

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Draft
September 15, 2022

Members Present

Tom McGuirk, Acting Chairman
Anne Bialobrzkeski
Erica De Vries
Norma Collins, Alternate
Bryan Provencal, Alternate

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

The Pledge of Allegiance was said.

Chairman McGuirk introduced the Board.

PETITION SESSION

Chairman McGuirk said Applicants for Petition 32-22, 23 Walnut Avenue, have sent a letter asking to withdraw.

Moved by Ms. Bialobrzkeski, seconded by Mr. Provencal, to allow Petition 32-22, 23 Walnut Avenue, to be withdrawn without prejudice.

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

36-22...The continued petition of Four Fields LLC for property located at 37 Anns Lane. The applicant is proposing to subdivide the property into two (2) separate lots which require certain variance relief to frontage and lot width and shape. The applicant is seeking relief from Article IV Table 2, Sections 4.2 for a proposed 28 feet of frontage where 125 feet is required; 4.2 (footnote 22) to allow a lot that is not square and does not have sides that are equal in length to 75% of the 125' minimum required and touching the front lot line. The property is located on Map 127, Lot 20 in the RA Zone.

Attorney Derek Durbin appeared asking to continue Petition 36-22, 37 Anns Lane.

Ms. De Vries asked how many times this Petition has been continued. Attorney Durbin said this is the first request to continue. There have been two prior withdrawals.

There was discussion regarding when Board members received this request. Attorney Durbin said he called the Building Dept. at 3:58 p.m. to make sure there were five voting members. A woman said that was correct. He then asked if Mr. McGuirk was one of the members and was told that also was correct. The problem was that Mr. McGuirk would have to recuse himself leaving only four voting members.

Moved by Mr. Provencal, seconded by Ms. Bialobrzkeski, to continue Petition 36-22, 37 Anns Lane to the next meeting at which time it will be first on the Agenda.

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

34-22...The continued 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.

The Applicant was not present. The Board decided that this Petition could not be continued.

Moved by Chairman McGuirk,, seconded by Ms. De Vries, to not continue this petition.

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

37-22...The continued petition of Alex Ross for the property located at 3 Noel Street seeking relief from Article IV Table 2 Section(s) 4.5.1 for a proposed 13.9 foot front setback where 20 feet is required; 4.8A, where 30.5% of impervious coverage is proposed and a maximum of 25% is required. The property is located on Map 272, Lot 41 in the RA Zone.

Alex Ross, Applicant, came forward. Mr. Ross said he prepared the survey plans. He said this is a very simple project. There are site renovations and improvements. This is a small parcel with a small house which is over the setback line. The owners would like to continue the porch to the corner of the house. There is a section of pavement near the garage which will be removed which will cut down on impervious surface. Any abutters who might be impacted have approved the project. Mr. Ross went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski asked if the existing setback is actually 17.7', not 19.7'. She asked if they were including the drip edge in the proposal. Mr. Ross said they were. Ms. Bialobrzkeski said when she drove by the house it looked like it was too close to the road.

Ms. De Vries said she was concerned about the impervious surface. She said it is important to think about compliance. She asked how much impervious surface will be taken away. Mr. Ross said it is now at 31% and would be reduced to 30%. Ms. De Vries said she felt that more impervious surface could be removed and be brought into compliance. She said she didn't see the hardship. Mr. Ross said cost is an issue. Ms. De Vries said cost does not rise to the level of hardship.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Bialobrzkeski said this is an undersized lot with a lot of impervious surface. She said she couldn't support this unless this issue is brought into compliance.

Chairman McGuirk said there are ways to get this into compliance. Mr. Ross said they would have to remove the driveways.

Mr. Ross said he would like to ask for a continuance and see if they can come up with another design, However, he just does not see how they can get down to 25%.

Moved by Ms. Bialobrzkeski, seconded by Ms. De Vries, to allow Petition 37-22 to be continued next month.

