

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
SEPTEMBER 20, 2012**

Members Present

Bill O'Brien, Chairman
Vic Lessard
Tom McGuirk
Ed St. Pierre
Jack Lessard, Alternate

Absent

Bryan Provencal, Absent

Others Present

Kevin Schultz, Building Inspector
Laurie Olivier, Secretary

Chairman O'Brien called the meeting to order at 7:00 p.m.

Chairman O'Brien introduced the members of the Board

PETITION SESSION

34-12 The petition of Charles Rage for property located at 121 Ocean Blvd. seeking relief from Article 1.3 and Article IV as to 4.5.2 side setback to erect an awning. This property is located on Map 290, Lot 21 and in a BS Zone.

Mr. Rage appeared. He wants to put an awning up overlooking the retail store called *Beach Basics*. An awning existed there before.

Mr. Rage then went through the five criteria and said he felt they had been met.

Questions from the Board

There were no comments from the Audience.

Comments from the Audience

Back to the Board

Mr. V. Lessard said the awning was on a long time ago. All businesses used to have awnings and he doesn't see a problem with it. Mr. J. Lessard agrees with Mr. V. Lessard.

MOVED by Mr. Vic Lessard and seconded by Mr. McGuirk to grant Petition 34-12.

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

VOTE: 5 - 0 - 0

Motion passed unanimously

35-12 The petition of Jerome D. and Karen L. Prevost for property located at 3 Perkins Avenue seeking relief from Article IV, Sections 4.1.1, 4.2 (Footnote 22), 4.5.3 and Article VIII, Sections 8.2.2, 8.2.3, 8.2.4, 8.2.5, and 8.2.6 to construct a multi-family dwellings structure with three (3) units. This property is located on Map 293, Lot 29 and in a RB Zone.

Mr. McGuirk stepped down for this Petition.

Attorney Ells appeared and explained to the applicants that the Board was short one member and they could reschedule for next month. Mr. O'Brien stated this is a courtesy only extended by the Board. Mr. Ells will check this out and stated that he appreciates the courtesy. Mr. and Mrs. Prevost were in attendance and elected to proceed. There is a vacant lot currently. There was a fire years ago. The lot is in the RB Zone. This property is adjacent to Ashworth Avenue properties. It was noted that 7 Perkins Avenue is to the West and has three residential units. The applicants do not want to create a condominium. Plans were obtained from Brian Dumont who received similar relief not long ago for 2 Concord Avenue.

Attorney Ells went through the five criteria and said he felt they had all been met.

Questions from the Board

Mr. St. Pierre asked when sprinklers kick in for multi-family units. Mr. Schultz said three or more units on one lot. Mr. Schultz also stated that three stories or more need sprinklers.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. O'Brien asked if the same builder would be used as was used on 2 Concord Avenue and it was stated "no decision as of now". Mr. O'Brien asked about parking. There will be four outside and two under. Mr. O'Brien discussed the northwest corner – 4 parking spaces, 36 feet. The walkway was discussed, 4 feet. At the back of building, the setback on the southwest corner is 7.5 feet. Staircases must be 3 feet minimum. That's 11 feet (going with 3.5 feet). The total is 51 feet. The lot is 100 feet deep; the building is 52 feet long ... it can only be 49 feet under this scenario. The variance is for the rear setback, but there is not enough land for what the applicant is proposing. Mr. O'Brien stated that it is three feet short and that the applicant needs four feet for the walkway. This lot is not a perfect rectangle. The applicant would be 2.2 feet from property line in the southeast corner. Mr. Schultz said 98.5 feet on a 100' lot would be calculated if the 3 foot staircase is used. The walkway isn't being shown. Mr. O'Brien said Concord Avenue had this same problem.

Attorney Ells said two staircases are entering over Parking space #6 on the plan and the third entrance is from the westerly side. They can redesign the entrances. Maybe the applicants could shorten the building up. A walkway has to be out front.

