

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
October 15, 2009**

**Members Present**

Bill O'Brien, Chairman  
John Gebhart  
Vic Lessard  
Tom McGuirk  
Bryan Provencal

**Others Present**

Kevin Schultz, Building Inspector  
Joan Rice, Secretary

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

**PETITION SESSION**

Chairman O'Brien made a recommendation to the Board that when Petition 34-09 is heard, that it include Petition 37-09 since both petitions deal with the same lot line adjustment.

**31-09** The petition of Robert Culliford, through William Ritchie, for property located at 181 Kings Highway seeking relief from Articles 1.3, 4.5.1 and 4.5.3 to add addition on south side of existing home which will not meet front and rear setbacks. This property is located at Map 168, Lot 21 in a RA zone.

William Ritchie, Omni North Woodworks, came forward representing Robert Culliford. He said they were asking relief from front and rear setbacks for an addition on the south side of their existing home. Mr. Ritchie went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Lessard said that more taxes for the town should not have been included in the criteria.

Mr. McGuirk asked why this wasn't built all at once two years ago. Mr. Ritchie replied that at that time Mr. Culliford was single and did not need the room. He has since married and plans to start a family.

*Comments from the Audience*

There were no comments from the audience.

*Back to the Board*

Chairman O'Brien noted that on the drawing the stairs to the south side were not shown. Mr. Ritchie said that was true, but the stairs would be more than 10 feet away from the rear lot line.

Chairman O'Brien asked if there was a deck. Mr. Ritchie said there was not.

Mr. Gebhart read two letters in opposition to this project.

Mr. McGuirk said he felt the applicant met the criteria on this application. Chairman O'Brien noted that if the address were simply changed to 19<sup>th</sup> Street, the applicant would not require any variances.

**Moved** by Mr. Provencal and seconded by Mr. McGuirk, to grant Petition 31-09 with the stipulation that the language referring to taxes in the criteria be removed.

Chairman O'Brien asked the Board if the five criteria had been met. The members agreed that they had.

**VOTE: 5-0-0.** Motion passed unanimously.

**32-09** The petition of John & Julie Houle for property located at 10 Boars Head Terrace seeking relief from Articles 1.3, 4.5.1, 4.5.2 and 4.5.3 to add a second floor addition with balcony and new front porch onto the existing non-conforming single family home where front, side and rear setbacks cannot be met. This property is located at Map 266, Lot 41 in a RA zone.

John and Julie Houle came forward. Mr. Houle said they acquired this property in July. They are asking to put on a second floor for a bedroom and bath. The foundation was just redone to support a second floor. Mr. Houle went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. McGuirk said the fact that the petitioners had just put in a new foundation should not influence the Board's decision.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Chairman O'Brien said he was concerned about the proposed front porch. All of the houses on that side of the street line up. They all have a 5-6 foot setback. If the porch and 4 stairs are put in they will not meet any setback and will encroach on town property. However, the stairs could be run to the right or left.

Mr. Gebhart said he agreed that the stairs should exit to the right or left.

Mr. McGuirk said that the rear deck on the second floor is asking for too much. Chairman O'Brien said it could be done with 4 foot setbacks. The deck will have to be cut back. Mr. Lessard said the front steps will have to be on the driveway side.

**Moved** by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 32-09 with the requirement that there be 4 foot setbacks in the front and back and that the front steps will be toward the driveway side.

Chairman O'Brien asked the Board if they felt the five criteria had been met. The members agreed that they had.

**VOTE: 5-0-0.** Motion passed unanimously.

**33-09** The petition of Horizon Condominium Trust, thru Bonnar Spring, for property located at 515 Winnacunnet Road, Unit 5 seeking relief from Articles 1.3 and 8.2.3 to add a second story to existing cottage using the existing first floor footprint with a new roof line and a cantilevered 4x12' deck on the south (rear) side of the second floor. This property is located at Map 222, Lot 118 in a RB zone.

Bonnar Spring came forward. She said she wants to add a second story to her cottage using the existing first floor footprint and to add a cantilevered deck on the back side of the house. She went through the five criteria and said she felt they had been met.

*Questions from the Board*

There were no questions from the Board.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 33-09 subject to the applicant's compliance with Conservation Commission letter of July 31, 2009.

Chairman O'Brien asked the Board if they felt that the five criteria had been met. The members agreed that they had.

**VOTE: 5-0-0.** Motion passed unanimously.

**34-09** The petition of Claire Martineau for property located at 12 Moccasin Lane seeking relief from Articles 4.1, 4.1.1, 4.3, 4.5.1, 4.5.2, 4.5.3 and Footnote 22 for dimensional relief from the side setback requirements to be able to complete a lot line adjustment and thereby correct a building encroachment. This property is located at Map 115, Lot 26 in a RA zone.

**37-09** The petition of Betsy Gunzelmann for property located at 1 Keene Lane seeking relief from Articles 4.1, 4.1.1 and 4.3 to configure the applicant's lot through an equal land area swap with her abutter in order to correct the abutter's building encroachment. This property is located at Map 115, Lot 23 in a RA zone.

Mr. Gebhart said these two petitions are being heard together because they deal with a single lot line adjustment.

