of the Board's two primary concerns: whether the two-year moratorium on occupancy had lapsed and the location of the proposed houses on the property. Attorney Norris stated that after a review of the Zoning by-laws, it was his recommendation to Mr. Litchfield that the new houses remain in the exact location of the existing houses. Attorney Norris noted the odd shape and layout of the property, which has two driveways and two different addresses, and that the property owner does not have adequate frontage on Cox Street to split the lot in two.

Attorney Norris provided an overview of the points within his legal brief to the Board, and noted the local and state statutory framework that he believes is applicable to this petition. Attorney Norris expressed his belief that the proposed construction on this property complies with the spirit of MGL Chapter 40 A Section 6 and Section 5.1.6.1 of Hudson's Zoning by-laws. He further noted that the use of the houses as single-family dwellings has been continuous and has not changed, and that it's the desire of the petitioner to have the new constructed dwellings be converted into condominiums.

Chair Nevits asked the Board if they are satisfied with the information by the petitioner that the premises have not been abandoned. Vice Chair Schafer inquired when the caretaker passed away, to which Attorney Norris stated that he was uncertain. Chair Nevits and Mr. Russell stated their understanding that the owner lived at the 54 Lake Street Property and the caretaker lived at 27 Cox Street until the owner passed away. Members of the Board were satisfied with the information that was presented to demonstrate occupancy of the premise until March of 2021.

Ms. Johnson shared her screen to show the revised plan, and Attorney Norris noted that originally Mr. Litchfield had proposed two different location for the houses based on the layout of the land.

Jason Mauro inquired about the proposed conversion of the new dwellings to condominiums, and asked whether these would be multi-family dwellings, to which Attorney Norris stated that they would remain single-family and discussed the issue with the lack of frontage. Mr. Mauro inquired about why the frontage is inadequate. Ms. Johnson explained that the Cox Street side of the property has adequate frontage, but when the petitioner wanted to ANR the lot in two separate lots, there was not enough frontage for that action. Mr. Mauro stated his understanding that the nonconformity is that there are two dwellings on one lot, to which Attorney Norris and Ms. Johnson concurred.

Vice Chair Schafer stated her understanding that there is no nonconformity of the use, as the use of the structures is single-family residential, and noted her understanding that the nonconformity should relate to either the structure or the lot. Attorney Norris stated that the nonconformity relates to the two dwellings units on the lot; Ms. Johnson confirmed that understanding.

Pamela Cooper inquired whether creating a condominium would exacerbate the nonconformity. Other members of the Board wondered about this issue and whether that changes the use. Vice Chair Schafer stated that it would be helpful to have more detailed plans.

Matt Russell stated that because this petition involves the removal of two single family houses, Section 5.1.6.3 may be the more appropriate provision if the words damage or destroyed are disregarded.

Tony Mancini stated his understanding that if the petitioner willfully demolishes the two single family structures, the appropriate mechanism to rebuild would be to apply for a variance. Mr. Mancini inquired as to what relief the petitioner would be seeking, to which Attorney Norris stated that the relief indicated by the Building Commissioner is 5.1.6.1. Attorney Norris stated that he could consult with Mr. Litchfield to discuss the feasibility of incorporating some of the elements from the existing dwellings. Mr. Litchfield discussed some potential design options, to which Mr. Mancini stated that the Board will want to see more developed plans.

Chair Nevits concurred with Mr. Mancini that the Board will need to see more developed plans in order to make a judgment about the specific provision within the by-laws that apply to this case. Vice Chair Nevits read the definition of structural alteration from the Hudson Zoning By-laws. Ms. Johnson screened shared the text for MGL Chapter 40A Section 6. Chair Nevits noted her understanding of Section 5.1.6.3 which applies to fires or storms that cause damage and/or destroy properties.

Board members engaged in a lengthy discussion on what the appropriate provision within the Zoning by-laws applies to this petition. Mr. Mauro wondered –based on his reading of Section 5.1.6.1 –if this proposal is allowed by-right and does not require any action by the ZBA. Members expressed support for the project itself but need a better understanding of what the appropriate regulatory pathway would be for approval. For the next meeting, Board members requested the following: 1) more detailed plans; 2) guidance from the Building commissioner; and 3) information about willfully destroying a property and the applicability of Chapter 40A Section 6.

**Chair Nevits seconded by Mr. Russell moved to continue the public hearing for 27 Cox Street and 54 Lake Street to the Board's next regularly scheduled meeting on October 13, 2022.** By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Pamela Cooper: **yea**; Matt Russell, Member: **yea**; Tony Mancini Jr., Member: **yea**. 6-0-0. Unanimous.

### **Minutes**

Chair Nevits seconded by Mr. Mauro moved to approve the meeting minutes of August 11, 2022. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Pamela Cooper: **yea**; Matt Russell, Member: **yea**; Tony Mancini Jr., Member: **yea**. 6-0-0. Unanimous.

### **Adjournment**

Chair Nevits seconded by Mr. Mato moved to adjourn the meeting at 8:45PM. By voice roll call vote: Darja Nevits, Chair: **yea**; Jill Schafer, Vice Chair: **yea**; Jason Mauro, Clerk: **yea**; Pamela Cooper: **yea**; Matt Russell, Member: **yea**; Tony Mancini Jr., Member: **yea**. 6-0-0. Unanimous.