

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
August 18, 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.

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

Mr. Lessard congratulated Ellie Montague on her retirement from the Building Inspector's Office.

PETITION SESSION

Chairman O'Brien said the attorney for Petition **27-11** (property located at 79 Ocean Blvd.) has asked for a continuance to next month.

Moved by Mr. Lessard and seconded by Mr. McGuirk, to continue Petition 27-11 to the September 15, 2011 meeting at which time it will be first on the agenda.

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

21-11 The petition of William & Sandra Lally for property located at 725 Ocean Boulevard seeking relief from Articles 4.1, 4.1.1 and 4.5.2 to allow for subdivision of the premises to create 2 lots. Lot fronting on Ocean Boulevard has a 2-family structure in place; lot with frontage on Kings Highway will have only a single family home. This property is located at Map 223, Lot 101 in a BS zone.

William and Sandra Lally and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said this property is unique because it is business seasonal. There is a 2-family house in front and until recently there was a single family cottage in back. The single family cottage has been removed. What is being requested is similar to other lots in the area. Variances are needed for lot size and also 4.5.2 which is the side setback. The side setback relief is only needed for the old lot where the house currently exists.

The existing deck is being reduced in size to achieve the 4 foot setback in the rear. There will be no height issues. There is a deed restriction that this lot cannot be subdivided. However, the Lallys brought this to Town Meeting and the voters decided the lot could be subdivided. This will be consistent with the neighborhood and will not affect property values. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if there was any consideration to moving parking space #1 so that four spaces could be in back. Mr. Lally replied that there is a lot of parking in the back now. Mr. Schultz said if stairs are going to be rearranged, it is important to still meet the 4 foot setback.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. Lessard said there is an angle at Kings Highway. Mr. McGuirk said cars will be facing so that there won't be a problem.

Chairman O'Brien said he would like the plot plan updated to reflect the current situation and have the old cottage taken out. The 4 foot setback should be reflected for the new lot.

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 21-11 subject to the presentation of a plot plan reflecting the current situation with the old cottage taken out. The only 4.5.2 side setback relief granted is to the front house as it exists.

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.

22-11 The petition of David Bolduc for property located at 470 Winnacunnet Road, Unit 14 seeking relief from 1.3, 4.5.3 & 8.2.3 to replace front steps with a 12 x 4 patio deck, the rear steps with a 12 x 8 patio deck, both at ground level and to construct a small enclosure for outside shower. This property is located at Map 222, Lot 59 in a RB zone.

David Bolduc came forward. He said this will be a cosmetic improvement to the property and will provide a more enjoyable atmosphere for his family. This would also increase the overall value of the property. Mr. Bolduc 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

Chairman O'Brien said that 4.5.3 relief being sought should actually be 4.5.2 and that the 4.5.2 requirement is met even with the changes.

Moved by Mr. Provencal and seconded by Mr. Lessard, to grant Petition 22-11 granting 1.3 and 8.2.3 relief and striking 4.5.3 which is not required.

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.

23-11 The petition of John O'Brien for property located at 6 Acadia Avenue seeking relief from Article 4 Footnote 28 to erect storage shed 2 ft from the rear and side property lines where 4 ft is required. This property is located at Map 222, Lot 117 in a RB zone.

John O'Brien came forward. He presented letters from abutters approving of his plan. Mr. O'Brien said he would like to locate the shed in the northwest corner because it would maximize the sunny and socializing area of the yard. Mr. O'Brien 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. St. Pierre asked if there was any consideration to moving the shed away from the tree to the other side of the lot. Mr. McGuirk believed the petitioner wants to maximize the use of the sunny area of the yard for socializing.

Moved by Mr. Provencal and seconded by Mr. McGuirk, to grant Petition 23-11.

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.

24-11 The petition of Patrice and G. Stevens Davis, Jr. for property located at 12 Ocean Drive seeking relief from Article 4.5.1 to extend second floor deck by no more than 4 feet towards the road which will have no effect on parking. This property is located at Map 305, Lot 10 in a RA zone.