Mr. V. Lessard asked when the building would be started and it was stated "spring". He asked for a different plan. Mr. Ells thinks one more meeting would be good. Changing the entrance to the side was discussed.

MOVED by Mr. Vic Lessard and seconded by Mr. St. Pierre to postpone without prejudice. The applicants are to come back to the next meeting, the third Thursday of the month. Mr. Ells in the meantime will submit plans so that the Board can see them before the meeting. Mr. O'Brien reiterated seeing the walkway on the plan would be helpful. They will be first on the agenda. Mr. Schultz added that if an entryway is moved to the west side of the building, there may need to be a walkway to get there also. Access is an issue.

VOTE: 4 – 0 – 0

Motion passed unanimously

36-12 The petition of Colonial Plaza Realty Trust through Larry Huot/Andy Carberry for property located at 864 Lafayette Road seeking relief from Article V - Table II – Size to allow Middleton Building Supply to add two (2) additional signs to the face of the building. 4 x 16 is the size of each adding 128 sq. feet to the front of the building where 50 sq. feet is allowed. This property is located on Map 71, Lot 12 and in a B Zone.

Mr. Andy Carberry appeared. He wants to add two additional signs. The building is so far from the road that customers can't read the signs. He wants to dress it up. Mr. Carberry explained the five criteria and stated that he believed they have been met.

Questions from the Board

Mr. St. Pierre asked how many signs are allowed and if the sign is too big. Mr. Schultz said it exceeds what's allowed for a building sign. The sizes of signs were discussed. It can be 3 signs with a total of 50 square feet. Mr. St. Pierre asked what is restricted. He asked for the spirit and intent. Mr. Schultz said multiple signs are allowed for different categories. These signs are building signs. You can have up to 50 square feet of building signage per Mr. Schultz.

Mr. V. Lessard said he was not notified on this. He asked if he should step down. Mr. V. Lessard and his son, Kenny, own the building next door. Mr. Schultz said he is not an abutter since the railroad property lies in-between. Mr. J. Lessard stated that the sign should not be a problem to anyone. Mr. O'Brien said he thought applicant was enlarging the signs. The two signs remaining are the same size. The applicant is adding more signs. Mr. Vic Lessard discussed other signs in Town being an eye sore, and this one will look good. Mr. McGuirk asked if multiple businesses were there, if they could have more signs. Mr. Schultz said "yes" and gave an example

Comments from the Audience

There were no comments from the Audience.

Back to the Board

MOVED by Mr. V. Lessard and seconded by Mr. J. Lessard to grant Petition 36-12.

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

VOTE: 5 – 0 – 0

Motion passed unanimously

37-12 The petition of Myra Elshout for property located at 119 Mill Road seeking relief from Article 1.3 and Article VIII 8.2.3 to renovate the rear portion of the existing 2-family by enclosing the existing deck and converting it into living space on the first floor and add a 20 x 33 second floor addition above. The proposed renovations are within the footprint of the existing structure. This property is located on Map 145, Lot 017 and in a RA Zone.

Mr. Steve Brown, Myra's builder, appeared with Ms. Elshout and Sally, her daughter. The applicants went through the five criteria and stated they believe all have been met.

Questions from the Board

Mr. St. Pierre asked about the roof issue; he thinks it's a venting issue. Ms. Elshout said it cascades from the top down.

Comments from the Audience

Mr. Bud DesRochers appeared. He lives at 121 Mill Road. He sees what she's doing. The rest of the footprint he believes is the same. He does not have a problem with the application.

Letters were submitted from the other abutters to the Board.

Back to the Board

There were no comments from the Board.

MOVED by Mr. Jack Lessard and seconded by Mr. McGuirk to grant Petition 37-12.

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

VOTE: 5 - 0 - 0

Motion passed unanimously

38-12 John & Anne Maratta through Michael Veltsos for property located at 66 Kings Highway, Unit 7 seeking from Article VIII as to 8.2.3 and Article IV as to 4.5.2 and 4.5.3 to remove the structure and deck and construct a new structure and deck two (2) stories with second floor storage. This property is located on Map 210, Lot 25 and in a RB Zone.

