

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
September 16, 2010**

**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 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**

**25-10** The petition of Henry & Theresa McAteer for property located at 84 Leavitt Road seeking relief from Articles 1.3 and 4.5.1 to add a 12'x24' addition to the right front portion of the home which will not meet the front setback. This property is located at Map 192, Lot 78 in a RA zone.

Henry McAteer, Petitioner, came forward. Mr. McAteer said they currently have a family room in the back of the house. There is a dry well in that area that was supposed to have been removed but was not. Mr. McAteer wants to move the laundry room off that dry well out to the right front of the property and add a bathroom to allow more space in the bedroom. Mr. McAteer went through the five criteria and said he felt they had been met.

*Questions from the Board*

Chairman O'Brien asked if Mr. McAteer planned to add another bathroom on to the master bedroom. Mr. McAteer said they planned to move the bathroom out to give a little more room in the bedroom.

*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 25-10.

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

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

**26-10** The petition of Paul & Sheila Chagnon for property located at 186 Kings Highway seeking relief from Articles 4.1.1 and 4.5.2 to tear down existing 2-family building and replace with single family on a smaller footprint and more in conformity with the ordinance, where the lot has less than the required lot area per dwelling unit and where a back corner will not meet the 7-foot side setback. This property is located at Map 168, Lot 11 in a RB/BS zone.

Paul Chagnon, Petitioner, and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said this property is located next to the Ocean Crest Motel. It is presently a 2-family which the petitioners wish to replace with a single family. The footprint is being reduced by one-third. Also, in this area a single-family dwelling would be the least intrusive. Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. McGuirk asked what the setback is on the second floor for the corner that encroaches. Attorney Saari said it was 5'4". Mr. McGuirk asked if the wall could be made straight in the back corner by pushing the first floor back from 2'4" to make this more conforming. Attorney Saari said that could be done.

#### *Comments from the Audience*

There were no comments from the Audience.

#### *Back to the Board*

Mr. Lessard said turning this property into a single family is a good idea.

Mr. McGuirk said he would agree to grant the petition if the northwest corner of the first floor could be moved in to match the second floor so it will be no closer than four feet to the drip edge.

**Moved** by Mr. Lessard, and seconded by Mr. Gebhart, to grant Petition 26-10 provided the building would be brought back four feet to the drip edge on all sides of the property.

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

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

**27-10** The petition of Brad & Sara Ross for property located at 5 Whitten Avenue seeking relief from Articles 1.3 as well as 4.5.1 and 4.5.2 to add a second level without changing footprint of existing building which does not meet the front or side setback. This property is located at Map 295, Lot 23 in a RB zone.

Brad and Sara Ross, Petitioners, came forward. Mr. Ross said they would like to put a second story on their small cottage. He said they need relief from the front set backs, 18 feet from the bottom stair to the boundary line, and side set back, 3 feet from the drip edge to the boundary line. Mr. Ross went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Lessard asked if the foundation was structurally sound. Ms. Ross said that their builder has looked it and pronounced it structurally sound. Chairman O'Brien asked if this property was two separate lots. Ms. Ross replied that it was with two separate tax bills. Chairman O'Brien noted that the plot plan does not show that separation.

Chairman O'Brien asked if it was 18 feet from the bottom stair to the boundary line. Ms. Ross said that was correct. Chairman O'Brien indicated that the plot plan does not indicate this. Instead it shows 18 feet to the porch and does not include the 7 front stairs. Chairman O'Brien asked if they were planning on enlarging the deck. Ms. Ross said they would enlarge the back porch. Chairman O'Brien indicated the back stairs to the enlarged deck would then be too close to the property line. Ms. Ross said the stairs would be moved to the rear rather than the side.

Chairman O'Brien asked about the size of the lot. Ms. Ross said it was 50' x 100'. Chairman O'Brien said if a line were drawn straight across, it goes through the other house (#3). Mr. Schultz said he would need to get a description of the deed and that he would like a better drawing of the plot plan.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. McGuirk said it would be sufficient if the petitioners can produce a map that shows the property is 50' x 100' and a copy of the deed.

Chairman O'Brien asked about the shed. Ms. Ross said they would keep the shed.

**Moved** by Mr. McGuirk, and seconded by Mr. Gebhart, to grant Petition 27-10 subject to the Petitioners giving to the Building Department an amended plot plan to reflect deed and description of the lot and showing changes to the proposed deck stairs to the rear and also revised floor plans for the first and second floors reflecting a 2-bedroom cottage. The deck would be no closer than 7 feet to the property line and the shed would be shown on the plot plan.

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

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

**28-10** The petition of Dorothy Sheehan, Andrew & Meaghan Thompson for property located at 1-3 Tenth Street seeking relief from Articles 1.3 and 4.5.2 to add a roof dormer which allows the code required 6'8" of head room for the third floor staircase platform. This property is located at Map 197, Lot 28 in a RA zone.

Andrew Thompson, Petitioner, came forward. He said they had a problem with the third-floor stairs which makes the family room unusable. The addition of the roof dormer would allow the code required 6'8" of head room for the third floor staircase platform. Mr. Thompson 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. Provencal, and seconded by Mr. Gebhart, to grant Petition 28-10.

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

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

**29-10** The petition of Aquarion Water Company of New Hampshire, through MetroPCS Massachusetts LLC, for property located at 106 Mill Road seeking Special Exception under Articles 1, 3 and 16 Sections 16.1, 16.2, 16.4.b.(i), to attach (retrofitting) antennas to an existing structure greater than 80 feet. This property is located at Map 145, Lot 18 in a RA zone.

