

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES - amended  
August 22, 2013**

**Members Present**

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

**Others Present**

Kevin Schultz, Building Inspector  
Joan Rice, Secretary

Chairman Lessard called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

**PETITION SESSION**

**32-13...** The petition of Albert W. Caswell and Mary A. Caswell for property located at 36 Seaview Ave. seeking relief from Article 1.3 and 4.5.1 to construct 32' x 6' front Farmer's Porch in place of existing front steps. This property is located on Map 133, Lot 034 and in a RA Zone.

Susan Caswell representing Albert and Mary Caswell came forward. Ms. Caswell said the Caswells are both in their 80's and the porch will help them to go outside. The porch will also enhance the neighborhood. Ms. Caswell went through the five criteria and said she felt they had been met.

*Questions from the Board*

Mr. St. Pierre asked how close the porch would be to the property line. Mr. Schultz said it would be 8.4 feet.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Provencal, seconded by Mr. McGuirk, to grant Petition 32-13.

Chairman Lessard asked the members of the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**33-13...**The petition of Crowley Properties & Investment, LLC and NTC Real Estate Development, LLC through WDK Realty Trust, Warren Kelly, Trustee for property located at 31 and 33 Ocean Blvd. seeking relief from Articles 4.1.1, 4.5.1, 4.5.2 8.2.3, 8.2.4 and 8.2.6 to demolish all existing structures and construct a 12 unit, two-bedroom condominium, each unit to consist of two levels, with the merger of three lots upon Planning Board approval which requires variances for the number of units and setbacks. This property is located on Map 296, Lots 33, 32 (including lot 20) and in a BS Zone.

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

Attorney Peter Saari, Casassa & Ryan, and Joe Coronati, Jones & Beach, came forward. Attorney Saari said this is essentially a triple lot. Height variances are not needed. On the left side there is a "bump" which is a second access stairway.

Mr. Coronati said each unit on the ground floor will have a front door and walkway to the street. Upper floors will have a common entrance. Parking is all to the back of the property and cannot be seen from the street. Mr. Coronati went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. O'Brien asked if everything meets the four foot setback except for the eave. Mr. Coronati said that was correct.

Mr. J. Lessard said he felt this was a good project.

Mr. St. Pierre said if aesthetics were removed it would fall within the four foot setbacks. Perhaps a little could be removed from each unit to make the building more conforming. Mr. Coronati said that would not work. Mr. St. Pierre said in reading the five criteria, he was hesitant to compare to the Old Salt site.

#### *Comments from the Audience*

June White, 8 River Avenue, came forward. She said this is a four-story building and all surrounding buildings do not exceed two stories. This building does not belong in this neighborhood. Ms. White said she did not believe hardship exists. This building will block views and will decrease the value of surrounding properties.

Walter Weiss came forward. He said he was concerned about the size of the structure and the strain on the drainage system.

Walter Supray, 30 Ocean Blvd., came forward. He said the building is too high for the neighborhood. He is also worried about drainage and thinks the parking situation is a fire hazard.

*Back to the Board*

Mr. O'Brien asked about sprinklers. Mr. Schultz said this building would be sprinklered.

Mr. St. Pierre asked about the square footage of the units. Attorney Saari said they are 1,300-1,400 square feet.

Mr. O'Brien said he would vote against this project because the four foot setback is not being met. Otherwise he has no objection to the project.

Mr. Provencal said if the size of the building was decreased it would not be as good a project.

Mr. St. Pierre said he had the same concerns as Mr. O'Brien about the setbacks.

A lengthy Board discussion then ensued regarding the setbacks.

**Moved** by Mr. O'Brien, seconded by Mr. Provencal, to grant Petition 33-13 on the condition that the front setback be four feet to the building, three feet to the overhang. On the north side the setback would be four feet to the building and three feet to the soffit. On the south side the setback would be 1.4 feet to the building, stairs and one foot to the soffit.

Chairman Lessard asked the members of the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

At this time there was a five minute break.

Following the break Mr. McGuirk stepped up to the Board and Mr. J. Lessard stepped down from the Board.

**34-13...**The petition of JCM Capital Management, LLC/Happy Hampton, Inc./Raymond G. Blondeau/Char, Chew & Play LLC through Green & Company Building and Development Corp. for property located at 5 Ashworth Ave., 275 Ocean Blvd, 5 Ashworth Ave. Rear, 253 Ocean Blvd., 9 Ashworth Ave. and 7 Ashworth Ave. seeking relief from Articles 4.1.1, 4.4, 4.5.1, 4.5.2, 8.2.3, 8.2.4 and 8.2.6 to construct a 56 unit 8 level, multi-family dwellings above approximately eight commercial units where variances are required for height, density and

setbacks. Each unit would have two bedrooms, each with its own bathroom, each with its own entrance from the other unit or from the hallway but combining six lots (as part of Planning Board review) having a combined area of 1.33 acres. This property is located on Map 282, Lots 85, 87-0001, 87-0002, 108, 83 and 84 and in a BS Zone.

