

**HAMPTON ZONING BOARD OF ADJUSTMENT**  
**MINUTES - Draft**  
**June 18, 2020**  
**Teleconference Meeting**

**Members Present**

Bryan Provencal, Chairman  
Norma Collins  
Anne Bialobrzkeski (from home)  
Bill O'Brien,  
Tom McGuirk  
Ken Lessard, Alternate

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

Chairman Provencal said that this meeting is being conducted electronically pursuant to the Governor's Emergency Order. A teleconference will be utilized for this meeting and the public may join in.

**PETITION SESSION**

**14-20...**The petition of Leo & Terry Perrin for property located at 40 Mooring Drive seeking relief from Article(s) 1.3 and Article IV as to 4.5.1, 4.5.2, 4.5.3 to raise the existing structure in order to construct a 2-car garage under. Remove 1<sup>st</sup> floor front deck and construct a 2<sup>nd</sup> floor front balcony and construct an enclosed set of stairs to the side porch. All within the same footprint and remove 750 sq. ft. of paved driveway and replace with loam and seed. This property is located on Map 290, Lot 89 and in the RB Zone.

At this time Ms. Bialobrzkeski stepped down from the Board.

Norman Carpentier, representing the Applicants, described the project. He then went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ms. Collins asked how far the stairs would go out. Mr. Carpentier said the stairs will not exceed 4 feet. Ms. Collins asked if the driveway would come out all the way to the street. Mr. Carpentier said it will go straight in. Ms. Collins asked if the stairs in back are covered. Mr. Carpentier said they were covered.

Mr. O'Brien said he wanted to make sure it is understood what a footprint is. It means everything, eaves, stairs, etc. In this case the footprint is being enlarged.

Kevin Shultz, Project Manager, said maybe the language should change to read “we are not expanding or encroaching any further on the setbacks that currently exist.”.

Mr. O'Brien said the deck is being raised about 20 feet and it is being enclosed and is now within 2 feet of the property line. Mr. O'Brien said he was against the raising of the deck in the rear.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. O'Brien asked if there would be porous pavement or grass in front of the building. Mr. Schultz said porous pavers.

Chairman Provencal asked if it would be possible to bring the side of the sunroom in. Mr. Carpentier said it could be 5'3" to the edge.

**Moved** by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 14-20 with the condition that the sunroom be 5'3" to the side setback.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said that they had.

**Roll Call Vote:** 4 yes, 0 no. Motion passed unanimously.

At this time Ms. Bialobrzkeski stepped up to the Board.

**28-20...**The Equitable Waiver of Dimensional Requirement of Justin & Kristen Costa for property located at 22 Hedman Ave. seeking a waiver from Article IV, 4.8a 25% impervious coverage. The property is located on Map 193, Lot 15 and in the RA Zone w/Aquifer Protection.

Ms. Costa gave an overview of what had occurred. Their intent was to build a pool. They received all necessary and required permits and began construction. On June 1<sup>st</sup> they received a stop order from the Town. The Town had issued a permit in error. Ms. Costa said they have a great deal of money already invested in this project and are here asking for an equitable waiver. She went through the criteria and said she 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. O'Brien, seconded by Mr. McGuirk, to grant the Equitable Waiver requested in Petition 28-20.

Chairman Provencal asked the Board if they felt the criteria had been met. All members said that they had.

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

**17-20...**The petition of Mark & Bridget Clark for property located at 743 Ocean Blvd. seeking relief from Article(s) IV, 4.5.1 for front stairs (Ocean Blvd. side) to come straight out from front door vs. the proposed layout. Proposed layout is with small landing and stairs to the right when facing the home on Ocean Blvd. This property is located on Map 223, Lot 49 and in the RA Zone.

Petitioner was not present. Mr. O'Brien expressed concern about this petition and said applicants need to meet with the Building Inspector..

**Moved** by Mr. O'Brien, seconded by Ms. Collins, to continue Petition 17-20 to next month.

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

**18-20...**The petition of Craig & Amanda I Field for property located at 37 Ann's Lane seeking relief from Article(s) Article IV Table II Section 4.2 and footnote 22 and 4.3 to subdivide the 1.26-acre parcel into two lots. The existing structures are all located in the northwestern portion of the lot and the intent is to maintain 125' of frontage for the front parcel ("Parcel A"). The second parcel ("Parcel B") will be situated on the back portion (southern) of the current lot with a driveway extending down the eastern portion of the lot with 28.46' of frontage. This subdivision plan precludes the proposed new lots from meeting of the zoning requirements. This property is located on Map 127, Lot 20 and in the RA Zone.

At this time Mr. McGuirk stepped down from the Board and Mr. Lessard stepped up to the Board. Mr. McGuirk said he wanted to make it clear that although he has stepped down as a member of the Board he is still allowed to participate in public comment.

Attorney James Scully said he was present along with Robert Jones, Builder, and Mike Sievert, MJS Engineers. Attorney Scully said they had been before the Board before and have decided to resubmit. Mr. Jones said he was the contractor for the Fields. He gave an overview of the project. He then rebutted abutters' concerns about devaluation of their properties. Attorney Scully then went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ms. Bialobrzkeski said important information is missing regarding dimensions on proposed lot line. A variance is needed for the pool. Drainage is a concern. Parcel A exceeds the 25% impervious required for lots in the aquafir zone. Ms. Collins said Ms. Bialobrzkeski was correct. Density is a problem.