Mr. John Maratta and Mr. Veltsos appeared. They want to build a two story structure. The existing structure is starting to bow and fall down. It needs to come down. It's under Condominium rules also. They went through the five criteria on the application and stated they believe that all criteria have been met.

Questions from the Board

Mr. McGuirk said the Board has allowed these in the past. If this came on the main beach, the Board would say "no". Mr. McGuirk said the condominiums are built two feet apart from each other.

Mr. Vic Lessard discussed storage and asked if the second floor is for storage. There will be no living up there per the applicants.

Mr. St. Pierre said there are two new styles of building. He asked about living space (to the left) and asked why the right side is a half height. He asked what the big deal is as to living space versus storage space.

Mr. O'Brien agrees with Mr. V. Lessard and Mr. St. Pierre. He discussed the 28' height. He asked how tall the first floor ceiling was. There are 20' roughly for the storage area height. Mr. O'Brien noted that there will be four windows and sky lights in the storage area. There are no bedrooms downstairs. It's all one room. He asked about a pull-down staircase door. Mr. Lessard asked if the storage area will become a future room in the house. The applicants stated the residents are elderly. If it should be called living space, they don't mind calling it that. They will keep it in as living area now. When the assessor comes through, it will be living area. Mr. Schultz said certain ceiling heights are needed for living area.

Mr. O'Brien asked Mr. Schultz about 4.5.2 relief and believes the applicant doesn't need 4.5.3 relief. Mr. Schultz said he didn't know which was the side and which was the rear ... it's the rear of the cabin but

side of the lot line. It does not have to be sprinkled because it's a single-family dwelling. Over three units in one building need to be sprinkled. Mr. Schultz said construction will be tricky—height area limitations, etc.

Mr. McGuirk's stated this would never fly in new construction. He doesn't want to see others coming in like this.

Does he need relief from 4.5 was asked by Mr. O'Brien. Mr. Schultz stated “yes”. It's Footnote 12 to 4.5 in the Ordinance. Mr. O'Brien asked how low the destruction was going. The applicants stated right to the ground. The applicants are 4.5 feet right now from property line. Footage for deck and prior structure take up 30 feet. He asked why it can't be moved 2.5 feet further from the side and a 4.5.2 variance would not be needed (from the back of the cabin - left side of lot). The structure will now be 19.6' and the deck is 8' according to the submitted plans. Take 2.5 feet and add it to 5.7 and then the 7' setback on the side would be met.

A vote from the Association would be needed if the footprint changes. Using the front of the existing footprint was discussed by Mr. O'Brien. Two feet will be gained in the back and no variance would be needed. Keep the front where it is. Mr. Schultz discussed required frontage.

The house is being enlarged, but the deck footprint is reduced based on what was submitted to Board. The applicant is within the footprint. The deck is shrinking by four feet. Eaves and walls were discussed. Mr. St. Pierre said to address this in the motion.

Comments from the Audience

Mr. Richard King, 66 Kings Highway, appeared. There are 2 feet that can be added to the unit. There is common land involved. He stated the deck is on limited common land. The deck is 12 feet now. Would the deck would be 10 feet or 10.5 feet. This approval would make area look like the rest of the area.

Back to the Board

MOVED by Vic Lessard and seconded by Mr. McGuirk to grant Petition 38-12, adding that the second floor be listed as living space. Mr. St. Pierre said the Board should go according to the footprint. He doesn't care if the deck goes to the front, but it should stay within the footprint. It should be built in the footprint.

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

It was also noted by the Board that the Footnote for 4.5 should be added in there. It needs to be advertised. Mr. O'Brien stated that 4.5 needs to be added also as a condition and it wasn't noticed that way. He asked if the Board can allow them to postpone this application until next month so the advertisement can be corrected and the Board asked the applicants to correct the drawings to make them accurate. This application would be second on the agenda. The mailing will be charged—the abutter notification fees. It's just being postponed so the mailing needs to add 4.5. Mr. O'Brien said they need a waiver on the side setback. He asked the applicants to come back next month with the correct plot plans showing exactly what the deck size will be. Reference to any storage will be removed.

