

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES - Amended
May 16, 2019

Members Present

Bryan Provencal, Chairman
Norma Collins, Clerk
Tom McGuirk
Bill O'Brien,
Ed St. Pierre
Fred Rice, Alternate
Greg Grady, Alternate

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

PETITION SESSION

14-19...The continued petition of East Coast Development, LLC for properties located at 431 and 435 Ocean Blvd. seeking relief from Article(s) 2.3.4 B; 4.1.1; 4.4; 2.3.7.C.2 for demolition of all existing structures on 2 lots to be combined. Construction of a 23 unit multi family structure with ground level parking garage, pool and cabana. These properties are located on Map 266 Lots 27 & 47 and in the BS Zone.

Attorney Bernard Pelech, Bosen & Associates, and Joe Coronati, Jones & Beach, came forward. Attorney Pelech said this petition had been continued. The Zoning Board was looking for some written evidence that the 13'6" entry level was necessary. Attorney Pelech then referred to the letter from William A. Paine, Jr., Fire Prevention Officer at the Town of Hampton Fire Department stating that this entry level was necessary. Attorney Pelech then went through the five criteria and said he felt they had been met.

Tom Hall, architect, said the building in back will be demolished.

Questions from the Board

Ms. Collins said she felt dropping a floor would bring down the height. Attorney Pelech said that would not be feasible. Mr. O'Brien said saying that economics makes it unfeasible does not constitute a hardship. Mr. O'Brien said he also felt that the applicant should take a floor off.

Attorney Pelech said this Board has granted variances to a lot of 60 foot buildings. He said he did not see how this was different. Mr. O'Brien said in this area of the Beach everything is 50 feet. The gray building around the bend is the only one with a legitimate hardship. Mr. Coronati said the height of the building from the ground to the ceiling is 55'7" and to the top of the building is 61'9-1/2". The height of the building could be reduced if absolutely necessary, but that might take away from its attractiveness.

Mr. O'Brien asked how high the ceilings were in the units. Mr. Coronati said 8 feet. Mr. O'Brien said he felt 8 foot ceilings did not belong in a luxury condo.

Comments from the Audience

There are no comments from the Audience.

Back to the Board

Chairman Provencal said if the applicant did not have to deal with the requirement from the Fire Department and went to a flat roof, it could be in the 50 foot range.

Chairman Provencal said the problem of a shadow on the beach does not happen here.

Mr. St. Pierre said he could see some hardship. The applicant is giving up developing the land in back. Mr. St. Pierre said he was not against this because others have been given variances for this and he would not like to see a flat roof.

Chairman Provencal noted that this would not block anybody's view and would not cast a shadow on the beach.

Ms. Collins said that they are giving up in the back, but they are having a pool and cabana, etc. She said she likes what they have done in the front.

Chairman Provencal said he felt this is like what the Board has granted previously. The hardship arises from the requirement from the Fire Department. Also, this is an ideal location for a taller building on Hampton Beach.

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to grant Petition 14-19 with the following stipulations: The maximum height to be 61'9-1/2'. That there be lighting on the front of the building year round and that any subsequent changes require approval from the Zoning Board.

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Mr. St. Pierre, and Mr. McGuirk said they felt they had. Mr. O'Brien and Ms. Collins said they had not as they felt there was no hardship.

Vote: 3 yes, 2 no (Collins, O'Brien). Motion passed.

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

15-19...The continued petition of Donik Corporation for properties located at 535 and 537 Ocean Blvd. seeking relief from Article(s) 4.4 to modify and supplement the applicant's January 16, 2019 approval (the "January application") to increase the height of the building by two feet six inches and to reduce the number of units from 36 to 32. These properties are located on Map 255, Lots 8 & 9 and in the BS Zone.

Will Soucy, Applicant, Attorney Peter Saari and Joe Coronati came forward. Attorney Saari said a lot of work has been done since the last meeting. Attorney Saari said he didn't know if they would be ready for a vote tonight.

Mr. Coronati said they did have to move the proposed building 50 feet forward from the tidal marsh. He said they still need to go before the Conservation Commission and the Board of Selectmen. Two changes have been made. First, they have reduced the number of units. There are 8 units per floor and 3 units on the top floor.

Mr. O'Brien asked about parking. Mr. Coronati said there will be 63 spaces. Mr. Rice said he was concerned about traffic. Chairman Provencal said traffic is for the Planning Board.

Mr. O'Brien said the building is now 10 feet longer and has a square front. He said they needed to check their drawings because some had a roof cover and some did not.

Mr. Coronati said he felt they needed to come back and probably wouldn't make the next deadline. Mr. Rice said a comprehensive package is needed, but he would not like them to have to go back to square one.

