

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Draft
September 17, 2015

Members Present

Bryan Provencal, Chairman
Bill O'Brien, Vice Chairman
Norma Collins, Clerk
Tom McGuirk
Ed St. Pierre

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.

Chairman Provencal introduced the members of the Board.

PETITION SESSION

Chairman Provencal announced that Petition 40-15, 17 Dearborn Ave. had been withdrawn.

Mr. O'Brien said he wanted to clarify that if a person is an immediate abutter they will be notified by registered mail. If not an abutter, notification is in the newspaper and in postings at the Library and Town Hall.

31-15...The continued petition of Equity Alliance LLC for property located at 500 Lafayette Rd. seeking relief from Section 2.8-G, 1.6 (Dimensional Standards – Maximum Stories/Feet): Section 2.8G 1.10 (Density Requirements): Section 2.8-G (Maximum building footprint): and Section 8.2.4 to construct 130 units of multi-family housing spread over 4 buildings. Total redevelopment of 7.65+/-acre site. This property is located on Map 143, Lot 9 and in the TC-H Zone; Map 125, Lot 44 and in the TC-H/TC-N Zone Map 126, Lot 31 and in the TC-N Zone.

A representative from Equity Alliance gave a presentation on this project and the changes that have been made. He said the original project did not call for a very creative use of the site and did not take into account the goals of the Town. He said a great deal of time and money has been spent to achieve the goals proposed by the Board previously. The representative said that they have integrated residential and commercial. A circular drive has been added. They have used a control point for traffic and created a public access. The project is much more user friendly. Forty-five percent of the parking has been placed inside the buildings. This allows for covered parking. The building in the back has been pulled back significantly to help the abutter. The shadow has been eliminated. One and

one-half miles of walkways have been added as well as a gazebo. Density has been dropped by six units. To go lower is not economically feasible. The large building also has a flat roof to avoid height issues. The representative for the petitioner went through the five criteria for each variance requested and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Tim Phoenix representing the Old Salt Restaurant came forward. Mr. Phoenix said their primary concerns about the project were access across the property and parking. They were concerned that many more people would be using their parking lot. In return for the applicant agreeing to allot the 55 spaces to the Old Salt and to limit access with the gate, it was decided to support the project.

Douglas Macdonald, Keane & Macdonald, came forward. Attorney Macdonald said he was representing Thomas Moulton and Kenneth Lessard who oppose this project. Attorney Macdonald said density is a problem. What is driving this whole project is economic feasibility. There is also a very limited opportunity for any commercial or retail space. If the project is looked at as a whole, it is evident that they have not met the five criteria. Attorney Macdonald said the height variance is not consistent with the Town Center vision. Property values of abutters will also be adversely affected. A safety risk is also present. As to hardship, this project is driven by economic feasibility and there is no hardship.

Tom Moulton, abutter, came forward. Mr. Moulton said he owns two properties which abut this property. He said he was very concerned about 130 units with probably 200 or more cars. Mr. Moulton said he would lose tenants because of the increased traffic. This is a perfect site for commercial, not residential.

Kenneth Lessard came forward. Mr. Lessard said he now sees cars backing up in this area every evening. It will be impossible to handle the density and the traffic.

Back to the Board

Mr. McGuirk said he worked on the re-zoning of this district and this project does not come close to what is wanted in that part of Hampton. Mr. McGuirk said this is not going to work and the building is not attractive.

Ms. Collins said much time was spent thinking about what was wanted in this part of town. This project asks for five variances from what we want in this area. This will increase traffic, the burden on the schools and services.

Chairman Provencal said he did not think retail would work with the parking configuration.

Mr. St. Pierre said density is the problem. He said he does like the layout with the green space. However the buildings are very high and dense.

Mr. O'Brien said the limit is 8 units per building. This project goes way beyond this.

Moved by Mr. McGuirk, seconded by Ms. Collins, to deny Petition 31-15 due to the fact that this project does not conform with the downtown Town Center vision that has been crafted in the new zoning ordinances of 2014 and it does not meet the five criteria.

Chairman Provencal asked the members of the Board if the five criteria had been met. All members agreed that they had not.

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

36-15...The continued petition of Yamajala Real Estate, LLC for property located at 6 Highland Ave. seeking relief from Article IV, Sec. 4.1.1 for demolition of two existing dwelling units and construction of a three-unit residential structure. This property is located on Map 282, Lot 64 and in the BS Zone.

Attorney Stephen Ells and Robert Ebanerk, builder, came forward. Attorney Ells said the existing two structures have already been torn down. The only variance necessary to construct the three-unit structure is the density variance. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk said he had no problem with the tearing down of the two old units and the construction of the new three-unit building. However, this is ocean front and basically the building is a box. There should also be some recreational space. Attorney Ells said there is some lawn area to the rear of the property.

Mr. Ebanerk said there would be no problem with putting decks on the building.

Mr. Schultz said Henry Boyd tried to fit this building on the lot so that some of the building code restrictions did not affect it.

