



## Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

### Minutes of Meeting—May 11, 2017

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The Hudson Board of Appeals met in the Selectmen's Hearing Room, 2<sup>nd</sup> Floor, Town Hall, Hudson, Massachusetts. At 7:00 PM, Lawrence Norris called the meeting to order.

Members Present: Lawrence Norris, Dorothy Risser, Todd Pietrasiak, Jason Mauro, Darja Nevits, Pamela Cooper, and Jill Schafer

Staff: Kristina Johnson, AICP, Assistant Director of Planning and Community Development

A copy of the sign in sheet is enclosed with these minutes.

#### **Petition; 46 Church Street, *Special Permit (Continuance)***

Present were: Attorney Jose Moreira, representing the petitioner  
Lew Colton, Architect  
Anna Sousa, Petitioner  
Debbie Sousa, Petitioner

Chairman Norris re-opened the petition and summarized the key discussion points relative to the petition from the prior meeting held on April 13, 2017. He noted that per the advice of the Town's Legal Counsel, Attorney Cipriano, the meeting tonight will focus on gauging whether the enlargement of the non-conforming use will be substantially more detrimental to the surrounding neighborhood than the existing non-conforming use, per Chapter 40A, Section 6. Chairman Norris then requested that Attorney Moreira present an argument (s) as to why the proposed conversion from a two-family structure to a four-family dwelling unit would not be more substantially detrimental to the neighborhood.

First, Attorney Moreira inquired if the Board was satisfied that the pre-existing non-conforming use had been sufficiently demonstrated. Chairman Norris reiterated that the Board is following the advice of Town Counsel, and that is to consider both Section 5.1.6.1 and Section 5.1.6.3 of the Hudson Zoning By-Laws as they pertain to the requested zoning relief. Chairman Norris further stated that Town Counsel advised the Board that Chapter 7 of Chapter 40A pertains to enforcement and it not applicable to this petition. Attorney Moreira stated for the record his objection to Town Counsel's opinion regarding the non-applicability of Section 7, and read aloud the 2016

Amendments to Section 7. Chairman Norris stated that the Board is focusing on zoning relief and is satisfied with the pre-existing non-conforming status.

Attorney Moreira addressed the issue as to why he believes the proposed conversion from a two-family to a four-family is not substantially more detrimental to the neighborhood. He reiterated his prior month's testimony that the makeup of the neighborhood is a mix of housing uses: three four-family dwellings; five three-family dwellings; 11 two-family dwellings, and seven single-family dwellings. Attorney Moreira noted that the Zoning Board has issued Special Permits in the past to allow for the conversion of two-families to three families. He also commented on the small –sized lots within the neighborhood, and expressed his belief that 46 Church Street is the least covered lot within the neighborhood even with the proposed four-family structure. Chairman Norris expressed concerns that the proposed structure will be totally different in nature from the other structures within the neighborhood. Attorney Moreira countered by stating that the proposed structure will be modern, will eliminate the blight in the neighborhood caused by the existing structure, while meeting all dimensional requirements. Attorney Moreira expressed his willingness to address some of the concerns regarding the architectural features of the proposed structure should the Board wish to take action.

Chairman Norris noted that when the Board reviews the change or enlargement of a structure under Section 5.1.6.3 of the Hudson Zoning By-Laws, the reuse of the foundation is usually required. Lew Colton, Architect for the Petitioner walked through the various elements of the site plan, and Attorney Moreira stated that most likely Chairman Norris moved to enter into deliberative session. Seconded by Todd Pietrasiak. Vote: 7-0-0. Unanimous

Lawrence Norris seconded by Todd Pietrasiak to allow the petitioner to withdraw the petition without prejudice to address concerns raised by the Board. Vote: 5-0-0. Unanimous

#### **Petition; 24 Causeway Street, *Variance***

Present were: Thomas DiPersio, Engineer representing the petitioner  
Jean and Julio Rebelo

Chairman Norris read the public hearing notice for the above-referenced petition requesting a variance from 6.2.1.3 of the Town of Hudson's By-Laws to allow for an existing carport at 24 Causeway Street to remain on the premise. Thomas DiPersio, Engineer representing the petitioner described the location and dimensions, the structural supports of the existing carport and of the RV parked underneath the structure. Mr. DiPersio noted that the petitioner placed the carport along the side yard, as that location is much easier for the parking and maneuvering of the RV, and that the petitioner was unaware that the carport constituted an actual structure required to meet the setback requirements.

