

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
May 19, 2011**

Members Present

Bill O'Brien, Chairman
Vic Lessard
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 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the members of the Board.

Election of Officers

Chairman O'Brien asked for nominations for Chairman.

Moved by Mr. Provencal and seconded by Mr. McGuirk, to appoint Bill O'Brien Chairman of the Hampton Zoning Board of Adjustment for the coming year.

VOTE: 4-0-1 (O'Brien). Motion passed.

Chairman O'Brien asked for nominations for Vice Chairman.

Moved by Mr. Lessard and seconded by Mr. St. Pierre, to appoint Tom McGuirk Vice Chairman of the Hampton Zoning Board of Adjustment for the coming year.

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

Chairman O'Brien asked for nominations for Clerk.

Moved by Mr. Provencal and seconded by Mr. McGuirk, to appoint Ed St. Pierre Clerk for the Hampton Zoning Board of Adjustment for the coming year.

VOTE: 4-0-1 (St. Pierre). Motion passed.

Chairman O'Brien said they would like applications for Alternate. Anyone interested should please write to the Zoning Board.

PETITION SESSION

14-11 The continued petition of Cornelia Bolton Trustee for property located at 152 North Shore Road seeking relief from Article 2.3.4B to construct a residence within 25' of the wetland buffer where 50' is required. This property is located at Map 133, Lot 17. 18 in a RA zone.

Chairman O'Brien noted that this petition was delayed from the last meeting due to the fact that an abutter had not received notification. It was found that there was an attempt made by the Post Office to make delivery.

Nicholas Bolton, Henry Boyd of Millenium, Mark West of West Environmental and Attorney Stephen Ells came forward.

Attorney Ells said this property has been owned by the Boltons since 1980. They need a variance to the 50-foot wetland buffer. Attorney Ells explained the boundary plan showing the existing condition of the Bolton land, a variance plan which shows the creation of three lots, and an alternate plan which would not require a variance.

Attorney Ells said they asked the Conservation Commission to provide input. They have provided a letter to the Board. Mark West, wetlands scientist, said the letter has been reviewed. The issue is a wetlands system which already has several houses bordering it. There are some large, mature pine trees on the subject lot. Mr. West said he believed there were some measures that could be taken that would alleviate the Conservation Commissions' concerns.

Attorney Ells went through the five criteria and said he felt they had been met. He said he felt the protection of the wetlands would be better served with this plan than with the plan that does not require a variance.

Questions from the Board

Mr. Lessard asked if this would be only three lots. Attorney Ells said that was correct.

Comments from the Audience

Jay Diener, Chairman of the Conservation Commission, came forward. He said their concern is with the buffer itself and its functioning. Mr. Diener said the proposed plan will cut significantly into the buffer. The alternate plan is not good either. Mr. Diener said they do not favor either plan and perhaps it would be better to have a 2-house property.

Mr. St. Pierre asked if the petitioner could be stopped from doing the alternate plan that doesn't require a variance. Mr. Diener said it could not be stopped, but the Conservation Commission could make recommendations.

Art Pringle, 32 Seaview Avenue, came forward. Mr. Pringle said he is an abutter and has no objections to the proposed plan.

Back to the Board

Mr. St. Pierre asked if there was any way to shift the house on lot 3. Mr. Boyd said there would still be issues. Shifting would disrupt an ancient rock wall.

Mr. Lessard asked about the abutters. Mr. Bolton replied that there is no objection from the abutters. Chairman O'Brien indicated that a letter had been received from Mr. Boddy, an abutter, who opposes the petition.

Chairman O'Brien said he was uncomfortable with both plans and was committed to the 50-foot buffer restriction.

Moved by Mr. Provencal and seconded by Mr. McGuirk, to grant Petition 14-11 subject to approval by all Boards concerned.

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

VOTE: 3-1 (O'Brien) -1 (St. Pierre). Motion passed.

16-11 The petition of Sheila Dubrawski for property located at 204 Ashworth Avenue, Unit 4 seeking relief from Articles 1.3, 4.5.2 and 8.2.3 to remove the existing roof and add 4 ft. kneewalls and reconstruct a new roof having a 12" pitch in order to create a loft area with dormers. This property is located at Map 295, Lot 49 in a BS zone.

