



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—May 13, 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.

Vice Chair Schafer 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.

Vice Chair Schafer 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 (joined at 7:20PM).

Members Absent: Pamela Cooper; Justin O'Neil

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

Before commencing with the agenda, Jason Mauro on behalf of the Board of Appeals extended best wishes and appreciation to three retiring Town Officials: Mr. Joseph Durant and Mr. John Parent of the Select Board and Tom Moses, Executive Assistant, and expressed his congratulations to the two newest members of the Select Board Mr. Michael Burks and Mr. Shawn Sadowski.

Petition 2021-01 59 Apsley Street

Present: Stephen Poole, Petitioner's Design Engineer

Vice Chair Schafer resumed the discussion for the petition and turned over the virtual floor to Stephen Poole to provide any new updates to the Board. Mr. Poole summarized the request of the petitioner to located a temporary storage unit at the rear of property, and noted that the proposed orientation was the most feasible, as there are two parking spaces and a Hudson Light and Power transformer enclosure in the rear of the building. Mr. Poole noted that the temporary storage unit would be 2 feet off the

fence, and 2.5 feet from the property line, screened by a chain-linked fence, and would not be visible from the adjacent property.

Vice Chair Schafer noted that the application submitted to the Board is requesting a variance, but the narrative in the application references the required findings for the issuance of a special permit. Ms. Schafer noted that the petition needs to address the required findings relative to a variance not a special permit.

Mr. Poole proceeded to discuss the soil, shape, and topography of the lot. With respect to topography, he noted that the lot was flat and does not present any topographical issues, and with respect to the soils, he noted that soil conditions do not present any constraints. He noted that it's the shape of the lot that contains a U- shaped building that is causing a hardship for locating the storage unit on the site. Mr. Poole noted that the building encompasses most of the available space on the lot; therefore, the only practical location for the temporary storage unit is at the rear of the site

Chair Nevits noted that the Board is split on how to treat the siting of the storage unit as half of the Board believes that it doesn't even require a building permit while the other half believe that it does require a variance as specified by the Building Commissioner. Chair Nevits stated that she supports the ruling of the Building Commissioner that this requires a variance, as it's an accessory structure subordinate to the principle structure. She also stated that she is having a hard time ascertaining a hardship, as she believes that the proposed location of the storage structure is out convenience for the business. Vice Chair Schafer added that she is trying to obtain a consensus from the Board whether this is a temporary structure or an accessory structure, and it's difficult to understand what temporary actually means as it's not defined in the Zoning By-laws. Ms. Schafer noted that the unknown duration of the structure being located on the property makes it difficult for the Board to consider the structure "temporary."

Jason Mauro inquired about the east side of the property and whether the existing building conforms to the dimensional requirements, to which Stephen Poole stated that it's pre-existing non-conforming. Mr. Mauro wondered if the storage structure could be sited in that location and this could be considered an expansion of a non-conforming use. He stated his belief that the storage structure is not accessory. Matt Russell concurred with Mr. Mauro and stated that it is surprising that the storage structure would require a building permit in the first place. Mr. Russell inquired about the length of the lease for the tenant who intends to use the structure, to which Mr. Poole did not have an answer. And finally, Mr. Russell stated it would be helpful to understand the existing occupancy of the principle structure and the parking needs and requirements for the workforce.

Chair Nevits inquired if any members of the public wished to offer any comments. No members of the public requested to speak on the petition.

Chair Nevits seconded by Matt Russell moved to continue the public hearing for petition 2021-01 until June 10, 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.

Petition 2021-02 13 Hunter Avenue

Present: Stephen Poole, Petitioner's Design Engineer

Vice Chair Schafer read the public hearing notice for the petition, which entails the request of Ronald Edward Ham and Jodie Beth Ham to obtain a special permit pursuant to Section 5.1.6.1 for the expansion of a pre-existing non-conforming use to allow for the construction of a +/-344 square feet addition to the existing single-family dwelling. The subject parcel is located at 13 Hunter Avenue, Assessors' Map 35, Parcel 45 in the SB Zoning District

Stephen Poole provided an overview of the property and the proposed expansion. Mr. Poole noted that the existing property contains a single family dwelling house and an old cottage in the back, and underscored that the lot is pre-existing nonconforming. He explained that the owners wish to expand the unit in the back in the area in between the two structures.

Chair Nevits inquired if Section 5.1.6.1 was the appropriate Section for this petition to fall within. Ms. Johnson noted that the Board has traditionally gone with that Section for these types of Special Permits for pre-existing non-conforming uses, and stated her understanding of the Building Commissioner's determination.

There were no members of the public who requested to speak on the petition.

Vice Chair Schafer seconded by Jason Mauro moved to enter into deliberative session. 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.