Mr. Schultz thinks they should re-file. The applicants are getting rid of the rear setback as it does not need to be there. It needs to be advertised, the abutters noticed and new drawings. It's a new package.

The applicants were asked to withdraw without prejudice and applicants agreed.

Mr. V. Lessard withdrew the first motion and Mr. McGuirk withdrew his second on that Motion.

MOVED by Mr. V. Lessard to allow the petitioner to withdraw the application without prejudice and seconded by Mr. St. Pierre.

VOTE: 5 - 0 - 0

Motion passed unanimously

39-12 The petition of Maureen A. Wallace, Trustee of Maureen Ann Wallace Revocable Trust of 2011 for property located at 757 Ocean Boulevard seeking relief from Article 1.3 and Article IV, Section 4.5.1 – front setback; Article VIII, Sec. 8.2.3 to expand and extend existing deck on front of home and to add stairs to access the deck. This property is located on Map 210, Lot 50 and in a RA Zone.

Attorney Stephen Ells appeared with Ms. Wallace. It is currently improved. There are three dwelling units on the lot. Ms. Wallace lives in the front unit and the other units are rented. In the course of doing renovation, the stairway to the sliding glass door was not in compliance with building codes so the stairs had to be removed. They weren't to code. She currently has a partial deck with no access to it. She wants to expand the existing deck by about a foot and add a three foot wide deck, and add stairs accessing the deck at the northerly end. She parks along 4th Street and has to carry groceries and enter on the south of the property. In the package there is a photograph of the “before” and then a current picture. Adding a deck 3' in width and a set of stairs at the northerly end was discussed. She could then enter through sliding glass door.

Attorney Ells read the criteria and stated he believes all criteria have been met.

Ms. Wallace spoke with immediate abutters and they were in favor of relief. Mr. Ells submitted letters that all three abutters signed stating that all had no objections.

Mr. Vic Lessard requested that the letters be put in the file.

Questions from the Board

Mr. St. Pierre asked who owns the sidewalks. He said it appears the sidewalk is part of the property. He's questioning the property lines. The property is on the westerly side of the sidewalk. Mr. Schultz stated the pins are right behind the sidewalk. Mr. St. Pierre asked about the deck wrapping around. Mr. Ells said they could, but they are asking for what is presented. Ms. Wallace does not want to do this at this point in time. She reiterated her hardship of walking around at night or if there's rain, etc. Mr. St. Pierre asked about the underneath unit. He asked about egress.

Mr. O'Brien asked about the deck to the South—the new deck (it's already constructed). It was asked if she got a variance. Ms. Wallace spoke with Mr. Schultz about this. She made an improvement. She cut off a foot. She wants the deck in the front of the house to be extended by one foot. Mr. Schultz said it was an existing deck and in bad condition. Building allows them to rebuild in the exact same footprint. Ms. Wallace made it more conforming, but built stairs a bit wider and little shallower so they were safe. Mr. O'Brien said a wrap-around would not work out because of side setbacks.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

MOVED by Mr. Vic Lessard and seconded by Mr. Jack Lessard to grant Petition 39-12.

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

VOTE: 5 - 0 - 0

Motion passed unanimously

40-12 The petition of David Sanderson, Successor Trustee of the 20 Keefe Avenue Realty Trust through Donik Corp. for property located at 20 Keefe Avenue seeking relief from 2.3.7C-a 2, 4.1.1, 4.2, 4.5.1, 4.5.2, 8.2.2, 8.2.3, 8.2.4 and 8.2.6 to construct eight 2-bedroom bungalows, four on the south side of the lot, and four on the north side, approximately in line with existing cottages on Manchester Avenue and Mooring Drive. This property is located on Map 290, Lot 068, and in a RB Zone.

Mr. McGuirk stepped down.

