

TOWN OF HAMPTON
ZONING BOARD OF ADJUSTMENT

Minutes

February 16, 2023

7:00 p.m. Zoning Board of Adjustment

PRESENT: Bill O'Brien, Chairman
Anne Bialobrzewski
Erica De Vries
Tom McGuirk
Greg Grady, Alternate

I. CALL TO ORDER

SALUTE TO THE FLAG

Chairman O'Brien requested a moment of silence and prayer for Kenny Lessard who passed away and was an alternative member of this board for several years.

Chairman O'Brien introduced the Board. Greg Grady will be sitting in for Nicole Duggan.

Chairman O'Brien announced that the Attorney for petitions 06-23 for 696 Lafayette and Petition 08-23 for 10 Ash Street has requested a continuance until the March 16th meeting.

Moved by Ms. De Vries, Seconded by Ms. Bialobrzewski to continue the petitions of 06-23 and 08-23 until March 16th. Vote: 5-0-0.

II. PETITION SESSION

Petition 36-22 Rehearing of petition by Four Fields LLC for the property located at 37 Anne's Lane. The applicant is proposing to subdivide the property into two (2) separate lots which require certain variance relief to frontage, lot width and shape. Applicant is seeking relief from Article IV, Table II, Section 4.2 as follows: A proposed 28 feet of frontage where 125 feet is required; 4.2 (footnote 22) to allow a lot that is not square and does not have sides that are equal in length to the 75% of the 125-foot minimum required of 125 feet. The property is located on map 127, lot 20 in the RA zone.

Chairman O'Brien gave a history of the request for the rehearing of this petition, this petition was heard in October of 2022, and was denied, in November the applicant's attorney filed a motion for rehearing, in December the Board approved the request of the applicant's attorney for the rehearing and the attorney requested a postponement until February 2023, they were informed that the rehearing would need to be readvertised and noticed, and that they are required to comply with RSA 676:7; to pay the costs of the all notification fees in advance before the hearing. In January the applicant was again informed that they would need to comply with RSA 676:7, the response was the applicant did not want to pursue this matter at this time. The Town has noticed it as we said we would. RSA 676:7, IV reads that failure to pay the costs "shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing".

Chairman O'Brien requested a motion be made to deny their rehearing application without prejudice due to non-compliance with RSA 676:7, IV.

Ms. De Vries questioned why without prejudice.

Chairman O'Brien explained that he summarized the history and why of this petition and submitted to the Town's attorney for review and the only recommendation was that the denial be "denial without prejudice". Chairman O'Brien explained, because the Board initially denied the petition, and the Board may now deny the rehearing; if they were to file a new petition, it would have to be substantially different in the areas of the three variance relief requests that they originally submitted for: frontage, lot width, and shape; they cannot submit the same exact petition.

Ms. De Vries summarized what Chairman O'Brien explained for the denial without prejudice and asked if the applicants could go to the Housing Appeals Boards with the denial, Chairman O'Brien felt that they could not because of their failure to comply with RSA 676:7, IV. He read the attorney's February letter regarding his clients not going forward.

Ms. Bialobrzski explained that she had provided as a public record in the file a rebuttal that she prepared for and that this rebuttal be recorded in the minutes.

Motioned by Ms. De Vries to deny the request for the rehearing application without prejudice for non-compliance with RSA 676:7, IV, Seconded by Mr. Grady. Vote: 4-0-1 (McGuirk)

Public Comment:

Patricia McCaughey - 19 Ann's Lane, asked if the original denial stands, and the denial tonight was without prejudice for the rehearing application.

Mr. McGuirk explained what the Chairman explained about substantial different if they were to come back.

Terry Warren - 9 Ann's Lane, thanked the board for their hard work, and the residents appreciate it.

Petition 06-23 Postponed to March 16th.

Petition 01-23 The petition of Harmony Energy Works for the property located at 478 Exeter Rd. The applicant is seeking relief from Article XVIII Sec. 2.B, Height: Requirement is not to exceed 8 feet above ground. Proposed is not to exceed 22 feet above ground. The property is located on Map 36, Lot 7 in the RAA Zone.

Representing the applicant's: Jonathon Arslanian, and George Horrocks

Mr. Horrocks introduced himself as 20-year resident of Hampton.

The Board asked for the letter of authorizing them to represent the applicants. The Board requested that the representative submit a letter authoring them if the application is approved.

Ms. De Vries explained the process and gave them a copy of the five requirements for granting the variances that they would address.

Mr. Arslanian explained that the application was for the installation of an dual access tracker solar energy ground mount.

Mr. Arslanian spoke to each variance criteria and stated how the solar energy ground mount fulfilled each of the variances' criteria.

After the Board's comments and questions to Mr. Horrocks and Mr. Arslanian, and discussion about the solar array, and how the array does not meet the variance criteria; the Board recommended that the application be withdrawn. The Representatives requested that the application be allowed to be withdrawn without prejudice.

Motion by Ms. De Vries to allow the withdrawal without prejudice, Seconded by Ms. Bialobrzkeski. Vote: 5-0-0

Petition 08-23 Postponed to March 16th.

III. BUSINESS SESSION

Chairman O'Brien and Mr. McGuirk, Ms. Devries complimented and thanked Anne Bialobrzkeski for her time on the board, her wealth of knowledge and willingness to share her expertise and her commitment to the town.

IV. Approval of Minutes for January 19, 2023

V. **Moved** by Chairman O'Brien, seconded by Mr. McGuirk to approve the Minutes of January 19, 2023 as amended. Vote: 5-0-0.

VI. ADJOURNMENT

Moved by Ms. De Vries, seconded by Mr. McGuirk to adjourn the meeting at 8:52 p.m. Vote: 5-0-0.