Vice Chair Schafer inquired if members of the Board had any additional comments or questions regarding the petition. Members all agreed that this petition meets the intent of Section 5.1.6.1 and that the Special Permit should be granted.

Jason Mauro seconded by Matt Russell moved to approve Petition #2021-02 and grant a special permit pursuant to Section 5.1.6.1 of the Town of Hudson Zoning By-laws for the alteration and expansion of the nonconforming structure to allow for the construction of a front porch addition in accordance with the certified plot plan dated March 5, 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

Vice Chair Schafer seconded by Jason Mauro 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** Ronald Sorgman, Associate Member: **yea**. 5-0-0. Unanimous.

Petition 2021-03 40 Rolling Lane

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

Vice Chair Schafer read the public hearing notice for the petition, which entails the request of Flaviano and Diane Oliveira for a special permit to construct a +/- 506 square foot Accessory Dwelling Unit at 40 Rolling Lane pursuant to Section 5.2.6 of the Town of Hudson Zoning By-laws. The subject property is located in the SA-7 Zoning District, Assessors Map 50 Lot 18.

Jason Mauro, Clerk read the right of appeal.

Vice Schafer turned over the virtual floor to Michael Chaves, the contractor representing the petitioner.

Michael Chaves stated that he has been working with the petitioners on developing a plan for the proposed accessory unit, and stated that the petitioners have a full understanding of the requirements of the Accessory Dwelling Unit By-law. He noted that there are no plans to make exterior alterations to the property to accommodate the proposed accessory unit, and that there will be ample parking for the unit. Mr. Chaves discussed the ingress and egress into the accessory unit, and described the habitable living area.

Jason Mauro inquired if the accessory unit would be enclosed within the main dwelling unit, to which Mr. Chaves stated that the unit would be located in the basement of the main dwelling. Mr. Chaves noted that the existence of the kitchen and bedroom setup automatically qualifies the unit as accessory, according to the Building Commissioner. Mr. Mauro stated that the proposed unit needs to conform to the strict use and design regulations spelled out in the By-law, and noted a particular concern relative to the 5.2.6.4 (f) and the location of the ingress/egress. Mr. Chaves explained that the window in the front will be used as an emergency exit in case of fire and that the main entrance to the unit will be through the existing front door.

Ron Sorgman inquired about the ingress and egress to the unit should there be rented out in the future. Mr. Chaves stated that aside from the main front door, which serves the house, egress would be either via the bulkhead or the front window (only in emergencies). Mr. Sorgman expressed his belief that this setup would not offer any privacy for tenants should the unit be rented out in the future. Mr. Chaves stated that

the unit would be serving immediate family, and there is no intention of using it as a rental unit. Mr. Sorgman then questioned how this proposed setup even qualifies as an accessory dwelling unit and whether it is simply the homeowner finishing off a basement area. Mr. Chaves asked if it is a requirement to have a separate entrance for an accessory unit, to which Mr. Sorgman and Mr. Mauro said yes.

Members of the Board engaged in a discussion about whether this proposed unit matches the definition of an “accessory dwelling unit” pursuant to Section 5.2.6. Mr. Mauro suggested continuing the petition in order to get further feedback from the Building Commissioner, as a Special Permit for an accessory dwelling unit places a lot of restrictions on property.

Chair Nevits seconded by Jason Mauro moved to continue the public hearing for petition 2021-03 until June 10, 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.

Appointment- Native Sun

Ms. Johnson explained that Native Sun is the retail marijuana operation located at 37 Coolidge Street and that requested to have an informal dialogue to explore the possibility of expanding their business hours. She stated that the hours of operation for retail marijuana establishment are controlled by the use regulations contained in the Retail Marijuana Overlay District, Section 5.12 of the Hudson Zoning By-laws.

Mr. Charlie Yon introduced himself and the Native Sun operation and underscored the desire of the company to maintain positive working relationships with all the regulatory boards in the Town of Hudson. Mr. Yon noted that since opening on December 4, 2020, Native Sun submitted their required annual report on time to the Board of Appeals. Mr. Yon then explained that the company is looking to expand their hours past 8PM in order to serve a potential customer base who may be shopping and dining at establishments within Highland Commons, and he stated that property owner supports the expansion of the hours of operations.

Vice Chair Schafer stated her opinion that the Board of Appeals does not have authority to change specific aspects of the By-law, and that a petition to Town Meeting to change the By-law would be required. Matt Russell stated his support for the expansion of the hours of operation; however, he concurred that the Board of Appeals does not have the power to make that change. Jason Mauro echoed the previous comments.

Ms. Johnson explained to Mr. Yon how the zoning amendment process would work and pledge to work with Native Sun through every step of the process.

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Chair Nevits seconded by Matt Russell moved to approve the meeting minute. 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

Vice Chair Schafer seconded by Matt Russell moved to adjourn the meeting at 8:57 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.