Patrice and Steve Davis came forward. Mr. Davis said when they built their house their only regret was that the second floor deck was not wide enough. They would now like to extend the deck. This will not impact parking. Mr. Davis said they have spoken to direct abutters, with the exception of the owner of the vacant lot who could not be reached, and the response was positive. Mr. Davis 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

Karen Manis, 11 Ocean Avenue, came forward. She said she was in favor of this petition being granted and that the Davis family is a wonderful asset to the neighborhood.

Back to the Board

Chairman O'Brien said the owner of the vacant lot was notified by certified mail.

Mr. McGuirk and Mr. St. Pierre said they were in favor of this petition and that it is reasonable.

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 24-11.

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.

25-11 The petition of Nancy Meagher-Mills for property located at Butternut Hollow, Unit 14 seeking relief from Articles 8.2.3 and 8.2.6 to replace an existing non-conforming dwelling with a dwelling which, because it is part of a single-family dwelling condominium, requires multi-family relief from the setback and separation requirements even though the footprint and setbacks will remain about the same as at present. This property is located at Map 183, Lot 18-14 in a RB zone.

Attorney Peter Saari and Joe Coronati, Jones & Beach, came forward. Attorney Saari said there is an old bungalow style building on this property. The family has owned this property for 33 years. The current footprint will not be exceeded, actually it will be reduced. The current building is in the flood plain and the new building will be elevated. Another issue is the wetlands. This house will need a Shoreland permit and a permit from the Planning Board. There will be a reduction in impervious area and there will be stone drip edges around the building. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the Conservation Commission has been consulted. Mr. Coronati said they had not yet done that.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. McGuirk and Mr. St. Pierre expressed their approval of this design.

Chairman O'Brien said he would like to know if there would be any changes to the topography. Mr. Coronati said there would be no changes. Chairman O'Brien asked where the shed, which is in the wetlands, would be moved to. Mr. Coronati said it would be removed from the wetlands and its placement was a topic they planned to discuss with the Conservation Commission.

Moved by Mr. Lessard and seconded by Mr. McGuirk, to grant Petition 25-11 subject to all necessary Board approvals and permits.

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.

26-11 The petition of Steven & Linda Bauman for property located at 19 Fuller Acres, Unit 2 seeking relief from Article I, Section 1.3 (expansion of non-conforming structure), Article VIII, Sections 8.2.2, 8.2.3, 8.2.4, 8.2.5 and 8.2.6 to expand deck for Unit 2 by one (1) foot to the east of existing deck, then install a four-season sun room approximately 9'x14'x8' over the expanded deck. This property is located at Map 265, Lot 64-2 in a BS zone.

At this time Bryan Provencal stepped down from the Board.

Ernest Cote and Brian Sullivan came forward. Mr. Cote said the expansion and enclosing of the existing deck with the sunroom will increase the value of the property.

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

Chairman O'Brien said he would like a revised plot plan showing the shed.

Moved by Mr. Lessard and seconded by Mr. McGuirk, to grant Petition 26-11 subject to a revised plot plan be submitted showing the shed.

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

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

At this time Mr. Provencal rejoined the Board.

28-11 The petition of Susan Schwartz for property located at 85 Mill Road seeking relief from Article IV, Table II, Section 4.2 (frontage) and 4.3 (width) footnote 22 (square requirement) to create a second lot for a residence that will be built for applicant's parents. The new lot will have 80 feet frontage where 125 feet is required, a lot width of 64+/- where 125 feet is required and requires relief from the square requirement at the front setback of footnote 22 to the dimensional table. The lot to be created is otherwise conforming with 25,403 +/- sq. ft. in area where 15,000 sq. ft. is required. There are no wetlands on the property. This property is located at Map 162, Lot 6 in a RA zone.

Susan Schwartz, and Attorney Michael Donahue, Donahue, Tucker & Ciandella came forward. Mr. Donahue said the applicant is asking for relief in order to subdivide the property into two single family residential lots. The applicant wishes to construct a new home for her parents on the new lot.

