

**MINUTES (AS AMENDED 6/15/06)
HAMPTON ZONING BOARD OF ADJUSTMENT
THURSDAY, MAY 18, 2006**

MEMBERS PRESENT: Robert V. Lessard, Chairman
Tom McGuirk, Vice-Chairman
Bill O'Brien, Clerk
Jack Lessard

OTHERS PRESENT: Kevin Schultz, Building Inspector
Angela Silva, Recording Secretary

The Chairman called the meeting to order at 7:00 p.m. and lead the Pledge of Allegiance to the Flag.

24-06 The continued petition of James, Rosalyn and Mary Houston for property located at 733 Exeter Road seeking relief from Articles IV as to Footnote 22 and 4.2 and 4.3 to reconfigure two lots, one currently with a house frontage of 225 feet and 1 ½ acre area, and the other with no frontage and 3 acre area in Hampton. One of the new lots would have 200 feet frontage and 2 acre area and the other would have 25 feet frontage and 2 ½ acre area in Hampton. This property is located at Map 6, Lots 8 and 26 in a RAA zone.

Atty. Bob Casassa and Mr. James Houston came to the table to speak on this petition.

Atty. Casassa said he is asking for a variance from 2 sections of the ordinance to allow occupancy on the property at the rear. We need a variance from the frontage requirement for 1 house on a 2 ½ acres off Exeter Road, he said. The land has been in the Houston/Field family since 1950. In 1962 the State took land further to the rear of this lot, land locking it. The 2 lots will consist of 1 with 200' of frontage with the existing house and just over 2 acres, and a 2 ½ acre lot which will contain 1 (new) house. He then read through his answers to the 5 criteria as submitted with the petition.

The rear lot can meet the breadth requirement, but not within 25 feet of the roadway.

Questions from the Board: None.

Comments from the Audience: None.

Back to the Board:

Atty. Casassa said the proposal keeps the adjacent Houston lot conforming with the 200 feet of frontage. There is no other more reasonable way to get back there. This is consistent with the RA Zone. The home will be set back from the road, and the lot will be 2 ½ acres with 1 house.

Mr. O'Brien said he normally is opposed to Footnote 22 variances and small frontages, but the hardship was caused by the State taking the land.

The Chairman polled the Board for their agreement with the 5 criteria. They all agreed they have been met.

Mr. Jack Lessard **MOVED** to grant the petition, **SECONDED** by Mr. McGuirk.

VOTE: For 4, Oppo 0

PETITION GRANTED.

26-06 The continued petition of Frederick Cyr for property located at 100 Ashworth Avenue seeking relief from Article 6.3.10 to allow for a condominium conversion where the parking shall be off-site and deeded per Article 6.3.9 and where the commercial unit shall be exempt from any parking requirements per Article 6.1.1. This property is located at Map 290, Lots 73 and 66 in a BS zone.

Atty. Steve Ells and Fred Cyr came to the table to speak on this petition.

Mr. Ells opened by saying he remembers that the Board was going to seek counsel on this petition.

Mr. O'Brien reported that the Town Attorney advised that 6.3.10 stands on its own. It does not tie into 6.3.9 nor 6.1.1.

Mr. Ells feels that the purpose of 6.3.10 was to not allow any further condo conversions that don't have parking. This parking is 36 feet away from the site, so we have provided the parking. This is an unnecessary burden.

Mr. Lessard asked why not bring the 3 lots together? Because you would be outnumbered if you sold the 4 units?

Mr. McGuirk feels bad he didn't continue his Planning Board petition with an appeal. This would've given him leeway on this new article voted in March. This can be achieved in another fashion.

Atty. Ells said that joining the 3 lots now wouldn't be economically feasible. There's no other land available on that corner lot for parking.

Mr. Cyr spoke about the vacant lot being parking for the 2 other lots only. He would deed the necessary spaces for this condo conversion and the rest would be for his other property in the middle.

Mr. McGuirk commented that with new construction you can have offsite parking, with conversions -no. But you can ask for a variance.

Mr. Schultz agrees with Tom on 6.3.9 and 6.3.10. It's literally simple. The spirit and intent when drafted by the Planning Board was because of condo conversions. The wording needs work. The commercial unit is exempt under 9.1.1.

Atty. Ells said he understands they need a variance. Every time you give a variance it's for what people have voted on. Your job is to fine tune and smooth the rough edges. This absolutely complies with the spirit and intent. Thirty-six feet is a reasonable distance from the units.

Mr. McGuirk commented that building is on the market.

Mr. Cyr explained that the sale will include parking. His other option is to sell the building with deeded parking.

Mr. McGuirk MOVED to deny the petition as written, Mr. Jack Lessard SECONDED.

