

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Draft
July 16, 2020
Teleconference Meeting

Members Present

Bryan Provencal, Chairman
Norma Collins
Anne Bialobrzkeski
Bill O'Brien, (from home)
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

18-20...The continued petition of Craig S & Amanda L Field for property located at 37 Ann's Lane seeking relief from Article(s) Article IV Table II Section 4.2 and footote 22 and 4.3 to subdivide the 1.26 acre parcel into two lots. The existing structures are all located I 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 a 28.46' of frontage. This subdivision plan precludes the proposed lots from meeting of the zoning requirements. This property is located on Map 127, Lot 20 and in the RA Zone.

Mr. O'Brien said the Applicants for this petition have requested to continue until next month's meeting.

Moved by Mr. O'Brien, seconded by Ms. Collins, to postpone Petition 18-20 until the next meeting.

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

24-20...The continued petition of Dockham Builders for property located on 5 Harris Avenue seeking relief from 4.5.2 (side setback) to construct a 24' x 26' (624 SF) one-story rear addition to an existing home located at 5 Harris Avenue. The proposed addition would setback 5' (+/-) from the side property line, consistent with the alignment of the existing building. This property is located on Map 295, Lot 14 and in the RB Zone.

Mr. O'Brien said only 2 abutters are listed. Chairman Provencal said 9 people were notified.

Jeff Kissel of Dockham Builders said the Applicants want to construct a 424 s.f. addition to their existing home. They are asking for relief from 4.5.2. Mr. Kissel went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Collins asked if the side entrance off the driveway was new. Mr. Kissel said that doorway will be new. Ms. Collins asked if the front porch would remain. Mr. Kissel said it would and would have new siding and a change of windows.

Ms. Bialobrzkeski asked if there was a crossbar under this existing building. Mr. Kissel said there was. She then asked how he would know that the existing setback is five feet and that the house is parallel to the lot line. Mr. Kissel said they took a line from where the fence goes to the road. She then asked if renovations were being done in the existing building. The answer was yes.

Comments from the Audience

Building Inspector Jim Marchese asked if the shed in the back would remain. Mr. Kissel said it would be demolished.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Lessard, to grant Petition 24-20 with the condition that the setback will be 5 feet to the drip edge.

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

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

25-20...The continued petition of Tyler Olbres, Trustee of Yankee Faust Trust for property located at Lafayette and Drakeside Road seeking relief from Article(s) 2.G1.2/minimum frontage and 2.8F/allowed uses to construct 3 single-family dwellings. This property is on Map 189, Lot 14 and in the TC-S Zone.

Mr. O'Brien said this petition was not noticed correctly. The petition referred to Article 2.G1.2. It should have been Article 2.8.G.1.2. Chairman Provencal said that due to this, the Board could not hear this petition. This is Federal law and the Board cannot grant an exemption.

It was the decision of the Board that Petition 25-20 would be re-noticed and continued to the next month's meeting.

26-20...The continued petition of Paul M & Julie C Hurrie for property at 36 Beach Plum Way seeking relief from Article(s) 1.3 & 4.5.2 to renovate the existing home. This proposed renovation is going to require relief because the edge of the proposed roof line is going to minimally further encroach into the side setbacks. The footprint of the home itself is not changing. The property is located on Map 134, Lot 58 and in the RA Zone.

Attorney James Scully said the Applicants want to make the house more conforming with modern day standards and to have a more "New England" look. This project will increase the value of surrounding properties. The existing footprint will be maintained.

Questions from the Board

Ms. Collins said she wanted to make sure that abutters have their concerns addressed. She asked if any abutters were heard from. Attorney Scully said they had not heard from any abutters.

Henry Boyd, Millennial Engineering, said that since they filed the application they have found that there is more sealed surface than what is on the application. They will have to get more permitting for this.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Ms. Collins, seconded by Mr. Lessard, to grant Petition 26-20.

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

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

13-20...The continued 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.

Mr. O'Brien said the Applicant appeared in February and there has been no communication to the Board since that time. Mr. O'Brien said he felt this should be an abandoned application and the Applicant will have to refile.

Mr. Marchese said he would contact the applicant and ask him about his intention.

Moved by Mr. Lessard, seconded by Ms. Collins, to continue Petition 13-20 until next month.

Roll Call Vote: 3 yes, 0 no, 2 abstentions (Bialobrzewski, Provencal). Motion passed.

27-20...The continued petition of Three Fourteenth Street Realty Trust for property located at 3 Fourteenth Street seeking relief from Article(s) 1.3, 4.5.2 to construct an addition to the rear of their home as well as a deck extending the addition. The proposed stairs and landing will encroach slightly into the side setback on the Western boundary of the property, but the remainder of the addition will be within all setbacks. This property is located on Map 183, Lot 33 and in the RA Zone.

Attorney Scully said that this project would be a great improvement to the property. He went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal asked about parking. Attorney Scully said there was adequate parking on both the east and west sides.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 27-20.

