



Hudson Board of Appeals

Town Hall

Hudson, Massachusetts 01749

Minutes of Meeting—September 14, 2017

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

Members Present: Lawrence Norris, Chairman; Todd Pietrasiak, Vice-Chair; Dorothy Risser, Clerk; Darja Nevits, Pamela Cooper, and Jill Schafer

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

Chairman Norris convened the meeting at 7:00 PM, and read through the sequencing of the petitions for the evening.

Petition #2017-10; 10-12 Arlington Street, *Special Permit (Continuance)*

Present were: Attorney Joe Moreira, representing the petitioner

Chairman Norris stated that when they left off at the last meeting the architect answered questions from the Board and Attorney Moreira requested time to reply to the Town Counsel, Attorney Aldo Cipriano's letter concerning the questions on zoning from the state and towns local zoning. The letter was received yesterday, September 13th.

Chairman Norris read into the record a letter of response from Attorney Moreira letter dated September 13, 2017 to Attorney Cipriano's previously submitted legal opinion.

Chairman Norris asked if Attorney Moreira had any comments for the Board.

Attorney Moreira stated that he will allow the letter submitted speak for itself. He then noted that the architect was not able to attend the meeting, but that owner of the property Mr. Jose Paneda was in attendance should the Board have any further questions.

Chairman Norris opened the meeting for public comment.

Mr. John Paul Cardoso, 8 Arlington Street read letter of opposition to the Board. Said letter was submitted for the administrative record to Assistant Director, Kristina Johnson

Chairman Norris noted that Mr. Cardoso in his letter noted that property in question was vacant was some time, but that the petition states the premises has been continually

occupied since before the zoning bylaws were in place. Attorney Moreira stated that his client purchased the property from foreclosure and that the prior owner may have left the property for a few months prior to his client buying the property but there was no abandonment of the property.

Ms. Cardoso then stated that he could not state how long the property was vacant, but that is was his belief that is was at least 5 months. Chairman Norris stated that is fine that due to Zoning that it would need to be vacant for at least 2 years.

Mr. Cardoso also submitted a signed petition from the area neighbors for the Board to keep in record. Ms. Johnson asked if the document was the one that was given to the Planning Board back in March, to which Mr. Cardoso responded that it was slightly different.

Attorney Moreira stated that the petition received approvals from the Internal Traffic Committee and the Planning Board, including a suggestion in regards to parking along the corner of Arlington and Washington Street.

Chairman Norris stated his understanding that the Section of the bylaw states by special permit a property can be either enlarged for changed in use but not both. Attorney Moreira responded that the petition is requesting an increase by constructing a another 2 family building. Chairman Norris reiterated that the Board can either allow for an increase or a new use cannot do both which the proposal is requesting.

Attorney Moreira stated that the Board and interpret the Bylaw any way the want and is requesting that the use to be enlarged from a 2 family to a 4 family with the addition of another building.

Ms. Jill Schafer stated that Town Counsel advised the Board to look at Section 5.1.6.1. in the Zoning Bylaws for the approval of the petition, and that it is up to the Board to interpret that Bylaw.

Ms. Dorothy Risser that under the definitions in the Bylaw a Building is defined in a residential area as the main building on a lot and nowhere does it state that there can be two main buildings within a lot. Attorney Moreira then asked what the definition was listed for a lot. Ms. Risser stated that a lot is defined in the Bylaw as an area of land shown for a building application or an application to the Zoning Board of Appeals in which a structure is to be built or a use be carried out and will not contain the street.

Attorney Moreira stated the under 5.1.6.1 the request is reasonable and it is up to the Board to find if the existing non-conforming lot need finding that the proposed is more detrimental to the neighborhood.

Chairman Norris stated that in all his time on the Board they have never allowed the expansion of a use under 5.1.6.1 to include an additional building in addition to the expansion of two-family to a four family.

Ms. Risser asked the question to why the proposal does not fall under new construction as a new building is being built. Attorney Moreira stated that it is an enlargement of the existing use by constructing a single building to be used as the existing building is currently being used. Ms. Risser stated that the petition is unique to the Board and the Board is looking at other sections in the Bylaw in their decision on the petition to see if it is an allowable use to have two, two family structures on a non-conforming lot. Attorney Moreira stated that the petition lists Section 5.1.6.1 in the application and requested that the Board look strictly at that section in their decision to see if the proposed is detrimental to the neighborhood. Ms. Risser reiterated again that the petition is unique and that she is looking at new construction, multiple dwellings on lot and owner occupancy which is required in multiple zoning areas in town.

Attorney Moreira stated that Section 5.1.6.1 is the only section that allows for the expansion to make a two family to a three family. Ms. Risser stated that is correct and the Board will look at the petition as it is presented.

Attorney Moreira stated that the Board needs to make a fair decision based on the section of the bylaw that pertains to the petition. Ms. Risser stated that an option is to expand on the existing building rather than constructing a new building. Attorney Moreira stated his belief that this is a new view of expansion, but it still needs to be viewed fairly and examined under Section 5.1.6.1 of the bylaw. He suggested a short pause to allow the Board to move on to another petition in order to speak to his client.

Chairman Norris stated that the Board will move on to the next petition and return the petition later in the meeting.