VOTE: For 4, Oppo 0

MOTION PASSES.
PETITION DENIED.

Mr. Cyr said he didn't take the option to go to court. He was being a good citizen. He was told this would not be an issue.

27-06 The petition of Pamela Kopka, Lois Page and Page's Meadow, LLC through option holder Page's Meadow LLC for property located at 180, 180R and 200 Drakeside Road seeking relief from Articles 4.1.1, 4.4 and 4.7 to allow 96 units where 88 units are allowed and 58 units have received Site Plan Review Approval; to allow 2 buildings with 3 stories not to exceed 49.5 feet in height where 35 feet is permitted and to allow the number of units per building to exceed 8 with 2 buildings containing 24 units each. These properties are located at Map 172, Lots 12, 12-1 and 10 in a G zone.

Mr. Vic Lessard steps down. This leaves a 3 member board. Atty. Michael Donahue and Tom Nigrelli came to the table to speak on the petition.

Atty. Donahue said he wishes to have a full Board for this "substantial application". He feels it warrants a full Board. He requests that the petition be continued to the next available meeting.

The Board discussed a previously required Conservation Easement with the petitioners. Mr. Nigrelli said that the easement is almost completed, maybe within 1 week.

Mr. O'Brien MOVED TO POSTPONE petition 27-06 to the June meeting and to ensure an adequate Board will be present, SECONDED by Jack Lessard.

VOTE: For 3, Oppo 0

MOTION PASSES.
PETITION POSTPONED.

28-06 The petition of Thomas Indoccio for property located at 19 Ancient Highway seeking relief from Articles 4.5.1 and 4.5.2 to add a 1-car carport on the side of the existing structure and an open front porch with a partial roof deck which do not conform to the setback requirements. This property is located at Map 134, Lot 81 in a RA zone.

Atty. Bob Casassa and Thomas Indoccio came to the table to speak on this petition.

Atty. Casassa said he is requesting a variance from 4.5.1 and 4.5.2, the side and front setbacks, for the construction of a carport on the side of the existing structure and an open front porch with a roof deck. He read through the 5 criteria as submitted with the petition.

Questions from the Board:

Mr. O'Brien asked if the sheds were staying. Mr. Indoccio said yes.

Comments from the Audience: None.

Back to the Board:

The Chairman polled that Board regarding the 5 criteria. They all agreed they have been met.

Mr. McGuirk asked that he won't ask to enclose the carport into a garage later on. Mr. Indoccio said no.

Mr. O'Brien MOVED to grant the petition, SECONDED by Mr. Jack Lessard.

VOTE: For 4, Oppo 0

PETITION GRANTED.

29-06 The petition of Marantha Baptist Church through option holder OSA Ventures Inc./Odyssey House Foundation seeking relief from Articles 1.3, 3.12.1 and 3.22 to enable Odyssey House to move its private, special needs school and associated programming to increase educational and treatment space and allow for the addition of day students from the local region. This property is located at Map 161, Lot 10 in a RB zone.

Sanford Roberts, Eric Johannson, CEO of Odyssey House, and Hugh A. Vaughan, OSA Ventures came to the table to speak on the petition.

Mr. Roberts explained that OSA Ventures is affiliated with Odyssey House Foundation. They own the real estate. Presently this property is a church and a school, surrounded on 3 sides by non-residential uses. They wish to utilize the property for a school.

Mr. Johannson said Odyssey House has been in Hampton for 36 years, since 1970. It is a 30 bed residential treatment program and special needs school. We need to improve the facilities for instruction. We also have 12 kids in Rochester. We will bring the school together, he said. And use additional space to offer room for day students, special education, etc. This could be helpful for Hampton and surrounding communities. They may also have an after school counseling program.

In response to questions from the Board the following was explained:

The busiest use will be during normal school hours, 8-3 just like HAJH. There will be after school programs and counseling. No smoking will be allowed and there are very strict rules. The kids aren't left unsupervised at any time. There is a 1 to 4 teacher/student ratio. Our staff works very hard to be around the kids and make sure nothing bad happens. He then read a letter from Fred Muscarra, Principal of HAJH supporting the petition.

Mr. Roberts reiterated there will be no smoking or drugs and the ratio is 1 to 4. They will make improvements near the property lines to form a buffer.

Mr. Jack Lessard commented that he used to deliver next door for the Salvation Army. He feels this is a very nice situation.

Mr. Vic Lessard said anybody who helps the kids out, we should help them help the kids.

There are 42 students right now, plus day students. He would be comfortable with the limit of 54-55. No one will be sleeping at the property.

The pastor will still live there for 1 more year until he finds another site.

