

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES - Draft
July 21, 2022

Members Present

Bill O'Brien, Chairman
Anne Bialobrzeski
Erica De Vries
Norma Collins, Alternate
Greg Grady, Alternate

Chairman O'Brien called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the Board.

PETITION SESSION

29-22...The continued petition of Flyport Realty, LLC for property located at 123 Little River Road seeking relief from Article(s) 4.2 and 4.3 to subdivide existing 1.7 acres property to create 2 lots containing .554 acres and 1.145 acres. This property is located on Map 147, Lot 7 and in the RA Zone.

Attorney Justin Pasay, Jerry Flynn, Applicant, and Henry Boyd, Millenium Engineering, came forward. Attorney Pasay went through the procedural history of the property and gave an overview. He said this property is significantly larger than other properties in the area. The two lots will have driveway access from Little River Road. Lot 1 will have 21% impervious surface where 25% is allowed. Lot 2 will have 15.2% impervious surface where 25% is allowed.

Mr. Boyd went over the existing conditions and the proposed conditions.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Mr. Van Dyke, 131 Little River Road, asked if the trees by the driveway would stay. He said there was also a letter from another abutter with concerns. Mr. Boyd said the trees will stay. Ms. De Vries asked if there was ever flooding in the neighborhood. Mr. Boyd said he did not think so. Attorney Pasay went through the five criteria and said he felt they had been met.

Back to the Board

Moved by Ms. De Vries, seconded by Mr. Grady, to grant Petition 29-22 with the following conditions: The driveway must be at least 30 feet from the property line, the three trees and the apple tree near the road must stay, and a deer resistant tree border will be provided for Lot 133.

Chairman O'Brien 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.

30-22...The petition of Carolyn M. Fluke for property located at 27 Diane Lane seeking relief from Article(s) 4.5.1 Front Setback, 4.5.2 Side(s) Setback and 1.3 Expansion of non-conforming use to lift existing dwelling in place, build new lower level and then place existing dwelling back down onto new lower level. Renovated structure will comply with FEMA and Town Flood Zone requirements. This property is on Map 281, Lot 68 and in the RB Zone.

Carolyn Fluke, Applicant, and Henry Boyd, Millenium Engineering, came forward. Mr. Boyd went through the five criteria and said he felt they had been met.

Mr. Boyd said the applicant would like to raise the structure to make a second floor and build a first floor beneath it. They will be adding pervious pavers to make a driveway. Mr. Boyd said everything else will be the same and will be compliant.

Questions from the Board

Ms. Bialobrzkeski said she was concerned about the garage slab, the floor elevation and the stairs. Mr. Boyd said those are minor and will be corrected on the building plans. Ms. Bialobrzkeski said this plan appears to be bigger than before. Mr. Boyd said yes, the building envelope will be larger.

Comments from the Audience

Nancy _____, 28 Diane Lane, said her concern was an increase in water flowing onto her property. Also she will lose her view. Mr. Boyd said the only thing that will change is a slight change in elevation. Addition of permeable material will make the situation better than it is now.

Back to the Board

Moved by Ms. Collins, seconded by Ms. De Vries, to grant Petition 30-22.

Chairman O'Brien 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.

31-22...The petition of Nicholas Kafejelis for property located at 88 Glade Path seeking relief from Article(s) 4.5.1 Front Setback and 1.3 to build an 18' x 8' deck that would be 6 feet high. It will be attached to the south side of the house. This property is located on Map 292, Lot 1 and in the RCS Zone.

Nicholas Kafejelis, Applicant, came forward. He went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. De Vries asked if Mr. Kafejelis owned the adjacent property. Mr. Kafejelis said yes. Ms. De Vries asked what is on that property. Mr. Kafejelis said it was vacant.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Bialobrzkeski said according to the recorded plan and tax map this is one property. The side setback lines don't exist and there is plenty of room to build a deck. Therefore a variance is not needed. Ms. Bialobrzkeski said she could not support this petition. Mr. Kafejelis said he is asking for the best spot for a deck with a good view. Ms. Bialobrzkeski said there is room to build a deck elsewhere and a variance would not be required. There is no hardship.

Ms. De Vries said she did not see a hardship. The Applicant is proposing moving into the setback. This is a big build into the setback. If there was no other space to build the deck

this Board might be able to grant the petition. However there is a lot of space to build without a variance. A preference does not give you a hardship. Ms. Bialobrzkeski said she agreed with Ms. De Vries.

Mr. Grady said he saw it as a safety issue.

Mr. Kafejelis said he would like to withdraw.

Chairman O'Brien said if the deck is off the porch to the east the Applicant would not need to come back.

Moved by Ms. De Vries, seconded by Mr. Grady, to allow Petition 31-22 to be withdrawn without prejudice.

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

32-22...The petition of Roger & Carol Boissonneau for property located at 23 Walnut Avenue seeking relief from Article(s) 1.3 Expansion and 4.5.1 Front Setback to raise our existing structure straight up so that we can add a garage and additional living space. This property is located on Map 223, Lot 10 and in the RB Zone.

Roger and Carol Biossonneau, Applicants, came forward. Mr. Boissonneau said they wish to raise their existing home and add a garage and additional living space. This will allow for more parking and is in line with what others in the neighborhood have done. Mr. Biossonneau went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski said the Applicant's plan is claiming more land than what the deed says. The deed says 90 and 90 and the plan says 101 and 101.