Attorney Peter Saari appeared with Joe Coronati of Jones & Beach. Two principals of the business were in the audience. Mr. O'Brien asked if the plan that was handed out is exact to what is in the file and it was stated "yes". The applicant is proposing a bungalow unit at this time. The applicant wants 8 units to line up. Four on the south side will line up with the cottages on Manchester Street. Density is the same. This would fit and be in style with the existing neighborhood. Variances are pretty similar to the last time. Wetlands are on the site. The State and Town and Planning Board will be involved. Keefe Avenue was discussed. It is not in good repair and collects water. This is not a public street. 100 feet of frontage is present. Setbacks are similar to surrounding properties. Keeping density the same was discussed. Some abutters have had problems with the use. The area is zoned multi-family but you can't build a multi-family without variances.

Mr. Coronati discussed 8 single family condominiums. The units are roughly 600 square feet; two-bedroom units with screened porches (4 seasons) on front. Two units in the back have a different floor plan. Parking (2 spaces for each unit) will be provided and turnaround for fire trucks was shown. Each unit has its own patio. There will be Town water and sewage, with everything being brought in by Keefe Avenue. Water puddle issues should be improved with this application. A full design has not been started yet. The lot is mostly gravel, but has been driven on a lot so is like pavement now. Puddles happen because of this. A storm water design will be prepared.

Questions from the Board

Mr. Vic Lessard likes the new plan better than first plan.

Mr. St. Pierre asked about the previous plan which was approved by the Board. He asked if it went through the Conservation Commission. The first plan never made it to the Conservation Commission or the Planning Board. They only went to the Shoreline Protection (2008) and it fell apart from there because of porous pavement.

Mr. O'Brien asked about the 2004 plan (cupola); he asked how far that plan went. Mr. Coronati said it made it through the State level. It was approved by the Conservation Commission. That is a different plan—dramatically different.

Mr. St. Pierre asked about the elevation and slab foundation. Mr. Schultz stated it is base flood elevation plus one foot.

Mr. O'Brien discussed waivers. He asked the applicant to go through the calculation for the 2.3.7C-a.2 waiver. This deals with uplands versus wetlands. Mr. O'Brien wants to know how much relief the applicant is asking for. Buffers count in the uplands. There are about 6,000 square feet of wetlands out of 29,000. It is left with 23,000 square feet of uplands roughly. Mr. O'Brien said structures are shown in the buffer zone. That waiver will be needed from the Planning Board and the State also. They will go to the Conservation Commission also. They will need a special permit.

Comments from the Audience

Mr. Bob Perry of 23 Manchester Street appeared. He is an abutter. He thinks the plan looks nice and feels the lot will be improved. He is concerned (as are neighbors) about the site elevation of land. In the 80s, his land and the land behind him (the applicant's lot) were even. It's been filled in 18-24 inches. He wants provisions regarding a retaining wall with fence between this land and his land. His neighbor's yard floods out constantly. The dip in Keefe Avenue was discussed.

Mr. George Blake, 19 Manchester Street, appeared. He stated the setback is 6.7' against his house. Fire would have hardly anywhere to go. He asked how he can maintain his own house. He's right on the property line. Mr. O'Brien stated he would have to ask his neighbors for permission to go on their property.

Mr. Tom Santolucito, 21 Manchester Street appeared. He gets flooded all the time. When tide comes up, it's halfway up Manchester Street. Large rainstorms leave standing water constantly. He's 18"-24" lower than the project. He would like a 10' setback. He too would like a retaining wall to keep water back – at least 24" high. He would like to see the parking lot go.

Mr. Leo Perrin, 40 Mooring, appeared. He asked about the distance between the back of the house to the lot line. He owns 3' on the other side of the fence. Mr. O'Brien said 5.3 feet to the property line on the west side of the building.

Back to the Board

Mr. Vic Lessard stated he has not met the owners. Gravel has been hauled there in the past. He said people on Manchester Street are very nice. He likes the proposal. He asked if neighbors would help put retaining wall in.