Primarily the hours would be 8-3. Mr. Johannson can imagine programs from 3:30-6 pm, with open houses maybe 4 times per year.

The students from Rochester will come in a van every day. Hampton students will walk or be brought in a van as well. Day students will be dropped off.

They will be putting 250,000 dollars into the building, upgrading the systems, electric, sprinklers, heat and a/c. Also upgrading the perimeter usually with arborvitae and fence. They are willing to meet with the neighbors and discuss the buffers.

Mr. Sanford feels this will upgrade neighborhood values with a quarter of a million in improvements.

Reverend J.D. Milerella said the property has been for sale for about 3 years. He talked to someone in the Zoning Department for ideas of what this Board would be open to. It took a while to find someone with a use that would be able to be approved. Over the years there has been various schools running, on and off. Up to junior high school. Most recently 6-7 ADD and ADHD kids. There is no school operating right now. The addition was built specifically to State codes for schools. Before being a church this property was a funeral home. He realizes the Board's not bound by precedent, but it is there. As long as the kids are properly supervised, it shouldn't be any different than across the street.

Comments from the Audience:

Sandra Nickerson, Chairman of the Hampton School Board, said she is here as a parent and a grandmother. There are about 5% at risk children at Marston School, 10% at Winnacunnet, and 10% across New Hampshire in 2001. That's too high, she said. There are no throw away children. We need to step up to the plate to help them. She said she cannot say enough good things about the Odyssey House. You don't even know they're there. They reinforce life skills so that when they go back into society they are able to survive. They teach them how to say no to peer pressure. There is a large amount of drug and alcohol abuse among children. Winnacunnet, for many years, had an Alt Program and for whatever reason it stopped. She said she also had letters to submit from Fred Muscarra and Superintendent Gaylord in support of the petition.

Mark Phelps, also speaking for his wife Kathleen Tagupa and her mother Judith Norton, of 158 High St., said his wife has been there for 26 years, he for 5. We are not against their great work, and there have been schools in the past at the property. But not now. He's concerned with the value of their property. This has always been a church. Churches are allowed, schools and offices are not. He's also concerned with privacy and the use of their back deck, with the youth that will be hanging around outside next door.

Mr. Lessard interjected that there was a school there.

Mr. Phelps is concerned with weekend use of the property, and with no guarantees of number of students, and night and weekend use.

Mr. Johansson said they won't be doing a lot of outdoor stuff. 60 students would probably be a safe number to limit. They're not planning any weekend schooling. Most of the time they are all inside. The church was not very well attended, maybe 40-50 people on Sundays. The building can hold up to 400 people. Our use is still less than a moderately active church. There was a license for daycare for up to 83 children.

Mr. Phelps feels a school for troubled teens is not a desirable abutter and this would affect the market value of his wife's property.

Mr. Lessard feels the average person isn't going to see them.

Mr. Sanford said he has information from articles concerning the effect of group homes on property values and the conclusion is that it will have no impact. One article being from the American Planning Association. The study was on Westchester, NY.

Kathleen Tagupa said she has asked local realtors about this and they do feel it will impact the market value of the property.

Barbara Carpenter, Board member of Odyssey House, NH, said she had a similar experience in Brookline. The neighbors were upset. These kids aren't crazy, they're lost. There was not 1 incident in the years she was there.

Beverly Hollingworth, 209 Winnacunnet Road, said she remembers years ago when the first Odyssey House property was asking to move into town. Many residents were concerned. She recommended the Odyssey House Board to assure the residents of the little concerns they have, to meet with them and show them what goes on there.

Judith Norton, 158 High St., said she teaches physical education and health. She knows what she's dealing with. She teaches 26 classes a week and deals with all the troubled kids. She's offended to be told she doesn't know.

David Choate, licensed real estate broker with a local commercial firm, and a member of the Board of Directors of the Odyssey House, said often commercial buildings abut residential streets. The value of the commercial property is often diminished if a residential structure is next door. The condition of this facility has only deteriorated over the years. If it is not sold and fixed up, the property values next door would be diminished. There is a much higher level of supervision at the Odyssey House than at public schools. On the Winnacunnet Road property, most people don't even know they're there. There are virtually no problems. Everybody thinks worst case. They should get a tour through the property. They'll see it's not what they think.

Back to the Board:

The Chairman offered the petitioners to respond.

Mr. Johansson said they will be fixing up the property lines and working with the neighbors. A 60 student limit works for him. The use in the evenings would be minor. He couldn't imagine being there after 8 p.m., and they will be in the building only on weekends.

Mr. O'Brien asked about 3.22, he feels this is asking for other offices.