Scott Lacey and Bill McQuade of Metro PCS came forward. Mr. Lacey explained that Metro PCS is a carrier that provides the same type of wireless service as Sprint, Verizon, etc. They are licensed by the FCC. Mr. Lacey said they want to install antennas that will be nearly invisible and will connect to equipment cabinets within the compound. The cabinets are 43 feet from the road and 70 feet from the rear and side setbacks. There will be landscaping to screen the equipment. Mr. Lacey 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 asked if anyone else could be on the premises besides the water company. Mr. Lacey said no one else could be there without ZBA approval. Mr. Lessard asked how the antennas would be hidden. Mr. Lacey said shrouds would conceal them. Mr. Lessard asked about hazardous materials. Mr. Lacey said there would be none.

Chairman O'Brien said the purpose of granting this petition is to provide service to the Town of Hampton, yet one of the antennas points towards North Hampton and there is a lot of void space in Hampton. There are no antennas pointing towards the east and the coverage plots show that Hampton residence in that area have no coverage under their proposal. Mr. Lacey said the antennas can be adjusted for better coverage.

Chairman O'Brien noted that North Hampton will not allow cell phone towers in their town and yet there is an antenna pointing towards that town. Chairman O'Brien suggested taking the north antenna and facing it towards the east into an area of Hampton with no coverage. Mr. Lacey said they could try to tweak it for more coverage on the east, but they have to try to connect to the main roads. Mr. Lacey then said they would add a fourth sector to the east. Chairman O'Brien agreed that this would help.

Mr. McGuirk suggested 8 antennas instead of 6.

**Moved** by Mr. Lessard, and seconded by Mr. Gebhart, to grant Petition 29-10 subject to the addition of two more antennas facing east.

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

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

**30-10** The petition of Frank & Theresa Valera for property located at 9 M Street seeking relief from Articles 1.3, 8.1.3, 8.2.2, 8.2.3, 8.2.4, 8.2.5 and 8.2.6 to allow an existing lower level owner occupied 2-bedroom apartment to remain, not to be rented, owner occupied only. This property is located at Map 293, Lot 100 in a BS zone.

Petitioner Theresa Valera and Liz Parolisi, neighbor, came forward. Ms. Parolisi said the petitioners have occupied this apartment for many years and others before them. Since its use predates the effective date of prohibition on basement units it should be grandfathered. Ms. Parolisi went through the five criteria and said she felt they had been met.

*Questions from the Board*

Mr. McGuirk asked how this problem came to light. Ms. Valera said a disgruntled neighbor reported it to the Building Department. The neighbor has since moved out of the area. Mr. Schultz said the use of this property is two-family, but this is questionable and not clear. Right now there are three units on the property.

Mr. McGuirk asked if fire egress was a problem. Mr. Schultz said the petitioner has been working with the Building Department regarding meeting inspections, etc. and has received certificates. Mr. McGuirk said the finished square footage on this property is not accurate on the tax card. This needs to be corrected. Mr. Schultz said he had received a formal complaint and now they are trying to make it right.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Bryan Provencal to grant Petition 30-10 with no stipulations. There was no second to the motion.

**Moved** by Mr. McGuirk, and seconded by Mr. Provencal, to grant Petition 30-10 subject to the tax card being updated to accurately reflect the conditions of the property.

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

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

**31-10** The petition of McKeon Family Realty Trust for property located at 275 Ocean Boulevard seeking relief from Articles 1.2, 4.5.1, 4.5.2, 4.4, 6.1, 6.1.1, 6.3, 8.2.3, 8.2.4 and 8.2.6 to reconstruct on a smaller footprint the building that was destroyed by fire with retail use & 42 hotel rooms with less than 330 s.f. of sleeping room space & 6 1-bedroom dwelling units, with 48 on-site parking spaces (an additional 12 off site spaces leased from the Town where 59 spaces are required for the non-retail use & 24 spaces required for retail use) with zero setbacks on the front and side, and a roof height 3 feet above the limit with a short parapet and 6-foot elevator shaft. This property is located at Map 282, Lot 87-1 in a BS zone.

John McKeon, Petitioner, Attorney Peter Saari, and John Tuttle, the architect, came forward.

Chairman O'Brien asked that the reference to an additional 12 off site parking spaces leased from the town be removed from this petition since leasing parking spaces was within the purview of the Board of Selectmen. The Board members agreed.

Mr. Tuttle said this structure would replace the building that burned down. It will occupy the same site as the original structure but will be much smaller. Attorney Saari noted the fact that this new building would be a great asset to the beach. Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. McGuirk asked how the parking was calculated. Attorney Saari said there is a need for 59 spaces. Mr. McGuirk said on the elevation there is a cap between the proposed hotel and Mitchells. Mr. Tuttle said it was a firewall.

Mr. Lessard said he felt this project should definitely be built.

Chairman O'Brien asked if the doors opening into the parking lot and the right of way will be recessed. Mr. Tuttle replied that the doors in back don't need to be recessed, but the ones in front will be. Chairman O'Brien asked if the dwelling units would be sold. Attorney Saari said they do not know at this time. Chairman O'Brien said he wants to ensure there is one on-site parking space per unit in case it is ever turned into condos.

#### *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 31-10.

Hampton Zoning Board of Adjustment  
September 16, 2010  
Page 8

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

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

### **BUSINESS SESSION**

Chairman O'Brien said the Superior Court has ruled on the nine townhouses to be located on Ocean Blvd and Fuller Acres. The judge has upheld all of the ZBA's decisions relative to this matter.

### **Adoption of Minutes**

**Moved** by Mr. Lessard, and seconded by Mr. McGuirk, to approve the Minutes of August 19, 2010.

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

### **Adjournment**

There being no further business, the meeting was adjourned at 10:07 p.m.

Respectfully submitted,

Joan Rice  
Secretary