Attorney Saari they were asking for 56 two-bedroom units with commercial space on the first floor. Density and setback variances as well as height are needed.

Mark Fougere, Fougere Planning & Development, said this is a unique project and location. It will be a catalyst to stimulate economic development. This is a statement building and a statement location. From a fiscal standpoint, it will be a \$29 million investment at the beach. This is 11 times higher than the assessed value today. Tax revenue will substantially increase.

Mr. Coronati said the existing property is pretty much all pavement. There is adequate parking for all 56 units, two per unit plus visitors' parking. Every room will have an ocean view. Each unit will have the capability to rent out one bedroom and bath with a separate entrance.

Attorney Saari read an email from the direct abutter, Bob Mitchell of Mrs. Mitchell's. Mr. Mitchell said he is in support of the project. This will add rental rooms on the beach.

Attorney Tim Phoenix said there should not be a problem with air space, light, views, etc. because the building is surrounded by stores on all sides.

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

#### *Questions from the Board*

Mr. Schultz asked to see a floor plan of the units. Michael Witcher presented the floor plan.

Mr. Provencal said he thought the shade that will be cast on the beach is a problem. Mr. Witcher said it really isn't a problem because shade would not be cast until approximately 4:00 p.m.

Mr. O'Brien asked what the front setback was on the building. Mr. Fougere said it was a 3.2 foot to a 3.4 foot setback.

Mr. O'Brien asked about the Master Plan. Mr. Fougere said the Master Plan is a policy document, not law. Mr. O'Brien asked about the hardship which would require going from 50 feet to 100 feet. Attorney Phoenix said it was an economic hardship. A special condition of this building is its location. Attorney Phoenix said this was a reasonable use. Mr. O'Brien

said he did not see the dynamics of going to seven stories. Mr. Witcher said the project would not be feasible if floors were removed.

*Comments from the Audience*

Mary-Louise Woolsey, 148 River Road, came forward. She said her problem was with the height. The Master Plan is not the law. In 2008 the Town voted to have a height limit of 50 feet and she believes firmly in staying with the law.

Fred Rice, 15 Heather Lane, said that when he was Chairman of the HBAC, the Commission made recommendations on building heights. Two areas, one by the Ashworth and one by the State Park were recommended to have higher densities and heights, as high as eight stories. Mr. Rice stated that he is in favor of this project.

Ray Blondeau, Ocean Blvd., said he agreed with Mr. Rice and he is definitely for this project.

Alan Bruchado, Ocean Blvd., said his concern was the amount of variance. It should go the way the voters say with only small variances. Mr. Bruchado said he opposes this project.

Cathy Billodeau said she believed the neighborhood would be affected by this and she is in opposition to the project.

Paul Hamlin said the investments Green & Co. have made at the beach are great and he thinks this is a wonderful project.

Yvonne DeBoul said developments like this will bring in families to the beach.

John Nyhan, Chairman HBAC, said this project will bring in both residential and commercial. If this project is voted down, we will be left with a vacant lot which will be a negative.

John Gebhart spoke in opposition to the project. He said the voters must decide.

June White spoke in opposition to the project.

Norm Bogay said something needs to go in that space.

Mr. Rice said the only way a project like this will ever be approved is with a variance since voters will never approve a 100-foot building height as part of the general zoning codes.

*Back to the Board*

Mr. Provencal said the Zoning Board was here to grant variances if the five criteria are met.

Mr. St. Pierre said he was uncomfortable granting a variance for something twice the size as mandated by the voters. Mr. St. Pierre said he would have to abstain on a vote.

Mr. McGuirk said he likes a lot of things about this project like the separable rooms. Something is needed in this space. The Planning Board must take care of the Master Plan. Mr. McGuirk said he liked the project but it is double the height set by the voters.

Mr. O'Brien said he didn't feel he received a strong answer on hardship and that he cannot see going to 100 feet. Mr. O'Brien said he would recommend that the applicant go to the Town voters for this one block to go to 100 feet.

Mr. Michael Green clarified that the actual building height is only 89 feet, not 100 feet, and that the difference is due to architectural trim that makes the building more attractive.

Chairman Lessard said he would also like to see this go to the voters. He asked if the petitioners would like to withdraw without prejudice. Attorney Saari agreed that they would.

**Moved** by Mr. Provencal, seconded by Mr. O'Brien, to allow petitioners for Petition 34-13 to withdraw without prejudice.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

### **Adjournment**

There being no further business, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

Joan Rice  
Secretary