

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Amended
July 21, 2016

Members Present

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

Others Present

Chuck Marston, Building Department
Joan Rice, Secretary

Chairman Provencal called the meeting to order at 7:07 p.m.

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

ELECTION OF OFFICERS

Chairman Provencal asked for nominations for officers for the coming year.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to appoint Bryan Provencal as Chairman of the Hampton Zoning Board of Adjustment for the coming year.

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

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to appoint Bill O'Brien as Vice Chairman of the Hampton Zoning Board of Adjustment for the coming year.

Vote: 4 yes, 0 no, 1 abstention (O'Brien). Motion passed.

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to appoint Norma Collins as Clerk for the Hampton Zoning Board of Adjustment for the coming year.

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

PETITION SESSION

18-16...The continued petition of Janis Diamond for property located at 29 Bonair Ave. seeking relief from Article 4.6 to continue current renovation and create an apartment –

studio with one bath and kitchenette. This property is located on Map 222, Lot 16 and in the RB Zone.

Janis Diamond, Petitioner, came forward. She explained that she wishes to continue current renovations and create a 365 sq. ft. apartment with one bath and kitchenette. She said she and her husband need the income from the apartment to benefit their retirement. Ms. Diamond went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. O'Brien noted that the petitioner was before the Board a few months ago asking for a second bathroom and now a request is being made for an apartment. Ms. Diamond said their financial situation has changed and an apartment is needed for income.

Mr. O'Brien said relief is being asked for the size of the apartment, but none of the criteria addressed that. There is no justification for not meeting the 500 sq. ft. requirement. Mr. O'Brien noted that if this requirement was met, no variance would be needed.

Comments from the Audience

Peter Olney, 8 Ice House Lane, came forward. Mr. Olney said he was involved in the original planning of this development. Mr. Olney said there is a serious growing problem with traffic and overnight parking. Mr. McGuirk said the overnight parking problem should be taken to the Board of Selectmen.

Mr. Olney said granting this variance will allow every single-family house there to ask for a variance. Mr. McGuirk said this argument should be taken to Town Meeting to change this from a RB Zone to a RA Zone.

Back to the Board

Mr. St. Pierre said the apartment would not have enough square feet. 500 sq. ft. is required. Mr. O'Brien said the petitioners did not justify the reduced square feet in their criteria. Mr. McGuirk said he agreed with Mr. O'Brien. The application does not justify a variance.

Chairman Provencal said an addition could be added or the garage could be used to meet the square feet requirement.

Chairman Provencal suggested that the petitioners go see the Building Department for options and withdraw tonight without prejudice. Ms. Diamond said they would agree to this.

Moved by Mr. McGuirk, seconded by Ms. Collins, to allow Petition 18-16 to be withdrawn without prejudice.

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

08-16...The continued petition of Holly L. Bauer for property located at 8 Witch Island Way #A-B seeking relief from Article 8.2.1 and 8.2.3 to demolish an existing 2-family home and replace it with a smaller single-family home more in compliance with the ordinance. This property is located on Map 183, Lot 1-H and in the RB Zone.

Holly Bauer, Petitioner, and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said this was brought to the Board on April 21st and an issue came up requiring the petitioner to go to the Conservation Commission. This was done. The Conservation Commission said in a letter that based on their review, the proposed 21 feet of separation between 8 and 7 Witch Island Way will not adversely affect the Commission's ability to address impacts to the Wetland Conservation District. Overall, the proposed dwelling footprint is further from both the side and rear wetland edge, which is an improvement.

Questions from the Board

Mr. O'Brien asked if the petitioner would comply with the Conservation Commission letter. Attorney Saari replied that she would. Mr. O'Brien asked if the site plan and condo documents would be changed. Attorney Saari said yes.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. St. Pierre said he felt the Board's concerns had been met.

Moved by Mr. St. Pierre, seconded by Mr. O'Brien to grant Petition 08-16.

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.

19-16...The petition of Richard & Helen Stanton, Christine Carignan for property located at 24 Diane Lane seeking relief from Article 1.3 and 4.5.1 to replace the existing front steps with a new front porch which will meet current building codes and be much safer, but does not meet the front setbacks. This property is located on Map 282, Lot 185 and in the RB Zone.

Helen Stanton and Christine Carignan, Petitioners, came forward. Ms. Stanton said they would like to replace the steps to make them wider. This is a safety concern. Ms. Stanton went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. St. Pierre asked the petitioners to consider the possibility of moving the stairs to the side. He asked what the distance was from the bottom step to the property line. Ms. Carignan said it was 10 feet.

Chairman Provencal said the stairs could not be moved to the side because of parking. Mr. Marston said what has been shown is consistent with the area.

Comments from the Audience

Carolyn Fluke, 6 Royal Oak Drive, said she was in favor of granting this variance.

Back to the Board

Moved by Mr. McGuirk, seconded by Ms. Collins, to grant Petition 19-16 with the condition that the stairs be no closer than 7' 6" from the front setback.