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

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

29-20...The petition of John R and Sheila C Woelfel for property located at 23 Thornton Street seeking relief from Article(s) I Section 1.3 & Article IV Section 4.5.2 to raze the existing 1-story house and replace with a 2-story house. The footprint remains the same except on Northwest side where it expands by 2'. This property is located on Map 303, Lot 13 and in the RA Zone.

Attorney Tim Phoenix said he had concerns about their notice. They found that they also require relief for the primary building setback. When this application was originally filed they were not aware that this was needed. Attorney Phoenix asked if it was necessary to come back to the Board at a later date because of this.

Chairman Provencal said the Wetlands Commission had submitted a letter in favor of what is already in the petition so it is alright to go forward with that and come back at a later date for the primary building setback relief.

Attorney Phoenix said there are all kinds of problems with the existing house and it only makes sense to build a new house that meets the 17.3 elevation requirement. The new building increases the width by two feet which causes the need for variances. Attorney Phoenix said they have letters from Steven Rando and Mary Preston who are abutters and support the project.

Cory Caldwell, Technical Advisor, gave a description of the differences in what is there now and what would be there with the new project. Impervious surface would go from 89% to 69%. Many non-compliant features would be removed.

Attorney Phoenix went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien said he would support this petition if there was an 8.6 ft. setback on the left side.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 29-20 with the condition that there be an 8.6 ft. setback on the left side.

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

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

30-20...The Equitable Waiver of Dimensional Requirement of Robert Higgins for property located at 27 Leavitt Road seeking Equitable Waiver for ADU foundation constructed after

Planning Board approval. ADU will result in impervious coverage exceeding 25 percent. This property is located on Map 178, Lot 70 and in the RA Zone.

Attorney Bernie Pelech said Mr. Higgins had been approved by the Planning Board. He then began excavation and other work. He had applied for a building permit but it was never received. He was then told by the Building Inspector to cease work immediately because of the percentage of impervious surface. Attorney Mark Gearreald suggested that Mr. Higgins go to the ZBA to obtain a variance. Attorney Pelech then went through the four criteria and said he felt they had been met.

Questions from the Board

Mr. Lessard asked how much area was over 25%. Attorney Pelech said the impervious surface is 30%. He said they would agree to remove the deck and back entryway.

Ms. Bialobrzkeski said most of the driveway would have to become pervious to be compliant.

Mr. O'Brien said he did not think a contractor would start work without a building permit. Chairman Provencal said due to COVID-19, if you do not receive a building permit within five days you can start construction.

Comments from the Audience

There were no comments from the Audience

Back to the Board

Chairman Provencal said he felt this fits an Equitable Waiver. Mr. Lessard agreed, Ms. Bialobrzkeski said she did not. Ms. Collins said she would like to have a plot plan.

Mr. O'Brien said he would like to have the lot surveyed. Mr. Higgins said if there is any more waiting, he will just have to give up.

Mr. O'Brien asked Chairman Provencal to go to the Planning Board and discuss this. Chairman Provencal said he would and he would also speak to Jason Bachand.

Chairman Provencal asked Mr. Marchese if he felt the Planning Board erred by not having a survey done. Mr. Marchese said yes, he did agree.

Moved by Chairman Provencal to grant an Equitable Waiver for Petition 30-20 with the conditions that no deck is to be constructed on ADU and no further expansion of impervious surface.

Chairman Provencal asked the Board if they felt the four criteria had been met and for a vote.

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

31-20...The Special Exception of Aquarian Water Company of New Hampshire for property located on Bonnie Lane for the construction of a new water treatment plant for the treatment of water from two active Aquarian Water Company (AWC) wells, Well 7 and Well 22. Water from Well 22 and Well 7 will combine within the treatment plant and following treatment, the plant will discharge potable water to the Hampton distribution system. Site work for the building will include installation of a concrete containment pad and tight tank for secondary containment of chemical deliveries, water mains connecting existing site piping to the water treatment plant, an exterior backup generator for power loss, and stormwater infiltration structures. This property is located on Map 165, Lot 0010 and in the RA Zone.

Amanda Fayes representing AWC described the need for a new structure that will treat both wells. She then went through the Seven Conditions for Special Exception and said that she felt they had been met.

Questions from the Board

Mr. O'Brien asked what will happen to the existing buildings. The answer was that they will remain.

Comments from the Audience

Carol Ozborn, 400 High Street, asked about the size of the building. Chairman Provencal said it would be 56' x 52'.

Back to the Board

Moved by Mr. Lessard, seconded by Ms. Collins, to grant Petition 31-20.

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

32-20...The petition of Seventy-Six North Shore Road, LLC for property located at 76 North Shore Road seeking relief from Article(s) 1.3 and 3.8 to take what was once an approved addition on a fifth unit and convert it into its own separate and distinct sixth unit. There will be no external change to the building and there will be adequate parking on site. The property is located on Map 132, Lot 21 and in the RA Zone.