Chairman Norris underscored the necessity of the petitioner to demonstrate the uniqueness of the soil, shape and topography of the lot that makes it different from other lots within the neighborhood, and that there will be hardship resulting from the literal enforcement of Section 6.2.1.3 of the Zoning By-Laws. He also emphasized that the Board must also consider that granting the desired relief will not derogate from the intent and spirit of the Zoning By-Laws. He then asked Mr. DiPersio and the Petitioner to discuss the uniqueness of this particular lot as compared to others in the neighborhood and that the hardship is not self-imposed. Thomas DiPersio noted that the existence of drainage and sewer easements on the lot, which he believes limits the area where structures can be located.

Dorothy Risser read the right of appeal

Chairman Norris moved to enter into deliberative session. Seconded by Dorothy Risser.  
Vote: 7-0-0 Unanimous

Lawrence Norris seconded by Todd Pietrasiak moved to deny a variance from 6.2.1.3 of the Town of Hudson's By-Laws laws to allow the petitioner to maintain the existing car port structure, as it was determined that the hardship resulting from the literal enforcement of the Zoning By-Laws is in fact self-imposed.

Vote: 0-0-5

#### **Petition; 75 Warner Street, Variance**

Present were: Kelly and Paul Schultz, petitioner

Chairman Norris read the public hearing notice for the above-referenced petition, requesting a variance to remove the existing 265 square foot garage and construct a new 735 square foot (21 x35) garage within the side yard setback.

Dorothy Risser read the right of appeal.

Chairman Norris re-iterated the procedure for granting variances, and then invited the petitioner to give presentation on the proposed request. Chairman Norris inquired whether the existing garage can be considered a pre-existing non-conforming structure, and asked Assistant Director Kristina Johnson to clarify. Ms. Johnson indicated that Planning staff discussed this issue about whether the proposed request should be for a special permit or a variance. It was ultimately determined that the petition should move forward as a request for a variance.

Chairman Norris moved to enter into deliberative session. Seconded by Dorothy Risser.  
Vote: 7-0-0. Unanimous

Chairman Norris, seconded by Dorothy Risser moved to approve the petition and grant the variance to grant a variance from 6.3.1 of the Town of Hudson's Zoning By-Laws a new 735 square foot (21 x35) garage within the side and rear yard setback at 75 Warner Street as shown on the Survey Plan dated April 13, 2017 from Whitman and Bingham Associates, LLC.

With the following findings:

1. That owing to unique circumstances relating to the soil, shape, and topography of the land, specifically the fact that the lot size of the subject property is the smallest of all other lots in the neighborhood, but not generally affecting the SB Zoning District. It has been demonstrated that a literal enforcement of the zoning by-law would involve substantial hardship in that compliance with the side and rear setback requirements would diminish the overall feasibility of the project, and;
2. Desired relief from the side and rear setback requirements as shown on the Survey Plan dated April 13, 2017 from Whitman and Bingham Associates, LLC 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.

Vote: 4-0-1

#### **Petition; 74 Cox Street, *Special Permit***

Present were: Eugene Curley, Petitioner  
Christopher Yates, Fletcher Tilton  
Thomas DiPersio, Engineer representing the petitioner

Chairman Norris read the public hearing notice for the above-referenced petition, requesting a Special Permit under Section 5.3.2.1 (a) of the Town of Hudson's Zoning By-Laws to construct a new sixteen (16) unit condominium building and associated landscaping.

Dorothy Risser read the right of the appeal.