Bruce Scammon, Emanuel Engineering, gave a presentation on the proposed plan.

Attorney Donahue said the proposed lot is appropriate for a single family residence for the applicant's parents without negative impact to any surrounding properties or the community. Attorney Donahue 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

Tom Manning, 79 Mill Road, came forward. He provided his rationale as to why this petition did not meet four of the five criteria. Mr. Manning said he also felt drainage would also be a problem if another house was added.

Mark Olsen, 75 Mill Road, came forward. Mr. Olsen commented on safety issues of the proposed driveway. He said it is also a pork chop lot. Mr. Olsen said he agreed with Mr. Manning's comments.

Back to the Board

Mr. Scammon said that after subdivision, it will still be one of the longest lots in the neighborhood. Lots are narrow on Mill Road and there are many driveways. In terms of safety, the road is a long strait-away. Regarding drainage, Mr. Scammon said the new lot will be above the water table.

Attorney Donahue said that there is an apartment on the residential lot. It had been the hope that the applicant's parents could live there. However, health conditions have deteriorated and the bathroom and a great deal of living area are upstairs.

Mr. St. Pierre asked if there would be deed restrictions on the vegetated buffer. Attorney Donahue said the Planning Board may require such restrictions. Mr. St. Pierre stated that this Board could also impose those conditions.

Chairman O'Brien asked why the existing apartment could not be modified and a bathroom and living space added to the first floor for her parents. Mr. Scammon said that would be a question of getting another type of variance for non-conforming use.

Mrs. Schwartz also said there would not be enough space behind the house for the addition and if it were added to the front of the house it would go in front of the barn. Attorney Donahue said in terms of what is visible to the community this proposal is better than extending the existing apartment.

Chairman O'Brien said he would fear a domino effect in this area with this pork chop lot. He said he would prefer having only one driveway for both residences.

Mr. McGuirk stated that he preferred the new lot boundary to be in a straight line rather than have a jog. He also felt that an easement could be granted to allow both lots to use a common entrance from Mill Road.

Mr. McGuirk asked the applicant if they would like to withdraw without prejudice and come back with a different plan. Attorney Donahue said they would do that.

Moved by Mr. Lessard and seconded by Mr. McGuirk, to allow Petition 28-11 to be withdrawn without prejudice and brought back to the Board with a different plan at the September 15, 2011 meeting.

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

18-11 The rehearing of petition of Ruth & Roland Rich, thru Mike Wesson, for property located at 135 Little River Road seeking relief from Articles 4.2 (including footnote 22) and 4.3 to subdivide an approximately 74,000 sq. ft. tract into 2 lots, a front lot of 25,000 sq. ft. with 125 feet of frontage and a rear lot which will be nearly twice that size but with about 45 feet of frontage/lot width and would meet the rear setback requirement from the barn on the front lot. This property is located at Map 147, Lot 18 in a RA zone.

Attorney Peter Saari came forward. He said this is a new plan. The corner of the front lot has been cut off in the rear to allow cars to turn without beaming their headlights into the adjacent lot to the North. The lot size has been decreased. This is a mirror image of what was done at the Kelly property. Attorney Saari also presented proposed language for a deed restriction. Attorney Saari 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

Kathleen Kelly, 133 Little River Road, came forward. She said she did not support this petition and did not want to see any more subdividing.

Bryce Kelly, Mrs. Kelly's son, came forward. He said if this petition is granted they would like the trees extended back so his family would be afforded more privacy.

Back to the Board

Chairman O'Brien asked if the applicant would be amenable to putting in more trees. Attorney Saari said yes. Mr. Schultz said this would still need to go before the Planning Board.

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 18-11 subject to there being a vegetation buffer on the north side of the property running from the fir trees to the back of the Kelly residence.

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

Moved by Mr. Lessard and seconded by Mr. Provencal, to approve the Minutes of July 21, 2011.

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

Adjournment

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

Respectfully submitted,

Joan Rice
Secretary