

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
Thursday, January 15, 2009**

**Members Present:**

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

Chairman McGuirk, called the meeting to order at 7:00 p.m.

Chairman McGuirk introduced the members of the Board.

The Pledge of Allegiance was said.

**PETITION SESSION**

53-08 The continued petition of Linda Burke for property located at 17 Janet Lane seeking relief from Article 4.5.2 to install a garage which will not meet the side setback. This property is located at Map 163, Lot 50 in a RA zone.

Petitioner was not present.

Chairman McGuirk said this was the second month in a row where the petitioner did not attend. He asked the Board what they would prefer to do. It was decided to wait until the end of the meeting to make a motion.

01-09 The petition of Marcia Klingebiel for property located at 39 River Avenue seeking relief from Articles 4.1.1 and 4.5.1 to raze the existing building and replace with a new single family building. This property is located at Map 299, Lot 13 in a RB zone.

Henry Boyd came forward and introduced Mr. and Mrs. Klingebiel and their architect Robert Rody. Mr. Rody said the petitioners want to replace an existing home. The existing structure is 8-1/2 feet from the street. They will be improving this because the new structure will be 10 feet. Mr. Boyd said they are asking for the front setback, not the side. Mr. Boyd showed the new plan and said it is only 8% larger than the existing structure. He said they do not want to impact the trees which were brought here from Greece by the petitioner's grandfather and have sentimental value. Mr. Boyd 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 questions from the Audience.

*Back to the Board*

Mr. O'Brien expressed concern about the 7 foot setback to the north and asked if either the fireplace they were planning to have or possibly an air conditioning unit would intrude into the setback. Mr. Boyd replied that it would be a gas fireplace and there would be no air conditioning. He also indicated that they were aware of the 7 foot restriction and that it was measured to the drip edge.

**Moved** by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 01-09.

Chairman McGuirk asked the members of the Board if they felt the five criteria had been met. The members agreed that they had.

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

02-09 The petition of Aaron Little for property located at 6 Francis Street seeking relief from Articles 1.3 and 8.2.3 to re-construct a stairway and platform to replace the structure removed by previous owners to provide a safe means of egress/ingress into the second and third apartments. This property is located at Map 275, Lot 26 in a RCS zone.

Chairman McGuirk said he would step down from this discussion because he sold this property. Mr. O'Brien took over as Chairman.

Douglas O'Hearn came forward to stand in for the petitioner. He said the petitioners were planning to replace the secondary egress in back of the building. Mr. O'Hearn 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*

Mary O'Malley, representing her mother, came forward. Ms. O'Malley's mother owns the property behind 6 Francis Street at 7 McKay Avenue. Ms. O'Malley said the

condition of the property at 6 Francis Street is atrocious. No one has taken care of it. There is not enough parking for this to be used as a multi-family and the property has been built right to the edge of the lot on both sides. Ms. O'Malley said she believes this house is non-conforming. The stairs fell down the first time they were put up. Ms. O'Malley said it was not their intention to prohibit the owners from making full use of the property.

*Questions from the Board*

Mr. O'Brien asked if this was indeed a three-family residence. Mr. McGuirk replied that it was and that is what shows on the assessment. Mr. O'Brien said a three-family would be prohibited in this zone without having been previously approved by this Board. Mr. McGuirk said the property was owned by the bank for a long time and the Littles bought it a couple of months ago. Mr. McGuirk said this Board does not have the authority to go back and change the designation of 3-family.

Mr. Lessard asked if the property was presently rented. Mr. McGuirk said it was not.

Mr. O'Brien said the side setback is the relief being sought and the Board does not have any jurisdiction over the fact that it is a 3-family. The only recourse would be to deal with the Assessor or Building Inspector regarding this. Also, without coming before this Board, the petitioners could turn the stairs towards the O'Malley's property.

Mr. McGuirk said the Littles definitely want to be good neighbors and did their due diligence.

Mr. Provençal said the petitioners were just here for a set of stairs and he had no objection.

*Back to the Board*

Mr. O'Brien brought up the fact that he felt they needed a 7 foot variance on the north side. He asked Mr. O'Hearn how far the slab is from the fence. Mr. O'Hearn estimated 4 feet. Mr. O'Brien said they did not have a 7 foot deed restriction. Mr. Lessard said they could come back in and request this variance.

**Moved** by Mr. Provençal and seconded by Mr. Gebhart, to approve Petition 02-09 with the stipulation that the petitioners understand that there is a need for a 7 foot setback to the footing on the north side of the property.

Acting Chairman O'Brien asked the members of the Board if they felt the five criteria had been met. All members agreed they had with the exception of Mr. Lessard.

**VOTE: 4-0-0.** Motion passed

Chairman McGuirk then returned to the table.

**BUSINESS SESSION**

**Moved** by Mr. O'Brien and seconded by Mr. Provencal, to approve the Minutes of December 18, 2008, as amended by Mr. Lessard.

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

Chairman McGuirk asked for a motion on Petition 53-08.

**Moved** by Mr. Lessard and seconded by Mr. Provencal, that the petitioner for Petition 53-08 be required to re-file their application.

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

Chairman McGuirk asked for a motion on the publication of meeting dates.

**Moved** by Mr. O'Brien and seconded by Mr. Gebhart, that the third Thursday of every month be the primary meeting night for the Zoning Board of Adjustment at 7:00 p.m. in the Selectmen's Meeting Room and that the fourth Thursday of every month be designated as the alternate night in case there is a requirement for another meeting.

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

**Moved** by Mr. Lessard and seconded by Mr. Gebhart, that the meeting be adjourned.

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

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Joan Rice  
Secretary