

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
November 19, 2009**

Members Present

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

Others Present

Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:00 p.m.

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

PETITION SESSION

Chairman O'Brien announced that he had received a letter asking for continuance of Petition 41-09 due to illness.

Moved by Mr. Lessard and seconded by Mr. Gebhart, to continue the hearing of Petition 41-09 at the meeting to be held on December 17, 2009.

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

38-09 The petition of Richard & Catherine Brunelle for property located at 30 Ancient Highway seeking relief from Article 4.5.2 to install an emergency generator 4 feet from the property line. This property is located at Map 134, Lot 72 in a RA zone.

Richard Brunelle came forward. He said he wants to install an emergency generator on the north side of the property. He said he needs relief from the side setback of 10 feet to 4 feet. Mr. Brunelle read the five criteria and said he felt they had been met.

Questions from the Board

Mr. Lessard asked if the petitioner had installed an air conditioning unit when the house was built. Mr. Brunelle said that he had. Chairman O'Brien asked if he had obtained setback relief for the air conditioning unit. Mr. Brunelle said he had not.

Comments from the Audience

Mary Ellen Grasso, 26 Ancient Highway, came forward. Ms. Grasso said she had concern about the noise the generator would cause. She said she saw no validity in this. The space in this area is already very stressed.

Pat Alger, 34 Ancient Highway, came forward. She said she was concerned about a potential fire hazard. Noise is also a problem. The generator would have to be tested on a regular basis, probably weekly, so noise would occur on occasions when there was not a power outage.

Mr. Richard Williams, 6 Toppan Street, came forward. He said he was also concerned about the potential noise.

Back to the Board

Mr. Lessard asked why the generator had to be tested once a week. Mr. Brunelle said the testing is automatic and could be set to test monthly. Mr. Lessard asked if natural gas would be used. Mr. Brunelle said yes.

Mr. Lessard asked what the benefit to the neighbors would be. Mr. Brunelle replied that if there were an outage neighbors could gather at his home for heat and use of refrigeration. Mr. Lessard asked how many generators were in the area. Mr. Brunelle said he believed there was one other permanent generator.

Mr. Brunelle said this generator is one of the quietest units offered. It is enclosed and fire proof.

Chairman O'Brien said he had recently received a real estate flier listing Mr. Brunelle's home for sale. Mr. Brunelle said the house was taken off the market 2 weeks ago.

Ms. Grasso asked to speak again. She said she is still concerned about noise and safety. Also this area is in a flood zone and that could be an issue.

Mr. Lessard asked if Mr. Brunelle planned to sell the house in the future. Mr. Brunelle said he had no plans to do so.

Mr. McGuirk asked if the generator could go in the garage. Mr. Brunelle said the person he brought in recommended the placement requested. Mr. McGuirk asked Mr. Brunelle if he would be opposed to asking this person the question regarding interior placement. Mr. Brunelle said he could do that. Mr. McGuirk said he would rather have the neighbors more comfortable with the installation of the generator.

Moved by Mr. McGuirk and seconded by Mr. Lessard, to continue Petition 38-09 until the December 17, 2009 meeting giving the applicant time to do due diligence on the possibility to have an interior unit, and if not, have him bring back verification that it is not doable by an expert in the generator field.

VOTE: 4-1 (Provincial)-0. Motion passed.

39-09 The petition of Island View Condos, through ABS Industries, for property located at 541 Ocean Boulevard seeking relief from Article VIII as to 8.2.3 to install new stairway to meet code. This property is located at Map 255, Lot 7 in a BS zone.

Eddie Denis, ABS Industries, came forward. He said they want to upgrade the stairway and landing to this building. The existing footprint will remain the same. Presently the stairway is too steep and does not meet code. Mr. Denis 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. Lessard and seconded by Mr. Provencal, to grant Petition 39-09.

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.

40-09 The petition of Karl & Janet Merz for property located at 19 Walnut Avenue seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to add addition on house which does not meet front or side setbacks. This property is located at Map 223, Lot 8 in a RB zone.

Karl Merz and Janet Merz came forward and introduced their construction expert Jim Maculvey. Mr. Merz said they now have a cinderblock foundation on the North wall which leaks into the basement when it rains. He said they want to add to the North side of the house and put in a good foundation. Mr. Merz went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked why they aren't moving the house back if they are going to put in a new foundation. Mr. Merz said it would be extra work. By adding a 10-foot addition with a new foundation it would solve the problem and would have the benefit of 10 more feet of living space.

Mr. McGuirk asked how they were going to replace only part of the foundation. Mr. Maculvey said that only one side of the foundation is cinderblock and is a problem. The rest of the foundation is cement and is fine.

Mr. Maculvey said this will bring the house in line with other houses on the street. Mr. McGuirk said this would be a good case for granting the variances. Mr. Lessard said it will look much better.

Comments from the Audience

There were no comments from the Audience,

Back to the Board

Moved by Mr. Lessard and seconded by Mr. McGuirk, to grant Petition 40-09.

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.

BUSINESS SESSION

Approval of Minutes

Moved by Mr. Lessard and seconded by Mr. McGuirk, to approve the Minutes of October 15, 2009 as amended.

Amendment: Date at beginning of first page should read "October 15, 2009".

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

Building Permit Advisory

Chairman O'Brien stated that some applicants this year have asked for variances to modify their house after the recent replacement of their foundation. Mr. O'Brien said he believes that, prior to issuance of a permit for a foundation replacement, applicants should consider the long term ramifications as to minimum setbacks and parking space requirements if they intent to modify their property in the future. He composed a Building Permit Advisory for Foundation Replacement (attachment 1) that could be given to people who want to replace an existing foundation. Mr. O'Brien said he had talked to Mr. Schultz and Mr. Schultz is comfortable with this Advisory.

Mr. McGuirk asked if the Town Attorney had reviewed this Advisory. Chairman O'Brien said he had given a copy to the Town Attorney, but had not heard back from him.

Moved by Mr. McGuirk and seconded by Mr. Gebhart, to approve the Building Permit Advisory for Foundation Replacement.

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 7:55 p.m.

Respectfully submitted,

Joan Rice
Secretary

Attachment 1: Building Permit Advisory - Foundation Replacement

Attachment 1

BUILDING PERMIT ADVISORY

Foundation Replacement

Be advised that in applying for a permit to replace the foundation of an existing structure it is paramount that you consider the long term ramifications. Proper consideration of all aspects of the Zoning Ordinance for the Town of Hampton, particularly as to minimum setbacks and parking space requirements, must be given careful forethought at this time. The applicant is forewarned that future expansion (vertically and/or laterally) to the exiting structure may be limited due to either the location of the replacement foundation or the limitation of parking spaces.

The Zoning Board of Adjustment grants variances from the specified terms of the Zoning Ordinance only if a petitioner meets all five criteria specified by the NH Supreme Court; and prior replacement of an old foundation with a new foundation does not constitute adequate justification for expansion. Thus location on the property of a replacement foundation should be given substantial forethought before proceeding. If warranted, an application for necessary zoning variances should be applied for at this time.

If the applicant has any questions or concerns, please talk to the Building Inspector.

19 November 2009