Mr. St. Pierre's concerns are wetlands and conservation. Mr. O'Brien agrees that the applicants will need to go before the Planning Board. Water run-off issues are in the domain of the Planning Board.

Mr. St. Pierre asked about Town trash. It is condos, so the Town will not pick up. Mr. Vic Lessard said to be careful about trash. Mr. O'Brien said to Mr. Coronati to talk to people in Town. The jog-outs between units 1 and 2 as well as units 5 and 6 are for truck turn-around. It should be marked - "no parking" - "Fire Lane". If this is a private road, it's owned out to the middle of the road. Attorney Saari said they all own to the center of the road and there's an easement on everyone's documentation. Mr. O'Brien is satisfied since they don't have to deal with 2.3.4(b) regarding the buffer as that is a Planning Board issue. Mr. Schultz said it has to be approved by the Selectmen since it's a private road. This has to be dealt with by the State also (for wetlands). Mr. Schultz said it is part of the statute. RSA 674:41. Releasing Town from liabilities will occur also per Mr. Schultz.

MOVED by Mr. V. Lessard and seconded by Mr. St. Pierre to grant Petition 40-12 for applicants go to the Planning Board and to the Conservation Commission.

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

VOTE: 5 - 0 - 0

Motion passed unanimously

BUSINESS SESSION

Adoption of Minutes

Minutes of July 19th needed correction, per last month's discussion. Bottom of Page 3, last paragraph, has been corrected; Mr. V. Lessard asked for the changes and he agrees with them now.

Moved by Mr. V. Lessard and seconded by Mr. McGuirk to approve the Amended Minutes.

VOTE: 5 – 0 - 0

Mr. St. Pierre wants to do research on the property at King's Highway. Minutes say Board needing more information. The previous time in 2009, they requested less, not more of same variances.

Adoption of Minutes

Minutes of August 16, 2012.

Mr. O'Brien made corrections. A universal change needs to be made, i.e. "Attorney Bruton" should be corrected throughout the document. There was an "x"-- Bruxton. Also, page 4, bottom section ... number #4 is redundant with #5. Eliminate #4 and take #5 and renumber it as number #4 and add some words at the end. So that it reads "no demolition will be done on the property until approved by the Planning Board if the site is to be developed as a parking lot."

Mr. V. Lessard asked about why that condition was put on as far as going to the Planning Board. Mr. Schultz stated the applicant cannot demolish the buildings for the parking lot until it goes before the Planning Board. Mr. St. Pierre said on Page 3, 7th paragraph, 2nd line – Wally's was spelled wrong. On Page 4, 2nd paragraph, 4th sentence, he suggested clarifying the word property by putting in parenthesis (Lot 65) – with regard to placing restrictions.

MOVED by Mr. McGuirk and seconded by Mr. St. Pierre to approve the Amended Minutes.

VOTE: 5 - 0 - 0

Motion passed unanimously

Mr. O'Brien received an unsigned, undated letter regarding 19 Boars Head Terrace. Mr. O'Brien drove up and around the property. He asked if they need variances for two trailers for that lot. Mr. St. Pierre stated "no". One is a camper. Mr. O'Brien looked at the wrong house. Mr. St. Pierre thinks we shouldn't give this much attention. He asked if it can be shared with the property owner as the owner is probably not aware of the issues. He thinks it's an enforcement matter. He doesn't want an enforcement issue brought into the neighborhood. Mr. O'Brien asked about a camper being parked on the road, in the RA Zone. You can't live in them, but you can park them there. They looked at 3.1.0 – prohibited. "Trailers" should be modified in the Zoning Regulations.

Mr. O'Brien received a letter from Henry Stonie. He is resigning from the Board. Mr. V. Lessard said we should send him a "thank you". The Board should address this next month.

MOVED by Mr. V. Lessard and seconded by Mr. McGuirk to adjourn the meeting at 10:00 p.m.

VOTE: 5 - 0 - 0

Motion passed unanimously

Respectfully submitted
Laurie Olivier, Secretary