Ms. Collins discussed a letter from abutters that stated someone has been using the structure by the pool house. Attorney Scully said they are willing to remove that structure.

Ms. Bialobrzkeski said there are still aquafir and setback issues. The Building Inspector joined the conversation and said he agreed with her and the pool needs better clarification.

Ms. Field said the pool patio is inside the fence and the fence is inside the setback.

*Comments from the Audience*

Jim Agley, 4 Ann's Terrace, said he had issues with water. Drainage could be a problem.

Peter Appioni, 11-1/2 Homestead Circle, said this will alter the character of the neighborhood. It will also lower the value of his property.

Terry Warren, 9 Ann's Terrace, said she had concerns with density, water damage and reduction of property values.

Janice Rober, 25 Ann's Lane, spoke against the project.

Harvey Bagley, 15 Ann's Terrace, spoke against the project.

*Back to the Board*

Attorney Scully responded to the abutter's concerns. He also made the point that the field in question belongs to no one but the applicants.

Ms. Bialobrzkeski said she also had concerns about health problems arising from drainage problems. She said she would like to see a more specific proposal.

Attorney Scully said they would be willing to continue next month and come back with more information.

**Moved** by Chairman Provencal, seconded by Mr. Lessard, to continue Petition 18-20 to next month's meeting.

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

**20-20...**The petition of 158 Ashworth Avenue, LLC for property located at 16 L Street seeking relief from Article(s) 11.5, 11.5(a), 3.10 to take the two existing dwelling structures and ultimately convert them into a restaurant. In doing so, the applicant is proposing to affix a gutted travel trailer or the like to the lot in order to expand the space necessary for the restaurant. This property is located on Map 293, Lot 34 and in the BS Zone.

Attorney James Scully said he was present along with the Applicant Al Fleury and Henry Boyd of Millennial Engineering. Attorney Scully said the Applicant wants to create a Southwestern themed restaurant. This is a new theme and would be good for the beach. Attorney Scully went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Ms. Bialobrzkeski said she was opposed because 11.5 is a public safety rule and 11.5(a) is against trailers. The Building Inspector said he felt it was a gray area and didn't see an issue.

Chairman Provencal said similar projects have been approved, but it was necessary that this be affixed to a permanent foundation. It would then be called a structure, not a trailer.

Chairman Provencal said the Board needed a proposed plot plan and asked if the Applicant would like to withdraw at this time.

Attorney Scully said they would like to withdraw and come back at a later date.

**Moved** by Mr. Lessard, seconded by Ms. Collins, to allow Petition 20-20 to be withdrawn without prejudice.

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

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

**21-20...**The petition of William Dufresne for property located at 907 Ocean Blvd. seeking relief from Article(s) 3-A.10 – existing 2-family dwelling converted to a single-family dwelling w/accessory dwelling unit, request variance from 3-A.10 requiring an Impact Fee. This property is located on Map 168, Lot 37 and in the RA Zone.

Mr. Dufresne, Applicant, said he had received approval for a single family with an accessory dwelling unit and paid an impact fee. He said he is seeking relief from that fee. Mr. Dufresne went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ms. Bialobrzkeski said she would support this petition.

*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 21-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said that they had.

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

**23-20...**The petition of Ralph Carpinella, Trustee of the Carpinella Family Trust for property located at 4 second street seeking relief from Article(s) 4.5.1, 4.5.2, 4.5.3 to demolish both of the nonconforming dwellings now on the property and replace with a single high value single-family home which would require setback relief but would otherwise be in conformity with Zoning Ordinance. This property is located on Map 223, Lot 53 and in the RA Zone.

Attorney Peter Saari said the two structures presently on the property are not in character with the neighborhood. The Assessor has called the structures "camps". This project would improve the setbacks overall. Parking and sealed surface would also come into conformity. Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ms. Bialobrzkeski presented a plan showing the difference between the present and proposed building. She showed existing setback lines. What was approved in 1991 was the pre-existing non-conforming use with the right to continue. This project is a 25% increase over that. Mr. McGuirk said what should be considered is the zoning ordinances of today, not what was approved in 1991. Ms. Bialobrzkeski said she was suggesting giving relief for the front setback and conditioning the approval on 1,320 square feet of building.

Mr. O'Brien said this single-family home would be on one of the smallest lots in the area. Mr. O'Brien also asked about parking. Attorney Saari said there would be parking in the garage and on the outside of one of the buildings. Mr. O'Brien said the house is very nicely styled, but it is too big for the lot. He said he is also worried about parking. Mr. O'Brien suggested moving the building 1-1/2 feet to the east thereby providing 2 more parking spaces. He also suggested using Kings Highway as driveway access.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. O'Brien said the proposed house is too big for the lot. If approved, he would suggest moving it 1-1/2 feet to the east to get two more parking spaces.

Ms. Collins and Mr. McGuirk said they agreed with Mr. O'Brien.

**Moved** by Ms. Bialobrzkeski to grant Petition 23-20 with two conditions:

- 1) The size of the new structure is limited to 1,320 square feet.
- 2) That a 10 foot building setback be maintained from all boundaries.

There was no second to the motion.

Attorney Saari said they would like to withdraw and come back with a new plan.

**Moved** by Mr. O'Brien, seconded by Ms. Collins, to allow Petition 23-20 to be withdrawn without prejudice.

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

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**Adjournment**

**Moved** by Ms. Collins, seconded by Ms. Bialobrzkeski, to adjourn the meeting at 9:50 p.m.

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

Respectfully submitted,

Joan Rice  
Secretary