Mr. O'Brien said they are going to have to advertise again so that would include the whole package. Chairman Provencal said they can keep anything they have been granted.

Mr. St. Pierre said he would like to compare the two plans. He said he felt the new plan would be less intense and this would be helpful.

Moved by Mr. St. Pierre, seconded by Mr. O'Brien, to allow Petition 15-19 to be withdrawn without prejudice.

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

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

16-19...The petition of Joyce M. Skaperdas for property located at 200 North Shore Road seeking relief from Article(s) 4.5.2 for placement of air conditioning condenser on east side of new home. This property is located on Map 266, Lot 44 and in the RA Zone.

Joyce Skaperdas, Applicant, came forward. She went through the five criteria and said she felt they had been met.

Questions from the Board

Ms. Collins asked if there was any other place to place this. Ms. Skaperdas said there was not. Ms. Collins asked how far away her neighbors were on the east side. Ms. Skaperdas said 12.2 feet from the lot line. Mr. St. Pierre asked what the square footage of the lot was. Ms. Skaperdas replied that it was 8,800 square feet. Mr. St. Pierre said the lot is a strange shape and he thinks the 12.2 feet is reasonable.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Chairman Provencal, seconded by Mr. O'Brien, to grant Petition 16-19.

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. St. Pierre stepped down from the Board and Mr. Rice stepped up to the Board.

17-19...The petition of Boars Head Development, LLC for property located at 16 Boars Head Terrace seeking relief from Article(s) 4.5.1, 4.5.2, 4.5.3 to construct a new single-family home on an existing lot of record. This property is located on Map 266, Lot 44 and in the RA Zone.

Dave Sharples, Boars Head Development, and Gino Rinaldo, relative of the owner, came forward. Mr. Rinaldo said there will be a 6" overhang on the upper story to give more street appeal. There will also be an 8' x 8' deck.

Mr. Rinaldo went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal asked about sewer. Mr. Rinaldo said it is out back.

Questions from the Board

Ms. Collins asked if two cars could fit on the site. Mr. Rinaldo said they could. Mr. O'Brien said he could see a 9' x 18' space in front for parking. Mr. Rinaldo said they don't need that space. Mr. O'Brien asked about what would happen to the rocks on the upper side. Mr. Rinaldo said they would be removed.

Comments from the Audience

Mr. David Dykes, 18 Boars Head Terrace, came forward. He said he is not opposed to this, but has some concerns about how this might affect his property. He said he was concerned about his stone retaining wall and who would pay for replacement or repairs if it is damaged. Mr. Dykes said he would also like to know the plans for parking. Another consideration is drainage. Mr. Dykes said he would also like to have a construction schedule. Mr. Dykes said he is only asking that the property owner and others associated with this project respect all abutters' rights and concerns.

Chairman Provencal said anyone who damages Mr. Dyke's property will have to pay for it.

Walter Tate, 14 Boars Head Terrace, said he supports the project. His only concern is drainage.

Back to the Board

Moved by Ms. Collins, seconded by Mr. McGuirk, to grant Petition 17-19.

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. Rice stepped down from the Board and Mr. St. Pierre stepped up to the Board. Also at this time Mr. MccGuirk stepped down from the Board and Mr. Grady stepped up to the Board.

18-19...The petition of McGuirk's Ocean View for property located at 95 & 97 Ocean Blvd. seeking relief from Article(s) IV, Section 4.8 to construct new commercial building at 97 Ocean Blvd.; merge lots at 95 and 97 Ocean Blvd., combined impervious surface to be 90.1% whereas 75% is required. These properties are located on Map 290, Lots 117, 118 and in the BS Zone.

Tom McGuirk, Applicant, came forward. He said this is just a clarification to a previous approval by the Board. There was a question on the way the motion granting approval was written. The Planning Board wanted the impervious surface of both properties which is 90.1% to be noted. Mr. McGuirk went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal noted that the parking lot is not considered pervious because people drive on it.

Mr. O'Brien asked what the average grade plan to the very top was. Mr. Coronati replied that it was 58'. Mr. O'Brien asked what the height standing on the sidewalk would be. Mr. Coronati said 54'.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Grady, to grant Petition 18-19.

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. Grady stepped down from the Board and Mr. McGuirk stepped up to the Board.

19-19...The petition of Charles M & Peggy Demos for property located at 4 Seventh Street seeking relief from Article(s) IV, Section 4.5.2 (requesting a 2.25' Left Side Setbacks where 1.0' exists and 15' is allowed. Sections 4.5.3 (requesting a 2.25' Rear Setback where 1.8' exists and 10' is allowed, and Section 4.8 (requesting 64.5% Impervious Coverage where 65.6% exists and 60% is allowed) to demolish 19' x 20' garage and reconstruct new 24' x 24' garage. This property is located on Map 210, Lot 7 and in the RA Zone.

