

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES - *Draft*
February 20, 2014

Members Present

Bryan Provencal, Chairman
Ed St. Pierre, Clerk
Jack Lessard
Tom McGuirk
Bill O'Brien
Rick Griffin (Alternate)
Matt Shaw (Alternate)

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

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

The Pledge of Allegiance was said.

Board members were introduced.

PETITION SESSION

Chairman Provencal announced that Petitions 46-13 and 06-14 would be heard last.

04-14...The petition of Donna Gaznick-Hopler for property located at 56 Mooring Drive seeking relief from Article I, Sec. 1.3; Article IV, Sec. 4.5.1 and Sec. 4.5.2 to replace block foundation with poured concrete foundation and add a new first story to the residence. This property is located on Map 289, Lot 35 and in the RB Zone.

At this time Mr. McGuirk stepped down from the Board and Alternate Matt Shaw stepped up to the Board.

Donna Gaznick-Hopler and Attorney Steve Ells came forward. Attorney Ells said this property is in the wetland buffer so to do anything with the property a special permit from the Planning Board was required. The applicant obtained this permit and part of that was consultation with the Conservation Commission. She will have to apply for a DES permit.

Attorney Ells said the applicant is seeking to replace the existing foundation with a poured concrete foundation and would also like to add a new first story. Building height will be 26 feet where 35 feet is allowed. This will be within the footprint of the existing structure. There will be a new front stoop and stairs which will provide for safer access and the new front balcony will be an attractive architectural element. The home will also be elevated to prevent future flooding. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked when the shed on the property went in. Ms. Gaznick-Hopler replied it went in in August of 2012. It is a plastic shed which did not require a permit.

Mr. O'Brien said the Conservation Commission approved this providing the applicant stayed within the original footprint. However, the deck is being extended and is not within the footprint. Chairman Provencal said the applicant might have to go before the Conservation Commission again because of this issue. Mr. Schultz said the applicant is adding a porch in the rear which is extending the footprint and the reconfiguration of the stairs will also change the footprint. None of this was brought to the Conservation Commission. Attorney Ells said he would recommend returning to the Conservation Commission.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. St. Pierre said he was glad they were working with impervious surface.

Moved by Mr. O'Brien, seconded by Mr. Lessard, to grant Petition 04-14 subject to review by the Conservation Commission regarding the expansion of the footprint and the placement of a shed near the 50 foot buffer.

Chairman Provencal 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.

At this time Mr. McGuirk stepped up to the Board and Mr. Shaw stepped down from the Board.

05-14...The petition of James (Tim) Melvin for property located at 85 Acorn Rd. seeking relief from Articles 1.3, 4.5.1 and 8.2.3 to replace existing 12x18 room with single story room in same footprint, but 24" higher and built to code. This property is located on Map 134, Lot 60 and in the RB Zone.

James Melvin came forward. Mr. Melvin said this is a small cottage which he purchased 20 years ago. The only change is that the replaced room will be 24 inches higher. Mr. Melvin went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked about wetlands. Mr. Melvin said the property is not close to the wetlands. Mr. O'Brien said he feels there is no problem with this application because the applicant is staying within the same footprint.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to grant Petition 05-14.

Chairman Provencal 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.

07-14...The petition of Green & Co. Building and Development Corp. for property located at 5 Ashworth Ave., 275 Ocean Blvd., and 5 Ashworth Ave. Rear seeking relief from Articles 4.4 Footnote 32 and 4.8 (proposed) to construct a five level mixed multi-family/commercial building with up to six commercial units on the first level and 36 residential units all with one bedroom on the top four levels for which variances were granted on November 21, 2013 for height, density, parking and setbacks, but which approvals would be undermined by proposed changes to the height (in relation to shadowing) and impervious surface requirements. This property is located on Map 282, Lots 085, 007, 87-001 and in the BS Zone.

Michael Green, Green & Co., Joe Coronati, Jones and Beach, Mike Witcher, Witcher Builders and Attorney Peter Saari, Casassa & Ryan, came forward.

Attorney Saari said the Planning Board made some changes which affect this project. This is in regard to shadowing on the sand. The problem with the impervious surface is that it is not defined. There is a warrant article coming up in March regarding shadowing, however the applicant feels this petition can be decided at this meeting because there are other buildings with the same amount of shadowing. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if anything had changed since the applicant submitted the proposal in November. Attorney Saari said nothing had changed.

Mr. Witcher discussed the sun study. Mr. Schultz said it is not known what will happen with this issue at the March election. If the article passes, he feels it will go back to the drawing board and be reviewed and amended.

Mr. Coronati explained drainage procedures at the site. The impervious surface is down to 83%. This is a drastic improvement to what is there now.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 07-14.

Mr. St. Pierre said this Board discussed shadowing and impervious surface. Due diligence was done.

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

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

46-13...The continued petition of Big Bernie Property Management, LLC for property located at 73 Ocean Blvd. seeking relief from Article 4.5.2 to place four support posts almost at the northerly property line and three support posts nearly at the southerly property line and extend the northerly deck and a portion of the southerly deck to the respective property lines to allow better table spacing and travel lanes. This property is located on Map 293, Lot 61 and in the BS Zone.

At this time Chairman Provencal stepped down from the Board and Mr. O'Brien stepped up as Acting Chairman. Mr. Griffin stepped up as Alternate. Mr. St. Pierre also stepped down from the Board and Mr. Shaw stepped up as Alternate. Mr. McGuirk said he would not vote but would sit according to the Rules of Procedure.

Albert Fleury and Attorney Peter Saari came forward. Chairman O'Brien informed them that there would be only four voting members on the Board and there would need to be three affirmative votes to grant the petition.. Attorney Saari said they wished to proceed.

Attorney Saari said they came before the Board in December and explained the plans for the project. They are here now to deal with functional problems. Chairman O'Brien asked what they were asking for at this meeting. Attorney Saari said they were asking for side setback relief. Chairman O'Brien said the drawings don't show that and if they are going out on the east side, relief from 4.5.1 is needed. Mr. Schultz said that was not asked for in this petition. Chairman O'Brien said the Board does not have the necessary paperwork to grant this petition.

Moved by Mr. Griffin, seconded by Mr. Shaw, to allow Petition 46-13 to be withdrawn without prejudice.

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

06-14...The petition of Albert Fleury for property located at 20 L Street seeking relief from Articles 4.5.1 and 4.5.2 front & right side setback to erect 74" x 74" sign on zero setbacks of South and East property lines. This property is located on Map 293, Lot 32 and in the BS Zone.

At this time, Mr. St. Pierre stepped up to the Board and Mr. McGuirk stepped down from the Board.

Mr. Fleury said he is looking towards attracting more people with this sign. At present telephone poles obstruct the view. Mr. Schultz asked if the sign would be electronic. Mr. Fleury said it would not. Mr. Fleury 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 noted that this Board has granted petitions for several signs on Ocean Blvd. that have zero setbacks. Mr. Griffin said he liked this sign.

Moved by Mr. Shaw, seconded by Mr. St. Pierre, to grant Petition 06-14 as long as it conforms to the drawing.

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.

At this time Mr. Provencal stepped up as Chairman, Mr. McGuirk stepped up and Mr. Griffin and Mr. Shaw stepped down from the Board.

BUSINESS SESSION

Approval of the Minutes

Moved by Mr. Lessard, seconded by Mr. McGuirk, to approve the Minutes of January 16, 2014 as amended.

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

The Board discussed the application for an Alternate position from Norma Collins.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to appoint Norma Collins as Alternate to the Zoning Board of Adjustment up to March, 2014.

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

Adjournment

There being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Joan Rice
Secretary