

**HAMPTON ZONING BOARD OF ADJUSTMENT**  
**MINUTES – *Draft***  
**February 20, 2020**

**Members Present**

Ed St. Pierre, Acting Chairman  
Norma Collins  
Bill O'Brien,  
Tom McGuirk  
Greg Grady, Alternate

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

The Pledge of Allegiance was said.

Chairman St. Pierre introduced the members of the Board.

Chairman St. Pierre introduced Jim Marchese, the new Building Inspector.

Chairman St. Pierre said three applicants have asked to have their petitions continued.

**Moved** by Chairman St. Pierre, seconded by Mr. O'Brien, to continue Petition 12-20 – 46 Ashworth Ave., Petition 07-20 – 11R Johnson Ave., and Petition 08-20 – 7 Johnson Ave. These will be first, second and third on next month's Agenda.

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

**PETITION SESSION**

**09-20...**The continued petition of Lafayette Road 348, LLC for property located at 349 Lafayette Road seeking relief from Article(s) Article II, Section 2.8.H.1.s to allow parking which is not located to the side or rear of the Property as required by the Zoning ordinance, which parking will be no less conforming than the existing parking but with appropriate landscaping and screening. This property is located on Map 175, Lot 5 and in the TC-S Zone.

Attorney Justin Pasay, Dana Newcomb, Applicant, and Chris Rice, Engineer, came forward. Attorney Pasay said the Applicant is expanding his business, known as Dana's Towing & Repair of Hampton. The Applicant wants a new auto service station building of 2,565 s.f. which will complement the existing building across the street. The Applicant is seeking a variance to allow parking which is not located to the side or rear of the property. There will also be the addition of a sidewalk. Attorney Pasay went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ma. Collins asked if the property would no longer be a parking lot. Attorney Pasay said that was the plan.

Chairman St. Pierre asked how many cars could be accommodated. Mr. Rice said five cars could be handled.

Mr. McGuirk said it is awkward that this property is in the Historic Zone. It should not have been in this zone.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. O'Brien recommended approval of this petition.

Ms. Collins said this is not what you expect to see at the entrance to the Town and asked if there would be large tow trucks around. Mr. Newcomb said towing will be on the other side of the street. Attorney Pasay said there will be green space to add to the ambience. Mr. Grady said the egress onto Winnacunnet could be a safety hazard.

**Moved** by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 09-20 There will be no cars or trucks visible except for drop off and pick up. If there is any change the Zoning Board must be briefed.

Chairman St. Pierre 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.

**10-20...**The petition of Aquarian Water Company of New Hampshire for property located at 5R Falcone Circle seeking relief from Article IV Dimensional Requirement 4.4 (height) to allow a +/- 147' above ground height water storage tank where the Industrial Zone imposes a maximum structure height of 50'. This project includes the construction of a 750,000 gallon composite elevated water storage tank at 5R Falcone Circle, adjacent to the existing 750,000 gallon elevated water storage tank. The proposed tank will be approximately 147 feet tall and match the height of the existing tank. The project also includes the addition of a generator to operate electrical equipment in the event of a power loss. This property is located on Map 53, Lot 1 and in the Industrial Zone.

Attorney Eric Newman and Carl McMorran, Operations Manager, came forward. Mr. McMorran said the purpose of the project is to provide additional reliability for meeting needed water pressure and fire flow requirements. Aquarian does not have the ability to rehab the existing water tank without a backup. They evaluated other sites and after careful consideration have decided that constructing a second tank at this site is the best option. Aquarian has reached out to the closest neighbors and an informational postcard was mailed on January 15<sup>th</sup> to the "Highlands neighbors". The project will take approximately two years. Mr. McMorran went through the five criteria and said he felt they had been met.

Marsha Kapinello said she had completed a comprehensive study on the impact of the second tank on residential property values. She said it was her opinion that property values will not be negatively impacted. The current tank has not affected property values and there is no evidence that the second tank would have a negative impact.

#### *Questions from the Board*

Mr. O'Brien asked if the second tank would be a twin to the first one. Mr. McMorran said it would.

#### *Comments from the Audience*

Pete Mosikis said he was President of the Highlands Home Owners Association. He said he was concerned about the impact of construction such as noise, safety for children, etc.

