

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
May 17, 2012**

Members Present

Bill O'Brien, Chairman
Jack Lessard (Alternate)
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.

PETITION SESSION

17-12 ... Continued hearing of Albert R. Fleury for property located at 6 Johnson Avenue seeking relief from Article III, Sections 3.26(a) to remove existing dwellings and create parking area on parcel. Parcel abuts existing parking area for patrons of Wally's Pub. This property is located on Map 293, Lot 65, and in a RB Zone.

At this time Mr. V. Lessard and Mr. Provencal stepped down from the Board and Mr. J. Lessard (Alternate) stepped up to the Board.

Albert Fleury, Petitioner, and Attorney Ted Morris came forward.

Chairman O'Brien said he had received a confidential memo from the Town Attorney saying that to make this decision as bulletproof as possible it would be best for the applicant to withdraw the application without prejudice and re-file under the names of the owners of both lots for variances for lots 65 and 72. He also stated that the Town Attorney had done research on the tax maps and when the Town changed the BS to RB in that area in March 1998, no application had been made to make lot 72 a parking lot.

Attorney Morris said he believed Lot 72 was grandfathered. Chairman O'Brien said it was not grandfathered since it was not a pre-existing non-conforming use prior to March 1988. Chairman O'Brien also stated the notification was only for Lot 65 and not for Lot 72; but the application addresses both lots in the variance criteria ... it was not noticed properly. Attorney Morris said they had believed Lot 72 was grandfathered, but now understand that

Lot 72 would also need a variance. Mr. Schultz said the best thing to do would be to withdraw, re-file and notify the abutters to Lot 72. Attorney Morris said that was now their only option.

Moved by Mr. J. Lessard and seconded by Mr. St. Pierre, to allow the applicant for Petition 17-12 to withdraw without prejudice.

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

Attorney Morris asked if he could have a copy of the Town Attorney's memo.

Chairman O'Brien said he would allow Attorney Morris to read the memo after the meeting, but there would be no copy made as the memo is a confidential communication between the Town Attorney and Chairman O'Brien.

Moved by Mr. J. Lessard and seconded by Mr. McGuirk, to allow Attorney Morris to read the Town Attorney's memo regarding Petition 17-12.

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

At this time Mr. V. Lessard and Mr. Provencal stepped up to the Board and Mr. J. Lessard stepped down from the Board.

20-12 ... The petition of Pensco Trust Company, Custodian, FBO Victor M. Fugere, IRA for property located at 6 Kentville Terrace seeking relief from Article 1.3 and Article IV, Section 4.5.2 to remove and replace 10' x 24' rear roof to match existing front roof. Upgrade interior to meet all codes and variance required for 10' x 8" drip edge to replace existing 10' x 8" drip edge. This property is located on Map 274, Lot 87-1 and in a BS Zone.

Victor Fugere came forward. He said they are looking for a variance to replace the rear roof to match the existing front roof. Mr. Fugere went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if everything conformed now. Mr. Schultz replied that it was just a matter of the drip edge. Mr. Schultz said this would have aesthetic value for the property.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. V. Lessard and seconded by Mr. Provencal, to grant Petition 20-12.

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.

21-12 ... The petition of Ken and Leslie Chase through Brian Kent for property located at 368 High Street seeking relief from Article IV, Section 4.5.2 to replace existing 4 ft. x 8 ft. porch and stairs with new 8 ft. x 16 ft. deck and stairs. Request 2 ft. 3 inches and 9 inches to satisfy the 15 feet setback requirement. This property is located on Map 165, Lot 005, and in a RA Zone.

Brian Kent came forward. Mr. Kent 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. McGuirk, to grant Petition 21-12.

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. St. Pierre and seconded by Mr. Provencal, to approve the Minutes of April 19, 2012 as amended. The amendment was the addition of "Jack Lessard (Alternate)" to Members Present.

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

Moved by Mr. St. Pierre and seconded by Mr. Provencal, to approve the Minutes of April 26, 2012 as amended. The amendments were: page 2, regarding the motion on petition 18-12; insert the word "sold" between "marijuana within" ... page 3, 2nd line; insert the words "setback requirements of the" between "current ordinances" ... page 3, 5th line; replace "Stew" with "Stu".

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

Chairman O'Brien said the Board received today, two Motions for Rehearing on Petition 18-12 (Hookah Lounge). Mr. St. Pierre said he had a concern that dual use items (paraphernalia) could be sold at this site. This did not come up in the course of the meeting when the Petition was heard. Mr. St. Pierre said he would like an opinion from the Town Attorney as to whether these items could be sold. Chairman O'Brien said he would speak to Attorney Gearreald. Mr. V. Lessard asked about the hardship. Chairman O'Brien said the hardship was an enumeration issue.

Moved by Mr. St. Pierre and seconded by Mr. Provencal, to table the two Motions for Rehearing until next month.

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

Chairman O'Brien asked Mr. Schultz to notify the applicant that the Board has received these Motions for Rehearing and that the Board will address these motions at our June meeting.

Chairman O'Brien asked for the Boards permission to draft a letter to the Planning Board regarding the issues of use enumeration since they should be examining RSAs as they are enacted to determine their impact on zoning; housekeeping changes that address antiquated requirements; and electronic signage. All members of the Board agreed.

Adjournment

There being no further business, Mr. St. Pierre **moved**, seconded by Mr. Provencal, that the meeting be adjourned.

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

The meeting was adjourned at 8:12 p.m.

Respectfully submitted,

Joan Rice
Secretary