Charles and Penny Demos came forward. Mr. Demos said they want to build a new garage. Mr. Demos went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked if there was an apartment on the second floor of the new garage. Mr. Demos said absolutely not.

Ms. Collins asked what this would look like and what amount of that yard is going to be covered by something. Mr. Demos said the sealed surface will be 64.5% and is currently at 65.6%. Ms. Collins said it looked like everything is covered. Mr. Demos said the front yard is pervious. Ms. Collins said there is very little ground that doesn't have something on it.

Mr. Demos said the Building Inspector told him he could not attach the garage to the house. Chairman Provencal said that was not correct. Mr. McGuirk said they could also put on a second floor deck that is attached to the house.

Chairman Provencal said they could withdraw and come back after looking at more options.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to allow Petition 19-19 to be withdrawn without prejudice.

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

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

20-19...The petition of 101 Ocean Blvd., LLC, MAM Realty Investors V, LLV and MAM Realty Investors II, LLC for property located at 99 and 101 Ocean Blvd. / 9 and 11 Street seeking relief from Article(s) 4.1.1, 4.4, 4.5.1, 4.5.2, 4.8, 6.3.1, 6.3.9 to merge lots 107 and 108 and remove all of the structures and replace with a single building with ground level commercial space and twenty (20) one-bedroom long term rental apartments above with ample parking on lots 104 and 105 (which will also be merged). These properties are located on Map 290, Lots 107, 108, 104, and 105 and in the BS Zone.

Chuck Bellamore, applicant, Attorney Peter Saari and Joe Coronati came forward. Attorney Saari said this is a revisit to an application approved about two years ago. For this project, there will be five units on each of the four floors above retail space. This is not a condo. All units will be rental. All units must be rented on long term leases. All parking would be on a lot down the street. This provides affordable housing for people who don't want to buy.

Mr. Coronati said everything outside will be eco pavers. Mr. Coronati said they will take care of drainage. The two lots combined are 85% pervious. It would go to 88%. As for the back two lots they are at 83% and the proposal is 92%.

Mr. Coronati went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal asked if there was any way to get more parking.. He said he did not have a problem with the height or sealed surface, but parking was a problem. Mr. Coronati said they will get 7 more spaces when they remove the cottage. There will be a total of 31 parking spaces.

Mr. O'Brien asked what would happen to the wall facing the neighbor. Mr. Coronati said they don't yet know what they will be doing with the wall.

Mr. O'Brien asked if there was a roof deck. Mr. Coronati said no. Mr. O'Brien said that if they get approval and then anything changes they must come back to the Zoning Board. Mr. O'Brien said the reason the applicant got relief on the north side for not meeting the setback was because he had the small lot and now the lot next to it is included so there was a gain in that area of 12 feet with no side setbacks. Mr. O'Brien said he felt the applicant should come in with 4 feet on I Street so that there is more pervious.

Mr. Grady asked about trash. Mr. Coronati said it would be wheeled out to the curb. Chairman Provencal discussed water drainage.

Comments from the Audience

Mr. McGuirk said this project is a great improvement to the neighborhood. He said the sidewalk is about 10 feet wide and this should be taken In account. Mr. McGuirk said having a wall next to his property is acceptable.

Back to the Board

Mr. O'Brien asked about the front setback. Mr. Coronati said it is 3 feet to the roof overhang and 4.1 feet to the building. Mr. O'Brien asked about parking. Mr. Coronati said there would be 31 spaces if the cottage is removed.

Chairman Provencal said if the Board approves with 31 spaces and later turns into condo, the applicant would have to deed two parking spaces to the people who purchase a unit.

Mr. O'Brien said the Sea Spray casts a shadow on the beach and this building is higher. Mr. Coronati said the proposed building's shadow would not appear until 6:00 p.m.

Mr. O'Brien said if any of this is changed to condo, the applicant must come back for parking relief.

Moved by Mr. O'Brien, seconded by Chairman Provencal, to grant Petition 20-19 with the following stipulations. The petition from last year is to be withdrawn, The height is 63'8" and there is no roof deck. There will be a 2 foot setback except for the overhang on I Street. Parking will be 31 spaces and will be covered by deed. There will be attached vertical lights on the building year round. If this is changed to condos, applicant must come back to the Zoning Board for parking relief. If there are any changes in this concept Zoning Board approval must be obtained.

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.

Chairman Provencal said Petition 21-19 will be heard next week on Thursday, May 23rd, at 7:00 p.m.

Adoption of Minutes

The Minutes for the meeting of April 18, 2019 will be addressed at the June meeting.

Adjournment

There being no further business, the meeting was adjourned at 11:02 p.m.

Respectfully submitted,

Joan Rice
Secretary