Attorney James Scully spoke on behalf of the Home Owners Association. He said they need more evidence about possible location alternatives. He said Hampton already has three towers. Rye has one and Hampton Falls none. The second tank should be built elsewhere. Attorney Scully said this application does not meet all of the criteria.

Mr. McMorran said this should not be based on the idea that there is already a tank there. This is the best alternative for the company and the town.

Jennifer O'Neil, 10 Roberts Drive, said she supports this project. It is in the best interest of Hampton. This is the least costly location. Hampton is the safest of the three locations considered.

Shannon Littlefield said she supports this project because it is the safest alternative. Safety is very important.

David Meinen, 7 Falcone Circle, said he would ask the Board to deny this petition. He said he was convinced this type of project should not be near residential. There will be an

impact on health, safety and property values. This belongs in an industrial area. There is a risk to children and Aquarian has failed to address concerns for safety. This is about cost and convenience for Aquarian.

Mary-Louise Woolsey, 148 Little River Road, spoke in favor of the project. She said it is especially important to have adequate water in case of fire.

Tracy Gebistan, 1 Falcone Circle, spoke against the project. She said the locations in Rye and North Hampton should be re-evaluated.

Chuck Rage, 126 Ocean Blvd., said this second tank should be in Rye or North Hampton.

Tara Albert, 16 Falcone Circle, said she was a real estate agent and said this second tank would lessen the buyer pool for anyone wishing to sell their home. She asked the Board to deny.

Patty Visconti, 17 St. Cyr, said she would like to know the scope of the appraisal.

Brian Warburton, 24 Sanborn, said there was not enough research. He said he believes there are other options. Property values would be impacted. This is the wrong thing to do.

Patrick Oeulette, 5 Falcone Circle, said there would be too much impact to the neighborhood. He asked the Board to deny.

Julie Moore, 52 Falcone Circle, said traffic is bad and would get worse with this project.

Attorney Newman said twin towers are not unprecedented. This was a very comprehensive and transparent process. Other sites would be bad because of elevation, etc. If this is denied, the old tank still needs to be fixed.

#### *Back to the Board*

Mr. St. Pierre asked what the life expectancy of the old tower was after rehab. Mr. McMorran said another 40 years.

Mr. McGuirk said he believed that two tanks would cause a diminution in value of the two closest houses. A second tank would make people pause. Mr. McGuirk said he was a fan of water towers. They can be very welcoming, but two basically in your backyard can definitely cause a drop in value.

Ms. Collins said she has looked at the three people who abut the tower and bought their property knowing it was there. She said she did not feel the lowering of value for those three outweighs the benefit to this town. Ms. Collins said she feels for the residents but

sees the benefit for the entire town. As for the other residents, out of 58 homes on Falcone, only 10 responded to the notice, out of 21 on St. Cyr, 4 responded and out of 5 direct abutters only 3 responded. Therefore, it does not appear that there is overwhelming concern.

Mr. Grady said he was on the fence.

Mr. O'Brien asked how many workers would be on the site. Mr. McMorran said 8 to 10. Mr. O'Brien said diminution of property values is still a problem. Mr. O'Brien said there are woods across from CR;s and asked if that location has been considered. Mr. McMorran said they had considered it, but the elevation is too low.

**Moved** by Ms. Collins, seconded by Mr. McGuirk, to grant Petition 10-20.

Chairman St. Pierre asked the Board if the five criteria had been met. Ms. Collins said yes. All others said no. Criteria #4 was the problem.

**Vote:** 1 yes, 4 no (Grady, McGuirk, O'Brien, St. Pierre). Motion failed.

**Moved** by Mr. McGuirk, seconded by Mr. Grady, to deny Petition 10-20.

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

### Special Exception

Attorney Newman explained that a Special Exception is needed to permit a public utility use on the site in the Industrial Zone. He went through the 7 criteria and said he felt they had been met.

Attorney Scully said the Board could not move forward on this. The Special Exception has to be denied because the variance was denied.

Mr. O'Brien said he would recommend that the Board take a vote and then consult our attorney.

**Moved** by Mr. O'Brien, seconded by Mr. McGuirk, to continue Petition 10-20 to next month, confer with our attorney, and give the Applicant the opportunity to also confer with their attorney. This will also give the Applicant the option to continue or the option to withdraw.