Attorney Christopher Yates repeated the request of Eugene Curley to demolish the existing buildings and construct a sixteen (16) unit condominium complex. Attorney Yates discussed the history of the property and its structures, and the history of the ownership within the Curley family. He then discussed the key elements of the site plan: 1) 16 garage spaces; 2) 14 surface guest spaces; 3) adequate snow on-site snow storage; 4) 64% open spaces; and 5) access to Town Water and Sewer hook-ups. Furthermore, Attorney Yates underscored that the proposed project will meet all dimensional requirements for lot size and setbacks, and that it would not have an

adverse effect on the neighborhood or cause any traffic hazards. He noted that a traffic study for this project was completed as part of the Planning Board Site Plan review process. Attorney Yates concluded by stating his belief that the proposed project's design is similar to other residential projects within commercial district, and fits within the neighborhood context.

Thomas DiPersio then discussed the details of the existing site and provided a detailed overview of the proposed site plan. He noted the constraint of the wetland resource area, and how that contributed to the proposed layout of the building on the site. Mr. DiPersio discussed the plan to use the existing curb cut for the entrance to the site, and close the existing curb cut closer to Manning Street. Chairman Norris inquired about whether the traffic study addressed traffic associated with the nearby Middle School. Mr. DiPersio stated that the Traffic Study for the Planning Board analyzed a worst case scenario, and Attorney Yates noted that the traffic pattern for the Middle School has been recently revamped.

Dorothy Risser inquired about the location of the dumpsters, to which Mr. DiPersio explained that there will be individualized service pickup, not a centralized system. Ms. Risser followed up and asked if a spot has been designated for a dumpster in the event that the individual trash collection does not work, to which Mr. DiPersio said yes, and that most likely one of the guest parking spaces would be sacrificed.

Darja Nevits inquired about the internal layout of the unit, specifically the number of bedrooms. Eugene Curly stated that each unit will be exactly the same with three (3) bedrooms.

Chairman Norris and Thomas DiPersio discussed the ingress and egress to the site from Cox Street, specifically related to fire protection.

Pamela Cooper inquired about the proposed gate to the existing curb cut that will be closed. Thomas DiPersio noted that this issue arose at the Internal Traffic Committee, and the Fire Chief wanted to keep the gate as is. He noted that the Fire Department will have a key to open the gate in the event of an emergency.

Chairman Norris moved to enter into deliberative session. Seconded by Todd Pietrasiak. Vote: 7-0-0. Unanimous

Dorothy Risser seconded by Lawrence Norris, moved to grant the special permit under Section 5.3.2.1 (a) of the Hudson Zoning By-Laws to construct a 16-unit condominium building at 74 Cox Street.

With the following condition:

1. No salt and/or other associated chemicals shall be used during the snow removal process on the subject property.

Vote: 5-0-0. Unanimous

**Petition; 19 Brent Drive, Special Permit**

Present were: Gregory Bradford, Nutter, McClennen, and Fish, LLP  
William Goodman, Civil and Environmental Consultants, Inc.  
Christopher Doher, Civil and Environmental Consultants, Inc.

***Vice Chairman Todd Pietrasiak recused himself from this petition.***

Chairman Norris read aloud the public hearing notice for the above-referenced petition requesting a Special Permit under Section 3.3.10 (Watershed Protection District) of the Town of Hudson Zoning By-Laws to accommodate gravel pad landscaped material stockpile areas, a one-way, twenty (20) foot wide interior gravel access driveway, and associated stormwater management features.

Dorothy Risser read the right of appeal.

Gregory Bradford, attorney representing Blank Industrial Realty provided an overview of the petition. He discussed his client's acquisition of a 7.5-acre parcel known as 19 Brent Drive, which was created as result of ANR plan. Attorney Bradford explained that the 7.5-acre parcel connects to an existing landscaping business at 17 Brent Drive; he indicated that the operations are located towards the rear of the site, and the parking facilities and customer services are located in the front of the site.