Sheila Dubrawski, Petitioner, and Michael Velsos, Contractor, came forward. Ms. Dubrawski explained that the structure needs to be remodeled to be brought up to code and add value. The building is sinking and is becoming a danger to public safety. Ms. Dubrawski went through the five criteria and said she felt they had been met.

Questions from the Board

Chairman O'Brien asked if the doorway should be on the side rather than the front (South) of the house since the width of the driveway for the condo association was only 8.2 feet at the front door. Mr. Velsos replied that it could be on the side of the house.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Lessard and seconded by Mr. St. Pierre, to grant Petition 16-11.

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.

17-11 The petition of Joseph & Shirley Sylvester for property located at 6 Meadow Pond Road seeking relief from Articles 4.1.1 and 4.5.1 to replace an existing non-conforming cottage with a new home which would make the majority of the front of the building less non-conforming as to front setback, eliminate a side encroachment, and have the same degree of non-conformity as to lot area per dwelling unit. This property is located at Map 168, Lot 56 in a RB zone.

Joseph Sylvester, Petitioner, and Attorney Peter Saari came forward. Attorney Saari said this is a small structure, only about 630 square feet inside. The owners want to turn this into a year-round property. They will move the bulk of the house back to get more parking and will be improving the front setback. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Lessard said he approved of this and it will add to the cleaning up of the area. Mr. McGuirk said the house could be built 20 feet from the lot line, however, he did see why it would be more attractive to have the house line up with other houses on the street.

Comments from the Audience

Madelyn L. Gaven, 8 Green Street, came forward. Ms. Gaven said this neighborhood has been in existence for 60+ years and most are single-story homes. Ms. Gaven said this is going to be a very big building and she feels it will be out of character. It is also a very big house on a very small lot. Ms. Gaven said she was also concerned about safety, water run off and parking.

Mr. McGuirk said there will be plenty of parking - enough for six cars - and that water run off to an adjoining property was not allowed.

Back to the Board

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 17-11.

Chairman O'Brien asked if flooding was being taken into account. Mr. Schultz said the Petitioner is required to meet flood certification.

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

Adoption of Code of Ethics

Discussion was held regarding the letter from the Board of Selectmen asking that Board members sign a Code of Ethics. Mr. Lessard said the oath taken when elected to the Board is binding per the laws of the State of New Hampshire and it is not necessary to sign this Code. Mr. McGuirk pointed out that the Code of Ethics would not hold up in a court of law whereas RSA 673:14, which addresses ethics, would.

It was the consensus of the Board that it was not necessary to sign.

Adoption of the Minutes

Moved by Mr. Lessard and seconded by Mr. St. Pierre, to approve the Minutes of April 21, 2011.

VOTE: 3-0-2 (McGuirk, Provencal). Motion passed

Discussion of Minutes of March 17, 2011: Paragraph 8.2.3 Relief

Discussion was held regarding paragraph 8.2.3 relief. It was the consensus of the Board that paragraph 8.2.3 relief did not cover the minimum setback requirements of paragraph 4.5 and that both paragraphs will be Noticed for a petition when paragraph 4.5 setbacks will not be met in the paragraph 8.2.3 relief being sought.

Motion for Rehearing of Petition 03-11, 190 Kings Highway

At this time Mr. St. Pierre stepped down from the Board.

Chairman O'Brien said he believed the Board did not commit any errors in the procedures when this petition was heard and that the Board did not do anything unlawful.

Chairman O'Brien said he wants to make sure the entire Town has good cell service. A critical area that is lacking service is the main downtown business area along Route 1. According to the Verizon coverage plots; the petitioners were looking at adding only one more square mile of new coverage for Hampton at the beach. Chairman O'Brien added that the petitioner wants to present some new/additional information and that he wanted to be reasonable and could, therefore, support a rehearing.

Mr. McGuirk said he felt the petitioners had some valid points, but did not show the Board why they chose that particular site. They should have taken the opportunity to withdraw and they did not. They were given every fair and reasonable opportunity this Board can afford them. Mr. Provencal said it is possible that they are sharing with some other carrier for Route 1.

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant a rehearing of Petition 03-11, 190 Kings Highway.

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

Adjournment

There being no further business, the meeting was adjourned at 9:57 p.m.

Respectfully submitted,

Joan Rice
Secretary