

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
January 17, 2013  
(AMENDED)**

**Members Present**

Bill O'Brien, Chairman  
Vic Lessard  
Tom McGuirk  
Bryan Provencal  
Ed St. Pierre

**Others Present**

Kevin Schultz, Building Inspector

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

Board members were introduced.

The Pledge of Allegiance was said.

**PETITION SESSION**

Chairman O'Brien announced that a letter had been received from petitioners for Petition 05-13, 345 Ocean Blvd., asking to be continued until February. The letter further states that the applicant is making changes to the building, its location, and eliminating/changing variance requirements. Chairman O'Brien said that because of the changes he does not want to continue Petition 05-13 but would instead like a motion to allow withdrawal of the petition without prejudice.

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to allow Petition 05-13 to be withdrawn without prejudice.

**Vote:** 4 yes, 0 no, 1 abstention (Provencal). Motion passed.

**52-12...**Continued hearing of Joan DeVittori for property located at 903 Ocean Blvd. seeking relief from Article 1.3 Alteration and Exp. and Article IV as to 4.5.1 Frontage Setback and adding Article 4.5.2 Side Setback to the original petition to construct a second story deck (23' x 5') on the front of the house, on top of existing roof of first floor porch entry. This property is located on Map 168, Lot 045 and in a RA Zone.

Joan DeVittori, Petitioner, came forward. Chairman O'Brien asked her if the only change to her previous petition is to add 4.5.2 Side Setback. Ms. DeVittori said that was correct.

*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. Lessard and seconded by Mr. Provencal, to grant Petition 52-12.

Chairman O'Brien asked 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.

**01-13...**The petition of Scott & Christine Bean, Trustees of the Scott & Christine Bean Revocable Trust for property located at 227 Mill Road seeking relief from Article IV, Table II, Section 4.2, 4.3 and Footnote 22 (square requirement) to create a second lot for a residence. Due to the discontinuance of White's Lane, subject to gates and bars, the new lot will have frontage and lot width of 30+/- feet where 125 feet is required and requires relief from the square requirement of footnote 22 to the dimensional table. The lot to be created is otherwise conforming with 29,393 +/- sq. ft. in area where 15,000 sq. ft. is required. There are no wetlands on the property. This property is located on Map 91, Lot 3, and in a RA Zone.

Scott Bean and Attorney Michael Donahue came forward. Attorney Donahue said the petitioner would like to take an existing lot which is one of the larger lots on Mill Road and subdivide it so that there would be two residential lots. There are no wetlands on the property or adjacent to it. The lot with the existing home is 28,349 sq. ft. The second lot which at this point would remain undeveloped would be 29,000 sq. ft. There is adequate access for public safety. Attorney Donahue went through the five criteria and said he felt they had been met.

*Questions from the Board*

Chairman O'Brien said when he was looking at the property there is a stake near a tree where the fence comes in from the street. He could not find a stake for the end of the property. Attorney Donahue said the stake had been knocked down, but had been located at the edge of White's Lane. Chairman O'Brien asked about access. Attorney Donahue said the plan is to access both lots from White's Lane with an easement on the existing lot.

*Comments from the Audience*

Robert Michaud, 61 Sherbourne Drive, came forward. He said he is an abutter in the back. Mr. Michaud said that when they bought their property four years ago they were told that

all the property in back of them was conservation land. Two years later there was a lot that was sold and developed. It is unattractive with vehicles, a shabby barn-like structure, etc. Mr. Michaud also expressed concern that the buffer of trees would be destroyed.

Mr. McGuirk asked Mr. Michaud if he had done due diligence regarding conservation land at the time of his purchase. Mr. Michaud said he had not. Mr. Lessard said this was never conservation land.

Mr. Lessard asked Mr. Bean if he would consider having the trees between the properties as a buffer zone. Mr. Bean replied he would. Attorney Donahue said the trees would be located on the plan that will go to the Planning Board.

Susan Michaud, 61 Sherbourne Drive, came forward. She asked how close to the property line Mr. Bean would build. Chairman O'Brien said this is Mr. Bean's property and he can go up to 10 feet of the Michaud property line and 15 feet on the sides. Mr. St. Pierre noted that if Mr. Bean builds on this lot it would be much more likely to be closer to Mill Road.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. Provencal to grant Petition 01-13.

Chairman O'Brien asked 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.

**02-13...**The petition of Armen G. Derderian, Trustee of VR Realty Trust Hampton Betterment Associates, LLC for property located at 127 Ocean Blvd. and 6 "G" Street seeking relief from Article IV, Section 4.5.2 and 4.5.3 to place a 9' x 30' cooler to the rear of the building at 127 Ocean Blvd. such that it will be on top of the property line between 127 Ocean Blvd. and 6 "G" Street partially on the 127 Ocean Blvd. lot and partially on the 6 "G" Street lot under a grant of easement that would terminate upon the sale of either property. This property is located on Map 290, Lot 4 & 5 and in a BS Zone.

Mr. Lessard noted that both lots were owned by the same individual.