Attorney Bradford explained that this project will entail site clearing and the regrading of the 7.5-acre parcels to create an additional area for the storage of landscaping materials, including salt in the winter. He noted that the dashed lines on the large site plan board denote the Watershed Protection District, which comprises 60,000 square feet of the 7.5-acre parcel. Attorney Bradford also pointed out on the site plan the proposed location of the 20-foot gravel driveway, and the easement granted over 19 Brent Drive, which he indicated was granted to his client during the purchase of the property. Lastly, he noted that both the Internal Traffic Committee and the Planning Board reviewed and approved the site plan, and that they had individual meetings with the Fire Department, DPW, and the Town's peer review engineer the site plan review process.

Bill Goodman, engineer for the petitioner provided an in-depth presentation of the engineering and stormwater management elements First, Mr. Goodman described the site topography and noted the existence of a railroad bed on the property. He then reiterated the petitioner's desire to regrade the 7.5-acre parcel to an "adequate grade" to allow for the stockpiling of landscaping materials. With respect to drainage and stormwater management system and features, Mr. Goodman noted the following: 1) there will be no change to the existing drainage pattern; 2) the drainage system has

been designed to handle two, ten, 25, and 100-year storm events; and 3) post development drainage discharge will not exceed pre-development storm water flow.

Chairman Norris asked Mr. Goodman to provide the materials and specifications of the proposed pipes underground. And then Chairman Norris inquired if petitioner has seen the comments and concerns raised by Hudson Golf in recent correspondence sent to the Planning Department. Assistant Director Johnson passed around the recent letter to those individuals who had not received a copy.

Scott Reynold from Hudson Golf provided an overview of the comments and concerns with this proposed petition. Mr. Reynold discussed that the Gold Course receives numerous noise complaints from the existing operations and his belief that the proposed project will exacerbate the noise level and create excessive dust. He inquired as to why the proposed gravel access way could not be relocated away from the gold course, and noted the existence of the watershed area within the proposed gravel driveway. Mr. Reynold discussed his understanding of how the existing slope areas will cause water to flow toward their property and ultimately end up in a stream that faces the golf course. He noted that Hudson Golf has three (3) wells, which are regulated and monitored by the Town of Hudson for leeching materials, and expressed his concern that the petitioner would not be subject to the same level of regulations.

Chairman Norris reiterated the Board's duty under the Zoning By-Laws to protect the watershed areas within the defined district. Mr. Norris expressed his acknowledgement that the petitioner will be vegetating the site and the slopes, and he expressed his concern about what methods are being employed to block the leeching of landscaping materials and/or chemicals directly into the ground. Mr. Goodman indicated that the existing and future landscaping materials brought to site are "clean" and would not cause any contaminating. Further, Attorney Bradford noted that the petitioner would not be using and salt and/or de-icing chemicals within the watershed district, and that all snow storage would be concentrated to a small corner of the lot not within the watershed district.

Dorothy Risser asked about the location of the salt storage, as she noted the that salt storage is prohibited within the Watershed Protection District. Attorney Bradford underscored that the salt storage would not be located within the Watershed Protection District. Pamela Cooper expressed concerns that site topography could cause the salt to leech out the storage containers and into the ground and away from the storage area. Bill Goodman noted that the storage containers are not "sheds", but are covered pads designed to keep salt from leeching out.

Chairman Norris moved to enter into deliberative session. Seconded by Dorothy Risser. Vote: 7-0-0

Dorothy Risser, seconded by Chairman Norris, moved to grant the special permit under Section 3.3.10 of the Town of Hudson's Zoning By-Laws to allow for the gravel pad

landscaped material stockpile areas, a one-way, twenty (20) foot wide interior access driveway, and associated stormwater management features.

With the following conditions:

1. No salt, chemicals, and herbicides shall be applied on the entire length of the gravel access roadway;
2. Prior to construction, a copy of the Stormwater Pollution and Prevention Plan will be furnished to the Board.

Vote: 5-0-0. Unanimous

### **Director's Report**

No report was given.

### **Minutes**

**Lawrence Norris seconded by Dorothy Risser, moved to approve the minutes of the March 9, 2017 meeting.**

**Vote: 7-0-0, Unanimous**

### **Adjournment**

**At 9:40 PM, Lawrence Norris seconded by Dorothy Risser, moved to adjourn.**

**Vote: 7-0-0, Unanimous**