Petition #2017-11; 19 Lakeshore Drive, *Special Permit (Continuance)*

Present were: Amanda Risch, representing the petitioner

Ms. Amanda Rich stated that Mr. Nelson Santos was unable to attend the meeting. She went over the requests made by the Board at the last meeting for revised plans of the addition and site plans. Since then the revisions to the plans have been made including the removal of the third bedroom in the accessory dwelling, addition of dimensions, and egress is now shown on the site plan as well as driveways shown on plans. She went on to stated that she met with Ms. Kristina Johnson in Planning Department to review the plans, and per their meeting an affidavit has been drafted stating that the walk in closet will not be used as a third bedroom, which she had for the Board to place into the record.

Chairman Norris asked Ms. Johnson if an affidavit is an acceptable term for the restriction on the third bedroom and can be enforceable. Ms. Johnson stated that she was thinking in terms of how owner occupancy has them, which it is enforceable but also suggested that the Board place it as a condition. Ms. Dorothy Risser also suggested a deed restriction on the property as well.

Vice Chairman Pietrasiak he recommended the preparation of the site plan to verify conformance to the required 10-foot side setback is met for the proposed landing. Ms. Risch stated that they are not making any modifications to the exterior structure.

Vice Chairman Pietrasiak stated that the landing is added to the side yard. He stated that the plan shows the house at 13' 6" from the side yard property line, and the proposed porch is 4 feet plus a landing. He asked if the porch could be downsized in order to meet the setbacks. Ms. Rich stated that it had.

Ms. Risser asked about the size of the closet stating concern about the closet being turned into a bedroom and stated she would like a condition that states it cannot be turned in to a bedroom.

Chairman Norris moved to enter deliberative session. Seconded by Dorothy Risser. 6-0-0. Unanimous.

Chairman Norris asked if the Board had any additional comments relative to the revised plans.

Vice Chairman Pietrasiak moved to approve the petition with the following conditions: the walk in closet as designed and depicted on the Second Floor Plan shall not be used as a third bedroom, and a deed rider shall be furnished to that effect and the landing located in the side yard at the new entrance shall not exceed 3.6 feet to maintain 10 feet from the side setback. Seconded by Dorothy Risser. 5-0-0. Unanimous.

Chairman Norris moved to come out of deliberative session. Seconded by Todd Pietrasiak. 6-0-0. Unanimous.

Petition #2017-15; 17 Dean Street, Variance

Present were: No petitioners were present

Mr. Pietrasiak read a letter that was submitted by the owners, Mr. and Mrs. Hennessey to withdraw the petition.

Chairman Norris moved to approve the withdrawal of petition without prejudice. Seconded by Dorothy Risser. 4-0-0. Unanimous. (two members were unable to vote on this petition.)

Petition #2017-16; 35 Pope Street, *Special Permit*

Present were: Anna Agnatovech, ReFab Home Solutions

Chairman Norris read the public hearing notice for the above-referenced petition requesting a Special Permit from 9.2.36 of the Town of Hudson By-Laws to allow for the conversion of a single-family dwelling to a two-family dwelling at 35 Pope Street. Petition requested by Rehab Home Solutions, LLC.

Ms. Dorothy Risser read the right of appeal.

The petitioner provided an overview of the proposed plan, and he noted that the plan has been updated to give a better sense of the parking and driveway access. It was noted that there will be no changes outside of the existing footprint, but that a rear staircase will be added for fire egress. Further, the petitioner noted that

Ms. Risser had some concern with the addition of the decks on the setbacks. Ms. Kristina Johnson stated that since the proposed is in the downtown commercial district there are no dimensional requirements. The petitioner responded that each unit will get a garage bay for parking. Ms. Johnson reiterated that the intent of the Section 9 of the zoning bylaws is to give some flexibility in the downtown zoning district and

Ms. Risser questioned the third floor office egress. The petitioner noted that the window egress is what is used under building code. Ms. Risser asked if there will be any proposed work for the outside of the property. The petitioner noted that landscaping will be done along with windows and other cosmetic items to clean up the property.

Chairman Norris moved to enter deliberative session. Seconded by Vice Chairman Pietrasiak. 6-0-0. Unanimous.

Chairman Norris stated that he did not have any comment.

Ms. Risser stated that under Section 9 there is nothing required and they have provided more than necessary.

Chairman Norris motioned to approve the petition as presented. Seconded by Dorothy Risser. 5-0-0. Unanimous.

Chairman Norris moved to come out of deliberative session. Seconded by Vice Chairman Pietrasiak. 6-0-0. Unanimous.

Petition #2017-10; 10-12 Arlington Street, *Special Permit (Continuance)*

Attorney Moreira stated that his client had left the building and has asked him to request to withdraw the petition without prejudice. His client will be looking at exploring different plans for the site.

Chairman Norris moved to approve the request to withdraw the petition without prejudice. Seconded by Vice Chairman Pietrasiak. 5-0-0. Unanimous.

Assistant Director's Report

No report was given.

Minutes

Chairman Norris stated that he had a few comments regarding the minutes which he brought to Ms. Johnson's attention. Ms. Johnson stated that the Board can vote on the minutes next meeting to give them time to review and to make any necessary corrections.

Adjournment

Chairman Norris moved to adjourn the meeting at 9:00 PM. Seconded by Vice Chairman Pietrasiak. 6-0-0. Unanimous.