Chairman O'Brien asked about the garden shed. The Applicant said the shed is coming down.

Ms. De Vries said because the Board does not know where the boundary line is, relief from 4.5.3 may be needed.

Ms. Bialobrzkeski asked the Applicants if they realized they were claiming more land than the deed says they have.

Ms. De Vries said the Applicants may inadvertently be encroaching on their neighbor's land. The Board can't grant a variance for a building project of this magnitude if in fact you are already into the rear setback without at least having a public notice and in addition to 1.3

and 4.5.1 being requested, you may also need 4.5.3. Note #10 is highly problematic for the Board. This raises a red flag. When we look at the plot plan there is no measurement. We are not sure where the actual boundary is.

Ms. De Vries said the Applicants should go back to the surveyor and they should take the most conservative estimate of how far back the property goes. This is in the RB Zone so the rear setback is 10 feet. Ms. De Vries said she felt the Applicants should get new plans which are more conservative and continue next month.

Ms. Bialobrzkeski said the impervious count may be different. If you have more than 60% relief is needed for that.

Moved by Ms. Bialobrzkeski, seconded by Ms. Collins, to allow Petition 32-22 to be continued next month.

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

33-22...The petition of Maria Murray for property located at 80 Island Path seeking relief from Article(s) 4.5.1 Front Setback, 4.5.2 Side Setback, 2.3.4 Wetland Buffer, 2.3.2.G Wetland Buffer to construct a small second story deck. This property is located on Map 281, Lot 27 and in the RCS Zone.

Maria Murray, Applicant, and Henry Boyd came forward. Mr. Boyd went through the five criteria and said he felt they had been met. Ms. Murray said her reason for the deck is the view. The new structure next door is obstructing it.

Questions from the Board

Ms. De Vries said if the Board is trying to protect everyone's view it just goes on and on. Ms. De Vries said she does not see a hardship.

Mr. Grady said there is still a view from the windows.

Ms. Bialobrzkeski said the project would impinge on the view of Lot 78. Also according to the plan there are two other decks above and below.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. De Vries said this is a slippery slope. There are two decks that already exist.

Mr. Grady, Ms. Bialobrzkeski, and Ms. Collins all agreed.

Ms. Murray asked if she could withdraw.

Moved by Ms. Bialobrzkeski, seconded by Ms. Collins, to allow Petition 33-22 to be withdrawn without prejudice.

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

34-22...The petition of Michael & Cheryl Walsh for property located at 58 Kings Highway seeking relief from Article(s) IV, Section 4.5.2 to install a 4' cement pad to hold up spiral stairs on the right side up by the front to gain access to the roof top deck. This property is located on Map 210, Lot 48 and in the RB Zone.

Michael Walsh, Applicant, and Michael Beltsos, contractor, came forward. Mr. Walsh said he would like to put in a set of spiral stairs to reach the deck. Some time ago a building permit was issued for this, but the project fell through. There is no access to the deck without stairs. Mr. Walsh went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Grady asked if they applied for a variance previously. Mr. Walsh said no.

Ms. De Vries asked when the building permit was granted and didn't the Building Inspector ask how the deck would be accessed. Mr. Walsh said his in-laws got the permit and then nothing was done for several years. Ms. De Vries said this was really weird and she didn't understand how a building permit was given if there was no access to the deck.

Ms. Bialobrzkeski said the 4' x 4' cement pad is not to scale and there are no setbacks noted here. She said it was clear to her that a spiral staircase could be placed within the building setback. Ms. De Vries then asked if more relief would be needed if this was done.

Ms. De Vries said if the staircase was located in this space, the 4' x 4' pad is insufficient to support it. This is on the north side and there is enough room to put it on the east side. Mr. Walsh said that would seriously impact his view.

Ms. De Vries said the Board needs to see the pad to scale to see if it is still 3 feet from the property line.

Chairman O'Brien said he would like to continue this next month. A plan should be submitted that shows exact measurements.

Ms. De Vries said they were inclined to see a hardship here, but have to see the exact measurements.

Moved by Ms. Collins, seconded by Ms. De Vries, to continue Petition 34-22 next month.

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

35-22...The petition of John & Kristin Miranda for property located at 21 Locke Road seeking relief from Article IV Dimensional Requirements Table II, Section 4.5.2 for home addition, bedroom expansion and garage expansion. This property is located on Map 206, Lot 14/A and in the RA Zone.

John & Kristin Miranda, Applicants came forward. Mr. Miranda said they are looking to expand the garage and the bedroom. He went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski asked if they are just going to fix the corner they mentioned. Mr. Walsh said yes.

Ms. De Vries said she saw a hardship and this is an easy yes.

Chairman O'Brien said this is described as two parcels and he just wanted the Applicants to know if the Board grants this relief they will be assuming you are combining both lots as one.

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 35-22.

Chairman O'Brien 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.

BUSINESS SESSION

Approval of Minutes

Moved by Ms. De Vries, seconded by Ms. Bialobrzeski, to approve the Minutes of May 19, 2022 and June 16, 2022 as amended.

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

Adjournment

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Joan Rice
Secretary