Mr. Schultz said he included that to cover them. The purpose is only for offices related to the function of school.

Doreen Carr, 7 George Ave., said she's concerned with recess. How many will be outside at a time.

Mr. Johansson said maybe 10 kids at a time, with 2-3 teachers.

Mr. McGuirk said his family has property near the Blue Heron. They had problems before the Odyssey House moved in and none since they moved in. The property went from an eyesore to being all updated.

Mr. Jack Lessard said he was here when the Winnacunnet location went in. You never know what's going on over there. He remembers when this property was a funeral home with a taxi service next door. He thinks this is a good proposal.

Mr. Vic Lessard said he lives across the street from a trailer park and they wanted 10 more trailers. He's not losing any value because of that.

The Board discussed with Mr. Schultz putting stipulations on the approval. Mr. Schultz said it would be very hard to monitor and enforce.

The following stipulations were agreed on by the Odyssey House petitioners and the Board:

- no more than 60 students
- hours of operation will be 8 am to 3 pm for school

- counseling will occur from about 3pm to 8pm,
- open houses will be 1 per month maximum,
- weekend activities will be primarily inside,
- any outside activities will be 15 or less students, not including counselors,
- normal ratio is 4 students to 1 counselor,
- not used as a residence at all, except for the first year for the pastor,
- meet with neighbors to configure a buffer,
- any remodeling will be for school program, office space only,
- consider a name that fits with the school across the street.

Based on the agreement to the above stipulations, Mr. O'Brien MOVED to approve the petition as presented, SECONDED by Mr. Jack Lessard.

The Chairman polled the Board as to whether the 5 criteria have been met. They all agreed.

VOTE: FOR 4, Oppo 0

PETITION GRANTED.

BUSINESS SESSION:

Consideration of Minutes:

Mr. O'Brien Moved to approve the minutes of Jan. 19, 2006, SECONDED by Jack Lessard.

VOTE: For 4, Oppo 0

MINUTES APPROVED.

Mr. O'Brien Moved to approve the minutes of Jan. 26, 2006, SECONDED by Mr. McGuirk.

VOTE: For 4, Oppo 0

MINUTES APPROVED.

Mr. O'Brien Moved to approve the minutes of Feb. 16, 2006, as amended, SECONDED by Mr. McGuirk.

VOTE: For 4, Oppo 0

MINUTES APPROVED.

Mr. Jack Lessard Moved to approve the minutes of Mar. 17, 2006, SECONDED by Mr. McGuirk.

VOTE: For 3, Oppo 0, Abst 1(BO)

MINUTES APPROVED.

Mr. O'Brien abstains because he wasn't at this meeting.

Mr. O'Brien Moved to approve the minutes of Apr. 20, 2006, as amended, SECONDED by Mr. McGuirk

VOTE: For 4, Oppo 0

MINUTES APPROVED.

The Board discussed a letter from Atty. Peter Saari regarding petition #19-06 -426 Winnacunnet Road. Mr. McGuirk doesn't think we can make them come back as long as the height is not exceeded, or the 6' between buildings, or the recreation area is not exceeded. Mr. Schultz feels as long as it's a minor change, they probably wouldn't have to come back.

Mr. O'Brien recommended that the Board approve the modified footprint and so advise by a letter drafted by Mr. Schultz, to Peter Saari, and signed by the Chairman. SECONDED by Mr. McGuirk.

VOTE: For 4, Oppo 0

MOTION PASSES.

The Board asked Mr. Schultz to draft a letter responding to a letter from a Donita Vade and have the Chairman sign.

The Board discussed a letter from John & Linda Gebhart regarding the condos and Harbor Road and 5 Ocean Boulevard. Mr. Shultz is to check with Jamie Steffan, Town Planner, and get back to the Board next month.

The Chairman was asked to set up an interview with Donna Parson, applicant for the secretary position, and make a decision on his own if she's available.

APOINTMENT OF ALTERNATE:

Mr. McGuirk MOVED to approve Bryan Provencal as a Zoning Board Alternate for 2 years, SECONDED by Jack Lessard.

VOTE: For 4, Oppo 0

MOTION PASSES.

The Board discussed a change to a plan at 99 Ashworth Ave, 68-05. It doesn't violate any variances, is less mass, but is a substantial modification.

Mr. O'Brien MOVED to ask the petitioner to resubmit with a new application, SECONDED by Jack Lessard.

VOTE: For 4, Oppo 0

MOTION PASSES.

Mr. O'Brien MOVED to adjourn the meeting at 10:30 p.m., seconded by Mr. JackLessard.

VOTE: For 4, Oppo 0

MOTION PASSES.

Respectfully submitted,

Angela L. Silva,
Recording Secretary