



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—March 11, 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 Darja Nevits called the meeting to order at 7:00PM. 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; ; Matt Russell, Member; Ronald Sorgman, Associate Member.

Members Absent: Pamela Cooper; Justin O'Neil

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

Petition 2021-01 59 Apsley Street

Present: Dave Rykbost, Petitioner

Chair Nevits read the public hearing notice for the project, which entails a request for a variance from 6.2.1.3 of the Town of Hudson Zoning By-laws to allow for the placement of a storage trailer in the side yard setback. The subject property is located at 59 Apsley Street in the M-1 Industrial Zoning District, Assessors' Map 18 Parcel 200. The Board may consider any action deemed necessary relative to the subject petition.

Jason Mauro, Clerk read the right of appeal.

Before turning over the floor to the petitioner, Chair Nevits raised a concern about how the petition did not contain a formal denial form from the Building Commissioner, and only contained an email from the Building Commissioner about the need to comply with the setbacks. She noted that it is usually standard practice for the Board to receive a formal building permit denial form as part of the petition package, and she questioned

whether the email was sufficient to grant the petitioner standing to appear before the Board. Vice Chair Schafer stated that the denial was put in writing even if the section of the Zoning By-laws was not specifically cited in the email. Ms. Johnson noted that this Board uses the written denial form for both variances and special permit to establish standing.

The Board agreed to move forward and hear the petition. Chair Nevits turned over the virtual floor to the petitioner and requested that he address the specific findings relative to the variance.

Dave Rykbost provided an overview of the petition and confirmed that the Building Commissioner denied the permit for the storage container if the desire was to have it located ten (10) feet from the lot line. Mr. Rykbost noted that the current perpendicular orientation of the storage unit is blocking five (5) parking spaces, and then stated that there is room at the back of the property next to the fence as a better location to relocate the existing storage unit. He then noted that this location for the storage unit would better serve the prospective tenant who would be using the unit for her business. Ms. Schafer noted that the requirement is actually 20 feet from the lot line.

Chair Nevits read the definition of a “building,” and questioned if this storage unit qualifies as a “building.” Mr. Rykpost noted that the storage unit is temporary structure that can get removed at any time, and stated that he was informed of a \$50 fee every six months that would be required to paid. Ms. Johnson stated that there is no such regulation in the Zoning By-laws but that there could be a regulation in the General By-laws. She indicated that she would follow up with the Building Commissioner.

Chair Nevits requested that the petitioner’s petition materials or presentation addressed the requirement for a variance. She emphasized that the burden is on the petitioner to demonstrate why a variance is necessary and address the criteria for determining a hardship. Mr. Rykbost stated that keeping the storage unit in the current location is a detriment to the parking situation on the property.

Ron Sorgman read Section 6.3.1 the Zoning By-laws about the dimensional requirements of accessory buildings which states that ***accessory buildings a shall be located in the side or rear yard and shall not be closer than three (3) feet to the rear lot line or ten (10) feet from the side lot line.*** Mr. Sorgman suggested that the storage unit could be moved to the right away from the property line and not interfere with the existing transformer.

Vice Chair Schafer stated that the soil, shape, or topography of the subject property need to be unique in order to properly demonstrate a hardship. She stated that the lack of hardship is a problematic factor in this case. Ms. Johnson noted that she brought this issue up with engineer who prepared the petition, and Chair Nevits noted that the application narrative addresses the requirements for a special permit not a variance.

Jason Mauro questioned why the petitioner even needs to be before the Board, as he believes that the Zoning By-laws do not regulate such structures. He noted that there are connex boxes located all around the Town. Mr. Mauro suggested that it would be prudent to get some feedback and guidance on this issue from the Building Commissioner.

Tom Green—member of Green Hudson—inquired about the location of the Mass. Central right of way, and wanted confirmation that the proposed storage unit would not interfere with the future use of the right of way as a bicycle trail. Ms. Johnson shared her screen and showed the aerial photograph of the property in relation to the rail right, which indicated no interference.

Chair Nevits seconded by Matt Russell moved to continue petition 2021-01 to April 8, 2021. 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**. 5-0-0. Unanimous.

Annual Marijuana Establishment Reports

Pursuant to Section 5.12.7, the following Marijuana establishments submitted their required annual reports: Temescal Wellness, Native Sun, and Hudson Botanicals. Chair Nevits acknowledged receipt of the reports. No vote or further action was taken.

Minutes- January 14, 2021

Chair Nevits seconded by Matt Russell moved to approve the meeting minutes from the December 10, 2020 meeting with the changes sent to Ms. Johnson. 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**. 5-0-0. Unanimous.

Adjournment

Jason Mauro seconded by Matt Russell moved to adjourn the meeting at 8:30 PM. 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**; 5-0-0. Unanimous.