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

Chairman St. Pierre said the Board will meet next Thursday, March 27<sup>th</sup>, to address the remainder of petitions on this Agenda.

**BUSINESS SESSION**

**Donik Corporation – 535 & 537 Ocean Blvd.**

Don Garcia came forward. He said this is for an approval of a parking lot change. He said the DOT wants them to take parking off of Ocean Blvd. and put it next to the building. They also requested the addition of shrubs.

Mr. St. Pierre asked if the number of parking spaces has changed. Mr. Garcia said it had not changed. Mr. St. Pierre then said he did not have a problem with this.

The consensus of the Board was that this move of parking is acceptable.

**Approval of Minutes**

**Moved** by Mr. St. Pierre, seconded by Mr. O'Brien, to approve the Minutes of January 16, 2020 as amended.

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

**Moved** by Mr. St. Pierre, seconded by Mr. O'Brien, to approve the Minutes of January 23, 2020.

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

**Adjournment**

**Moved** by Mr. O'Brien, seconded by Mr. St. Pierre, to adjourn the meeting at 10:45 p.m.

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

Respectfully submitted,

Joan Rice  
Secretary

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**MINUTES – Draft**  
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**Members Present**

Ed St. Pierre, Acting Chairman  
Norma Collins  
Tom McGuirk  
Fred Rice, Alternate  
Greg Grady, Alternate

**Also Present**

Jim Marchese, Building Inspector

The Pledge of Allegiance was said.

Chairman St. Pierre introduced the members of the Board.

Chairman St. Pierre said this meeting was a continuation of the February 20, 2020 Agenda items.

**PETITION SESSION**

**11-20...**The petition of Hampton Betterment Associates, LLC, Chateau North, LLC, Armen D. Derderian, Trustee of the V.R. Realty Trust and Karens LLC for properties located at 125 Ocean Blvd.; Map 290, Lot 6, 127 Ocean Blvd., Map 290, Lot 5-1, 6 G Street, Map 290, Lot 4-1 and 10 G Street, Lot 3 seeking relief from Articles 4.1.1, 4.4, 4.5.3 and 6.3.1 to demolish all of the structures located at 125 Ocean Blvd. and 10 G Street and merge all three lots for the construction of a single new building with 18 one-bedroom dwelling units and retail space with on-site parking for 19 vehicles and to do a lot line adjustment between 127 Ocean Blvd. and 6 G Street to eliminate an encroachment. All properties are in the BS Zone.

Mr. McGuirk said he normally would step down from the Board concerning business applications near his property, but this is a condo, not a restaurant. He said he wanted to give this opportunity to the applicants to decide. Attorney Saari said they wished Mr. McGuirk to stay on the Board.

Attorney Peter Saari said this is a project that will add much value to the Beach. The owners of the Sea Ketch have been around for a long time and always do quality work. Attorney Saari went through the five criteria and said he felt they had been met.

Jeremiah Johnson, McHenry Architecture, said they had been working for a year on this project. This will be a major extension of the Sea Ketch Restaurant with a residential  
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component. It will be a mixed-use building with two retail spaces and 18 one-bedroom hotel units with parking underneath and next to the building. Abutters have been spoken to and all approve of the project.

Alex Ross, Ross Engineering, discussed the site plan and showed the building footprint. They have added a lot of landscaping and pervious pavers.. They have met with the Building Inspector, Conservation and DPW. There will be a mostly sand and concrete foundation. This will be very high value compared to what is presently there.

#### *Questions from the Board*

Mr. Rice said this looks like it meets the criteria and he did not see any concerns.

Ms. Collins asked about the “underneath” and “next to” parking. Mr. Ross said this is all for the tenants.

Mr. McGuirk asked about parking requirements. Mr. Ross said all requirements have been met. Chairman St. Pierre said if the engineers have checked this, it should be okay. Mr. McGuirk said he wanted it noted that the Board did speak about this.

Chairman St. Pierre asked about the office space at the back of the building. Mr. Johnson said this is storage for the retail owners. Chairman St. Pierre asked about the “offices” in the hotel units. He said it is almost like a second bedroom. If there are more people, more parking would be required.

Mr. Grady asked about shadowing on the beach. Mr. Johnson said they did a study and they are fine.

#### *Comments from the Audience*

Bob Preston, 339 Ocean Blvd., said this would be an improvement for Hampton Beach and he would definitely support it.