Comments from the Audience

Don Kenny and Chuck Mulick came forward. Mr. Kenny said they had no problem with the tearing down of the old buildings. They do have a problem with the height of the new

building. Also drainage could be a problem. Chairman Provencal said they would not be shedding water on the property. The property is now 30% sealed surface where before it was 80%. Mr. Schultz said all this will be discussed when they go for site plan review with the Planning Board.

Back to the Board

Mr. O'Brien said the small drawing shows a deck over the parking space. This needs to be adjusted.

Mr. St. Pierre said he was okay with the project.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 36-15 with the condition that they go before the Hampton Beach Area Commission and submit an updated site plan.

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.

33-15...The continued petition of William & Judith Newcomb Revocable Trust / Kenneth & Diane Simpson for property located at 2 Harris Ave. seeking relief from Article 1.3 and Article IV as to 4.5.2 and 4.5.3 for addition of interior living space by enclosing existing porches. No change to existing footprint is proposed. This property is located on Map 295, Lot 8 and in the RB Zone.

William Newcomb and Kenneth Simpson, petitioners, came forward. Mr. Newcomb explained that they wish to enclose existing porches to add more interior living space. Mr. Newcomb 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. McGuirk, seconded by Mr. O'Brien, to grant Petition 33-15.

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.

41-15...The petition of Carol & Mark McCaffrey for property located at 11 Charles St., seeking relief from Article 1.3 and 4.5.1 to re-build the front entrance to add a platform / landing to the top of the stairs. This property is located on Map 275, Lot 59 and in the RCS Zone.

Carol McCaffrey, petitioner, came forward. Ms. McCaffrey went through the five criteria and said she felt they had been met.

Questions from the Board

Ms. Collins asked if the door would still open inward. Ms. McCaffrey said it would.

Mr. St. Pierre asked if Ms. McCaffrey had considered having the stairs face in a direction other than towards the street. Ms. McCaffrey said that would impact parking.

Mr. O'Brien noted that an addition in the corner at the back of the house is being put in and asked if this must go before the Conservation Commission. Mr. Schultz said they have already talked to the Conservation Commission.

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 41-15.

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.

42-15...The petition of Cathy Champagne for property located at 325 Lafayette Rd. seeking relief from Article V Table II electronic signage to update existing ground sign using a 45 sq. ft. electronic sign where 32 sq. ft. is allowed. This property is located on Map 175, Lot 10 and in the TC-S Zone.

Cathy Champagne said she was appearing on behalf of the Galley Hatch Restaurant. She said the old sign at the restaurant is starting to age and they would like to put in a new sign which also notes Kay's and Tinio's. The new sign is about 8% more than the code allows. Ms. Champagne went through the five criteria and said she felt they had been met.

Questions from the Board

The Board discussed changeable intervals on signs. Ms. Champagne said this sign will have different ways of message changing and will not be a hazard.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. St. Pierre, seconded by Ms. Collins, to grant Petition 42-15.

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

43-15...The petition of Houle Realty Trust; Marylee Twomey, Trustee for property located at 2 L Street, 75 Ocean Blvd., 77-79 Ocean Blvd. seeking relief from Article 6.3.9 and Article 6.4.2 to allow the continued use of a pre-existing parking lot to accommodate off-site parking for the previously approved project 18-15 approved on May 21, 2015. These properties are located on Map 293, Lot 41; Map 293, Lot 43; Map 293, Lot 24-1 and in the BS Zone.

Marylee Twomey, petitioner, Attorney John Springer and Joe Coronati of Jones & Beach came forward.

Attorney Springer said they had received approval for their project from this Board in May. They are now seeking variances to allow use of a pre-existing parking lot to accommodate off-site parking for this project. He said 77-79 Ocean Blvd. was a motel for 50 years and there has never been a problem with the parking lot. Now they are reducing the number of units so they are not increasing parking needs. Attorney Springer said the Hampton Beach Area Commission approved this project. Attorney Springer went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien said it was his impression that it was agreed to take 75 Ocean Blvd. and dedicate all parking on L Street between the 77-79 buildings and that it would be legal parking.

Mr. Schultz said the Town Planner said last night the petitioners agreed to continue after meeting with the ZBA. It was said that 15 legal parking spaces (9 x 18) would be created and that the request for 6.4.2 would be dropped and only 6.3.9 would be requested. All that is being sought is a variance for off-site parking.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien to grant relief from 6.3.9 but not for 6.4.2.

There was no second to Mr. O'Brien's motion.

Moved by Mr. McGuirk, seconded by Mr. St. Pierre, to grant Petition 43-15 as stated..

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Mr. St. Pierre, Mr. McGuirk and Ms. Collins said that they had. Mr. O'Brien said they had not been met.

Vote: 4 yes, 1 no (O'Brien). Motion passed.

BUSINESS SESSION

Approval of Minutes

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to approve the Minutes of August 20, 2015 as amended.

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

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Adjournment

There being no further business, the meeting was adjourned at 10:09 p.m.

Respectfully submitted,

Joan Rice
Secretary