Attorney Stephen Ells came forward regarding Petition 34-09. Attorney Ells said the petitioner discovered that a portion of her home was encroaching about 3 feet onto her neighbor's property. Ms. Martineau and Ms. Gunzelmann got together and agreed to engage in a lot line adjustment. This would add an additional 25 feet of frontage to 1 Keene Lane. Attorney Ells went through the five criteria and said he felt they had been met.

Attorney Peter Saari came forward regarding Petition 37-09. He said these are two very agreeable neighbors and no problems are anticipated. He went through the five criteria and said he felt they had been met.

*Questions from the Board*

There were no questions from the Board.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. Lessard said he was very much in favor of these petitions.

Chairman O'Brien asked about the gazebo. Attorney Ells said it would be removed.

**Moved** by Mr. Gebhart and seconded by Mr. Provencal, to grant Petitions 34-09 and 37-09.

Chairman O'Brien asked the Board if they felt the five criteria had been met for both petitions. The members agreed that they had.

**VOTE: 5-0-0.** Motion passed unanimously.

**35-09** The petition of Laurice Haines for property located at 26 Tuttle Avenue seeking relief from Articles 1.3 and 4.5.1 to construct an 8x18' sunroom on the existing deck that will be 8'6" from the front property line. This property is located at Map 292, Lot 64 in a RB zone.

Brian Rierden, contractor, came forward representing the petitioner. He said the petitioner wants to construct a small sunroom on the existing deck. This will be used as a computer room. Mr. Rierden went through the five criteria and said he felt they had been met.

*Questions from the Board*

There were no questions from the Board.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Gebhart and seconded by Mr. McGuirk, to grant Petition 35-09 subject to the applicant's compliance with Conservation Commission letter of August 26, 2009.

Chairman O'Brien asked the Board if the five criteria had been met. The members agreed that they had.

**VOTE: 5-0-0.** Motion passed unanimously.

**36-09** The petition of Ocean Boulevard Hampton Beach Realty LLC & Warren Kelly for property located at 373 and 375 Ocean Boulevard seeking relief from Articles 4.1.1, 8.2.1, 8.2.3 and 8.2.6 to construct 9 townhouse condominium units with parking under where relief is needed for lot area per dwelling unit, recreational area and multi-family setbacks and separation. These properties are located at Map 275, Lots 17 and 25 in a BS zone.

Warren Kelly and Attorney Peter Saari came forward.

Mr. Provencal stated that his grandfather and uncle are abutters of this property. Chairman O'Brien asked the petitioner and his attorney if they wanted Mr. Provencal to step down. They said that would not be necessary.

Attorney Saari said this property is essentially a vacant area and consists of three lots. Petitioner would like to make this one lot and is looking for variances to build nine upscale townhouse units. Each unit will have a two-car garage underneath. There is no height variance requested. There will be a lot of open space.

Mr. Kelly said the impact on the area will be positive. Each unit will have a walkout to the beach. He said he is committed to doing a lot of nice landscaping.

Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. McGuirk said that if only six units were built there would be no need for variances.

*Comments from the Audience*

Mary Shaws, 19 Fuller Acres, came forward. She said she felt her building would be impacted as to view. She said she would prefer retail to multi-family.

Bruce Hay, Fuller Acres, came forward. He asked what the parking surface area was composed of. Mr. Kelly said they will be using pavers. Mr. Hay asked about visitor parking. Attorney Saari said there is one visitor parking place. Chairman O'Brien noted that two visitor parking spaces will be needed for 9 units.

Skip Windemiller, 365 Ocean Blvd., came forward. He said the project looks nice, but the whole point of the beach master plan has been to increase retail and bring tourists to the area. According to the master plan, the density is too high if it is only residential.

Attorney Saari presented a list of abutters who are in favor of the project.

*Back to the Board*

Mr. McGuirk referred to *Simplex vs. Somersworth* which states that you cannot discriminate against an application if what is being built is something that already exists in the area. Attorney Saari said that ruling applies here because the area is primarily residential.

Mr. Lessard said he felt this will be a great project for the whole area.

Chairman O'Brien asked how snow and trash would be handled. Mr. Kelly said each owner would have barrels in their garage which could be brought out to the street for pickup. Mr. Schultz said to remember that many condos do not receive the same services as the rest of the town. He suggested that Mr. Kelly check into this.

**Moved** by Mr. Lessard and seconded by Mr. Gebhart, to grant Petition 36-09.

Chairman O'Brien asked the Board if they felt the five criteria had been met. The members agreed that they had.

**VOTE: 4-0-1 (Provencel).** Motion passed.

**BUSINESS SESSION**

**Approval of Minutes**

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to approve the Minutes of September 17, 2009.

**VOTE: 4-0-1 (Gebhart).** Motion passed.

**21-09** Motion for Re-hearing regarding Petition 21-09, 23 Boars Head Terrace.

Chairman O'Brien indicated that the request for a re-hearing indicates that the Boards prior approval failed to consider a deed restriction. He then noted that deed restrictions do not fall within the purview of this Board and cannot be taken into consideration when deciding on a petition.

**Moved** by Mr. Provencal and seconded by Mr. Lessard, to deny the re-hearing on Petition 21-09.

**VOTE: 5-0-0.** Motion passed unanimously.

**Adjournment**

There being no further business to come before the meeting, Mr. Lessard **moved**, seconded by Mr. McGuirk, that the meeting be adjourned. The motion passed by unanimous vote.

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Joan Rice  
Secretary