Kevin Brown, Sea Ketch Restaurant, and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said there is a space between the two lots to put a cooler. This is needed for the restaurant's operation. A permanent situation is not being requested. If either lot is sold, the cooler would be removed. Presently trash and recycling containers are a problem. This will allow the containers to be placed beneath the cooler and be hidden. This will help the character of the beach. Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Lessard said he felt having the trash and recycling barrels hidden would look much better.

Chairman O'Brien asked if the flight of stairs and deck on the motel property would be removed. Mr. Brown said they would not be removed. The cooler would be to the right of the stairs.

Chairman O'Brien asked how much of the cooler would be on each property. Mr. Brown said approximately four feet on each side. Chairman O'Brien asked if the cooler would be on the ground or on wheels. Mr. Brown said it would be on a deck with the barrels underneath. The decking would be five feet high and the cooler would be eight feet high for a total of about 14 feet.

Chairman O'Brien asked if the variance is granted would it be in perpetuity. Mr. Schultz replied that it would. Chairman O'Brien asked what would happen if one property was sold. Mr. Brown said the cooler would be removed.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. St. Pierre said he was not comfortable with this project.

**Moved** by Mr. Provencal and seconded by Mr. Lessard, to grant Petition 02-13 providing the cooler would be no larger than 9' x 30' and no higher than 20 feet including the decking. An easement must also be recorded which states that if either property is sold the cooler and platform are to be removed.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had with the exception of Mr. St. Pierre who said they had not.

**Vote:** 3 yes, 0 no, 2 abstentions (McGuirk, St. Pierre). Motion passed.

**03-13...**The petition of Robert & Mary Jane Solomon through Robert Gray for property located at 16 Nor'east Lane seeking relief from Article 1, Section 1.3 Expansion of a non-conforming structure and Article IV Section 4.5.2 Right and Left Side Setback to renovate an existing single family residence and rebuild an existing second story (as per plan) above an existing building footprint. This property is located on Map 099, Lot 007, and in a RA Zone.

Robert Solomon, Petitioner, and Robert Gray, Contractor, came forward. Mr. Gray said they want to apply for right and left setback relief. This project will bring the property up to code and it will meet FEMA requirements. There will be gables on the right and left sides which will require setback relief. There will be 9.1 feet on the right where 10 feet is required and 8.9 on the left where 10 feet is required. Mr. Gray went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Pierre asked if the plans presented were the same as last month's when a front setback variance was granted. Mr. Gray said they were, but a discrepancy was corrected.

Chairman O'Brien said the plot plan and schematics do not match. One shows the front setback at 4.6 feet and one shows it at 3.2 feet. Mr. Gray said it was 3.2 feet. Chairman O'Brien asked that the plans be changed to match. Mr. Schultz said the variance had been granted for 3.2 feet.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. St. Pierre said he felt this project was reasonable.

**Moved** by Mr. Provencal and seconded by Mr. McGuirk, to grant Petition 03-13.

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

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

**04-13...**The petition of James Trainor for property located at 15 O Street seeking relief from Articles 1.3, 4.5.2, 6.1, 6.3.1, 8.2.3, 8.2.4 and 8.2.6 to demolish the existing 3-unit building at the front of the lot and replace with a 2-unit building placed on the existing foundation allowing added parking. This property is located on Map 293, Lot 170 and in a BS Zone.

Attorney Peter Saari said the petitioner wants to put up a new building replacing what is now there and in disrepair. The front porch will be removed and replaced with two decks; and there will be two decks in back. There will be one unit on the first floor and one unit on the second floor. He is not replacing the little room that sticks out and will therefore have

more parking area. This will be a much more attractive building and meets all height requirements. The building will be much more code compliant than it is now. Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Chairman O'Brien expressed concern about the foundation and asked if someone would look at it. Mr. Schultz said this is a requirement.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 04-13.

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

**Vote:** 4 yes, 0 no, 1 abstention (McGuirk).

**BUSINESS SESSION**

Chairman O'Brien said he was in receipt of a Motion for Rehearing on Petition 53-12.

**Moved** by Mr. St. Pierre and seconded by Mr. McGuirk, to rehear Petition 53-12 at the next meeting on February 21, 1013.

**Vote:** 3 yes, 0 no, 2 abstentions (Mr. Lessard and Mr. Provencal). Motion passed.

Discussion followed regarding several Board members' availability at the February meeting for this rehearing. It was decided to address this issue later.

**Adoption of Minutes**

**Moved** by Mr. Lessard and seconded by Mr. St. Pierre, to approve the Minutes of December 20, 2012.

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

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Chairman O'Brien then returned to the discussion on the Motion for Rehearing on Petition 53-12. He stated that Mr. Lessard and Mr. Provencal must step down when the rehearing is held because of a conflict of interest. In addition, he will be unavailable for the next two months and Mr. McGuirk is unavailable from tomorrow till 3 February. In accordance with the Boards Rules of Procedure, a quorum consists of three elected members; thus the earliest the re-hearing could be held is in April. Chairman O'Brien will discuss the situation with the Town Attorney, Mr. Gearreald, and ask that he contact both attorneys.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Joan Rice  
Secretary