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.

20-16...The petition of Cynthia Cain Frene & Bradley R. Schuler for property located at 815 Ocean Blvd. seeking relief from Article I 1.3, Article IV 4.5.2 and 4.8 to erect garage and living space (master bedroom; living room) attached to the rear of existing home. This property is located on Map 197, Lot 33 and in the RA Zone.

Bradley Schuler, Petitioner, and Attorney Tim Phoenix came forward. Attorney Phoenix said the petitioners wish to add a garage and living space to the rear of their home. Pavers will be put in the driveway to make impervious surface 60% instead of the present 81%. Attorney Phoenix went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien said he felt the pavers should go further up the driveway to increase pervious surface.

Comments from the Audience

Ms. Wilkins, 49th Street, said she was concerned her view would be compromised. Attorney Phoenix said nobody has a right to a view unless they have a view easement. Mr. McGuirk explained to Ms. Wilkins that most of her view would still be there.

Back to the Board

Attorney Phoenix said they would like to withdraw their request for 4.8 without prejudice.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to grant Petition 20-16 with regard to Article I 1.3 and Article IV 4.5.2. Request for 4.8 has been withdrawn without prejudice.

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.

21-16...The petition of Leo H. and Therese P. Perrin for property located at 40 Mooring Dr. seeking relief from Article 1.3 and Article IV, Sections 4.5.1, 4.5.2 and 4.5.3 to add open decks to rear (10' x 8') and to front (16' x 8') of the residence. This property is located on Map 290, Lot 89 and in the RB Zone.

Leo Perrin, Petitioner, and Attorney Stephen Ells came forward. Attorney Ells said petitioners wish to construct open decks on the front and left rear of this unit. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked if when this property was purchased the building was moved. Mr. Perrin said it was moved to the left and back.

Mr. St. Pierre said he had a problem with the back deck. It could be made into a patio area and not need a variance. Mr. Perrin said flooding could be a problem with just a patio area.

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Mr. St. Pierre said he was trying to find justification for building a deck 2.3 feet from the setback. The deck will be elevated and allow seeing into neighbors' windows, etc. Mr. St. Pierre said the 2.3 feet creates a hardship for others.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Chairman Provencal said he felt 3 feet would be better than 2.3 feet. Mr. St. Pierre said he supported everything but the side setback relief. Mr. O'Brien suggested a 7' x 10' deck and 3.3 feet.

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 21-16 with the condition that the rear deck be 7' x 10' so that it is 3.3 feet from the property line.

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

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

22-16...The petition of ARNE, LLC for property located at 91 North Shore Rd. seeking relief from Article 1.3, 4.5.1 and 4.5.2 to add a second story on the footprint of an existing home and to generally refurbish and renovate the interior and siding of the existing structure. This property is located on Map 132, Lot 14 and in the RA Zone.

Mrs. Donahue, Petitioner, and Attorney Peter Saari came forward. Attorney Saari said this is the smallest lot in the neighborhood and a very small house. The proposal is to add a second story to the front part of the house. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien said it looked like work was started without a permit. Attorney Saari said it had been started. The petitioner's husband stated that he fell through the roof and it was necessary to do something right away.

Mr. St. Pierre asked if this work would stay within the footprint. Attorney Saari said it would.

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Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. O'Brien asked about the roof. Attorney Saari said it is a shingle roof.

Mr. Marston stated that the building was already being framed when it was brought to his attention.

Attorney Saari stated that the plans were drawn by the applicant.

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to grant Petition 22-16 with the condition that the plot plan be updated and that the front setback be 19'6".

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

Vote: 4 yes, 0 no, 1 abstention (O'Brien). Motion passed.

BUSINESS SESSION

Motion for Rehearing (Petition 13-16) of 230 Exeter Road LLC for property located at 230 Exeter Road

Mr. O'Brien went through the Motion for Rehearing.

Mr. St. Pierre noted that there are no houses shown on the drawing. Mr. O'Brien said the house to the west should be squared and the drawing doesn't show this or the single driveway. There needs to be a final drawing showing the 12 acres that go to the Town, the house to the west being squared and the single driveway.

Moved by Mr. St. Pierre, seconded by Ms. Collins, to deny the Motion for Rehearing of Petition 13-16 due to lack of new information.

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

Approval of Minutes

Moved by Mr. O'Brien, seconded by Chairman Provencal to approve the Minutes of January 21, 2016.

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

Moved by Mr. McGuirk, seconded by Chairman Provencal, to approve the Minutes of March 17, 2016.

Vote: 3 yes, 0 no, 2 abstentions (O'Brien, St. Pierre). Motion passed.

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to approve the Minutes of April 21, 2016 as amended.

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

Moved by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of May 19, 2016 as amended.

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

Adjournment

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to adjourn the meeting at 9:53 p.m.

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

Respectfully submitted,

Joan Rice
Secretary