

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
September 15, 2011**

Members Present

Bill O'Brien, Chairman
Jack Lessard (Alternate)
Tom McGuirk
Bryan Provencal
Ed St. Pierre

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:02 p.m.

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

PETITION SESSION

Chairman O'Brien said Petition **30-11**, 969 Ocean Blvd., has been postponed because the abutters' listing was noticed incorrectly. Also, the applicant would like to have a special hearing because of a desire to build now if the petition is approved. After discussion it was decided to hold a special hearing on Thursday, September 29, 2011.

Moved by Mr. St. Pierre and seconded by Mr. Provencal, to hold a special hearing on Petition 30-11 on Thursday, September 29, 2011.

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

Chairman O'Brien said he was in receipt of an appeal to Petition **18-11**, 135 Little River Road. The appeal came in within the time frame required and this item will be moved to the special hearing agenda on Thursday, September 29, 2011 in order that it may be properly noticed.

27-11 The continued petition of Marylee Twomey, Trustee of Houle Realty Trust, for property located at 79 Ocean Boulevard seeking relief from Article XI, Section 11.5.a, to operate a temporary outside retail area in the courtyard of Harris Sea Ranch. This property is located at Map 295, Lot 24 in a BS zone.

Marylee Twomey and Attorney Steven Ells came forward. Mr. Ells also introduced Mr. and Mrs. Steve Kaufman who are tenants of Ms. Twomey. In 2010 Mr. Kaufman received a license from the Board of Selectmen so he could operate an outside retail operation.

In February of this year, Mr. Kaufman reapplied and was advised by the Building Inspector's Office that he was not in compliance with Town and zoning ordinances. Attorney Ells said the petitioner has a large unused courtyard. Mr. Kaufman is an experienced retailer and Attorney Ells said he felt it would be unfair to withhold this variance. There are many other similar situations in the area. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked about the reference to "temporary" in the petition. Attorney Ells said "seasonal" would be a better description. Mr. McGuirk asked about parking. Ms. Twomey said there is sufficient parking.

Mr. Provencal asked about other businesses doing business outside. Mr. McGuirk said on every block there are at least two temporary structures for peddling wares, etc. Attorney Ells replied that anything prior to 1997 is grandfathered.

Mr. Kaufman informed the Board that his tent occupied only 100 square feet. Chairman O'Brien said the petitioner is asking for 2,500 square feet of retail space; that would be 25 tents in this courtyard on Ocean Blvd. Chairman O'Brien said his concern is that the Town just spent \$12 million on the infrastructure at the beach and the State has just put in \$14 million. With RSA 79-E relief we are encouraging business owners to upgrade their properties. Some 2,500 sq. ft. courtyard of this property could be covered with tents and if this variance is granted, it would set a precedent for other businesses to do the same, and the Beach could become inundated with tents rather than structures. Mr. Provencal said he would be for granting this petition because it would enhance the beach.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Chairman O'Brien said he saw a ripple effect if this petition is granted and, therefore, he was against it. Mr. Lessard agreed.

Mr. McGuirk and Mr. Provencal suggested restricting usage to 400 square feet. Mr. McGuirk also noted that the word "temporary" should be changed to "seasonal" in the petition.

Moved by Mr. Provencal and seconded by Mr. McGuirk, to grant Petition 27-11 with the stipulation that the use is restricted to 400 square feet and that "seasonal" is defined as May 15th to October 15th.

Chairman O'Brien asked the Board if they felt the five criteria had been met. Mr. McGuirk, Mr. Provencal and Mr. St. Pierre said that they had. Chairman O'Brien and Mr. Lessard said they had not.

VOTE: 3-2 (Lessard, O'Brien). Motion passed.

29-11 The petition of Douglas E. Bennett for property located at 497 Winnacunnet Road, Apartment 1 seeking relief from Article 1.3 and Article 8.2.3 to remove the existing front decks and stairs that are out of code, unsafe and non-repairable and replace with new decks and stairs that will be more conforming and up to code. This property is located on Map 222, Lot 115 in a RB zone.

Douglas Bennett, Petitioner, came forward. He said he has already taken the pre-existing decks down. He said he is proposing a replacement of the stairs and decks to bring the property up to code. Mr. Bennett went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if any parking spaces would be lost. Mr. Bennett said none would be.

Comments from the Audience

David Cargill, 501 Winnacunnet Road, came forward. He said he was in favor of this proposal. He said improvements made by Mr. Bennett have been excellent.

Back to the Board

Moved by Mr. Provencal and seconded by Mr. Lessard, to grant Petition 29-11.

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

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

31-11 The petition of Robert and Laurie Cusson for property located at 64 Brown Avenue seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to construct a new front deck measuring 6 ft. x 22 ft. Existing condition measures 78" x 64". The property is located on Map 282, Lot 179, in a RB zone.

Robert Cusson, Petitioner, came forward. Mr. Cusson said he purchased this property a year ago. Most of the home has been renovated. By constructing a new deck, he is looking to enhance the property. Mr. Cusson went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked if this deck would line up with others on the street. Mr. Cusson replied that it is actually further in than the others.

Chairman O'Brien said he would want to make sure the stairs and the deck are within the limits of the current foundation. Mr. Cusson replied that they would be.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. McGuirk and seconded by Mr. Lessard, to grant Petition 31-11.

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

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

32-11 The petition of Paul and Tracey Capstick for property located at 3 Whitten Street seeking relief from Articles 1.3, 4.5.1 and 4.5.2. The applicants currently have an existing non-conforming home to which they would like to add a second level without changing the footprint of the building and therefore need the following variances (1) Requesting relief from the side setback requirement of 10' which currently has 6' to the property line as measured from the drip edge (2) Requesting relief from the front setback requirement of 20' which is currently 10.5' from the front lot line to the bottom step of the porch. The property is located at Map 295, Lot 19 in a RB zone.

Paul and Tracey Capstick, Petitioners, came forward. Mr. Capstick said they want to add a second floor to their home and will use the foundation that presently exists. The house next door was identical to their place; they just want to add to their cottage in a similar manner. Mr. Capstick went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman O'Brien said the current house has no deck in the back and the petitioners are proposing a deck. However, there are no dimensions on the plan. Mr. Capstick said he would have to go to the designer to answer that question.

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 32-11 with the stipulation that an updated plot plan be presented showing the location and size of the rear stairs and deck. No relief was granted for the rear deck or stairs.

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

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

BUSINESS SESSION

Adoption of the Minutes

Amendments made were made to the Minutes of August 18, 2011 as follows:

Page 2, paragraph 2: After first sentence add "The new lot had 27' which could be the potential for three spaces."

Page 2: After 4th paragraph insert new paragraph as follows:
"Mr. St. Pierre said if the variance is granted, he did not want to see the petitioner coming back for more variances."

Moved by Mr. McGuirk and seconded by Mr. Provencal, to approve the amended Minutes of August 18, 2011 as amended.

VOTE: 4-0-1. (Lessard)

Adjournment

Moved by Mr. McGuirk and seconded by Mr. Lessard, to adjourn the meeting at 9:48 p.m.

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

Respectfully submitted,

Joan Rice
Secretary