#### *Back to the Board*

Mr. McGuirk asked about the height of the storefront windows and doors. Mr. Johnson said the height would be 8 feet.

Mr. McGuirk asked about public parking in the area. Attorney Saari said there is plenty of parking in the area.

Mr. Rice said he was glad the building was terraced. Makes it very attractive. He said he was also happy to see the shadow study. Mr. Rice said the tenants will have to understand they get one parking space only. He said he felt there is adequate parking.

Chairman St. Pierre asked about height of the building. Mr. Rice said he felt it was fine because it is terraced and it also fits in with the Sea Ketch. Mr. Rice said he saw nothing wrong with this project. Parking will be solved at the Planning Board.

Mr. Grady asked about a parking garage. Mr. Johnson said that was not feasible.

Ms. Collins said she thought it was a wonderful project. Her only concern was height. Behind the restaurant it takes away from the Sea Ketch.

Mr. McGuirk said he did not think parking was that big of an issue. They have opportunities with surrounding lots.

Mr. McGuirk said the use must be a hotel. If it is condoed later, they must come before the Board again.

**Moved** by Mr. Rice, seconded by Mr. Grady, to grant Petition 11-20 with the condition that if they ever go to condo the applicant must come back for parking. Also they must notify the Board if any substantial changes are made to this plan.

Chairman St. Pierre 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). Motion passed.

Mr. McGuirk said he abstained because he did not want anyone thinking he would want additional height for his building.

**13-20...**The Petition of J. Hunter Properties, LLC for property located at 467 Ocean Blvd. seeking relief from Article(s) 4.5.2 to demolish the current structure and replace it with a brand new structure. This new structure is proposed to be constructed using the existing setbacks that currently exist on the property, where 4 feet is required for a side setback we are requesting 1.3'. This property is located on Map 266, Lot 32 and in the BS Zone.

Jessica Lapa, Applicant, and Brendan McNamara came forward. Mr. McNamara said they are seeking to demolish the current structure and replace it with a new 3-family home. They will use the existing setbacks. Four feet is required. Since 1920 it has been 1.3 feet on the southerly lot line in the rear. They tried to rehab earlier, but found that there were some areas that were not structurally sound. Mr. McNamara went through the five criteria and said he felt they had been met.

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*Questions from the Board*

Mr. McGuirk noted that the “southerly” line is really on the west. He then said he did not see a parking plan. Mr. McNamara said there is ample room, for parking. Mr. McGuirk said a parking plan is still needed.

Chairman St. Pierre said the applicant should come back next month with a plan showing parking, etc. Ms. Collins said she had never seen a petition without parking shown. Mr. McGuirk said the Board also needs to know the volume of the new building and a plan showing existing elevations Mr. Rice said if all plans are acceptable, the applicant has a good chance of getting approved.. Mr. Grady also agreed that better plans are needed.

*Comments from the Audience*

Stephen LaBranche, 469 Ocean Blvd., said he was the abutter. He said he wanted to know how this will be torn down. He said he was concerned about placement of dumpsters and access for heavy equipment. He said he also had concerns about the unsecured building being a fire hazard. Mr. LaBranche said he also had concerns about parking, and flooding. Mr. LaBranche asked that a surveyor stake the land after the project is completed.

*Back to the Board*

Chairman St. Pierre said the applicant might also consider consulting with an attorney because once those buildings come down, they are no longer allowed to encroach.

It was decided that the Applicant would come back next month with appropriate plans. The Applicant will be fourth on the Agenda.

At 9:45 p.m. Chairman St. Pierre called for a 5-minute break.

The meeting re-convened at 9:55 p.m.

**BUSINESS SESSION**

**Petition for Rehearing Petition 06-20**

After review and discussion, it was decided by the Board that there had been no errors, omissions or new information.

**Moved** by Mr. Rice, seconded by Ms. Collins, to deny the Petition for Rehearing for Petition 06-20.

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

**Petition for Rehearing 02-20**

After review and discussion, it was decided by the Board that there had been no errors, omissions or new information.

**Moved** by Mr. Rice, seconded by Mr. McGuirk, to deny the Petition for Rehearing for Petition 02-20.

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

**Adjournment**

There being no further business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Joan Rice  
Secretary