Attorney James Scully said this will only require the carving out of one wall. He went through the five criteria and said they felt they had been met.

Questions from the Board

Chairman Provencal asked about a plot plan showing parking. Attorney Scully said there was not such a plot plan, but there is adequate parking and they will get a plot plan before applying for a building permit.

Ms. Collins said this is a lovely property and there is plenty of parking.

Ms. Bialobrzewski said she felt the addition of more tenants is too much. This is already non-conforming.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Ms. Collins, seconded by Mr. Lessard, to grant Petition 32-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Mr. O'Brien, Ms. Collins, and Mr. Lessard did. Ms. Bialobrzewski did not.

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

33-20...The petition of Richard R & Jane B St. Jean Revocable Trust for property located at 3 Seaview Avenue seeking relief from Article(s) 2.3.7 C.1 to convey a small strip of land as depicted on the plan and labeled "Parcel A" to the abutting property owners (7 Seaview Avenue) in order to move forward with a lot line adjustment. This proposed lot line adjustment requires the requested relief. This property is located on Map 133, Lot 89 and in the RB Zone.

Henry Boyd, Millennial Engineering, explained the plan. He said this is very complex. They found boundary lines out of position. To properly solve this a variance is needed.

Attorney Scully went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the lot on the right hand side where #9 is. Mr. Boyd said it is not part of this application, but does show how original boundary was determined.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Ms. Bialobrzkeski, seconded by Ms. Collins, to grant Petition 33-20.

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

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

34-20...The petition of 137 Winnacunnet Road, LLC for property located at 137 Winnacunnet Road seeking relief from Article(s) 8.2.2., 8.2.3, 8.2.4, 8.2.6 to reconfigure the parking in preparation of filing a change of use application with the Planning Board in order to convert this structure into a three unit multi-family dwelling. This property is located on Map 176, Lot 23 and in the POR Zone.

Attorney Scully said this building has been vacant for a while. The petition is to transform this building into a 3-unit multi-family home. This will be a great improvement to this section of Winnacunnet Road.

Attorney Scully went through the five criteria and said he felt they had been met.

Questions from the Board

At this time Mr. Lessard said he was abstaining from this petition.

Ms. Bialobrzkeski asked if there would be exterior changes to the structure. Mr. Boyd said there would be no exterior changes. She then asked what the existing setback was. Mr. Boyd said on the west side of the building it was a zero setback.

Ms. Bialobrzkeski asked if there was any living space below grade. Kevin Schultz said there was a very small portion towards the front of the building that is partially under grade

Ms. Bialobrzkeski asked about snow. Mr. Boyd said snow can be placed outside the wetlands buffer. Ms. Bialobrzkeski then said she felt this expansion was too much.

Comments from the Audience

Phil Bean, 143 Winnacunnet Road, said his family was long-time owners of the property next door and they are enthusiastically in favor of this project.

Back to the Board

Chairman Provencal asked about bedrooms. Mr. Schultz said there would be 2 bedrooms in the unit on Floor 1, 1 bedroom in the unit on Floor 2, and 2 bedrooms on Floor 3.

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 34-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Ms. Collins and Mr. O'Brien said that they did. Ms. Bialobrzkeski said she did not and Mr. Lessard abstained.

Vote: 3 yes, 1 no (Bialobrzkeski), 1 abstention (Lessard). Motion passed.

35-20...The petition of 142 Ashworth Avenue, LLC for property located at 7 Johnson Avenue seeking relief from Article(s) 4.1, 4.1.1, 4.5.2, 4.5.3, 4.5 f n (12) to construct a new home on piles where a home that was torn down previously existed. A new house will be constructed on these piles allowing for adequate legal parking underneath. This new home will meet the setback requirements set forth in the Zoning Ordinance for the BS Zone. This property is located on Map 293, Lot 47 and in the RB Zone.

Attorney Scully said they have come back with this petition and included request for relief from Footnote 12. Attorney Scully then went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Collins asked about height. Mr. Boyd said the height complies with height restrictions.

Ms. Collins asked how many cars can park underneath. Mr. Boyd said three cars.

Ms. Collins asked if there was only one egress. Mr. Boyd said yes and that is all that is required.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Collins said an increase of 237% is a large amount of lot coverage. Mr. O'Brien said that didn't concern him.

Moved by Mr. O'Brien to grant Petition 35-20 with the condition that access easement paperwork be reviewed and approved by the Town Attorney.

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Mr. O'Brien and Mr. Lessard said they had. Ms. Collins and Ms. Bialobrzkeski said they had not.

Vote: 3 yes, 2 no (Bialobreski, Collins). Motion passed.

Adjournment

There being no further business, the meeting was adjourned at 10:52 p.m.

Respectfully submitted,

Joan Rice
Secretary