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

38-22...The petition of Nicholas Kafejelis for the property located at 88 Glade Path seeking relief from Article IV Table 2 Section(s) 4.5.1 front yard setback of 10 feet for a proposed 18X8 foot deck that will be 3.7 feet and 4.4 feet from the front property line. The proposed deck will be 6 feet high on south side of the house. The property is located on Map 272, Lot 1 in the RCS Zone.

Nicholas Kafejelis, Applicant, came forward. He said there will be no safety issues with this project. It will benefit his elderly mother in that she can go outside easily. This is the only place for the deck that meets Conservation Commission's regulations. They require it to be 6 feet high due to pervious concerns. Mr. Kafejelis said they were told if they built it on the

east side they would not need a variance, but there are multiple reasons the east side is not feasible. Mr. Kafejelis went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. De Vries said if the deck was on the east side it would be far below the maximum pervious requirements. She said she had a concern that the deck would be close to the road. Ms. De Vries said she was having a hard time seeing a hardship.

The contractor said if the deck is built on the east side it will be impossible to stand up due to the height of the ceiling in the room with access to the deck. That entire room would have to be removed. There is also a problem with the stairs. Also a standard door would not fit.

Comments from the Audience

Charlie Preston, 47 Glade Path, said there is a lot of history in this neighborhood. Mr. Preston said he was in favor of the project.

Back to the Board

Mr. Provencal said a porkchop lot constitutes a hardship. It would take a big and expensive project to do this on the east side. Mr. Provencal said he did not see a problem if it is not hurting anyone. Other Board members stated that it was not a porkchop lot.

Chairman McGuirk said he agreed with Mr. Preston that this is a very unique neighborhood. He said he did not see the Applicant putting the deck anywhere else.

Ms. Bialobrzkeski asked if there was any way the size of the deck could be restricted so that it goes no closer to the fence.

Mr. Kafejelis said no.

Chairman McGuirk said he would not like seeing the deck in a non-square shape.

Ms. De Vries said she could now see it considering the extra expense to go to the east, and a porkchop lot.

Moved by Mr. Provencal, seconded by Ms. De Vries to grant Petition 38-22.

Chairman McGuirk asked the Board if they felt the five criteria had been met. All members agreed that they had with the exception of Ms. Bialobrzkeski.

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

39-22...The petition of Victor Ricardo for the property located at 21R Holly Lane seeking relief from Article IV Table 2 Section(s) 4.2 frontage and 4.3 minimum lot width for a 2 lot subdivision, Lot #1 having 31.2 feet and Lot #2 having 31.1 feet of frontage where 125 feet is required. Both lots do not meet the 125 foot minimum lot width. The property is located on Map 192, Lot 50 in the RA Zone.

Victor Ricardo, Applicant, Attorney Christos Valhouli and Joe Coronati, Jones & Beach, came Forward. Attorney Valhouli presented a history of the property. He said they were requesting to allow a 30,000 square foot lot to be subdivided. There would be two 15,000 square foot lots. There is not enough frontage and they do not meet the 125 foot minimum lot width. The two lots when subdivided would be similar to other lots in the neighborhood. There would be a common driveway easement across Lot 50. There would be room for emergency vehicles. Attorney Valhouli went through the five criteria and said he felt they had been met.

Questions from the Board

There was discussion on Footnote 22. There was disagreement but acquiescence that it was included in the request for 4.2.

Ms. De Vries said she had concerns about the hardship.

Comments from the Audience

Joe Chisolm, 9 Loy Drive, said this lot is near his house. He said all ten owners in the Homeowners Association had signed a letter opposing this. Attorney Valhouli said they had not been provided with this letter. Mr. Chisolm said traffic would be a problem. Every home has 125 feet of frontage. Another concern is storm drainage.

Champ Soncrant, 7 Loy Drive, said going from 125 feet of frontage to 31 feet is unreasonable.

Patty Peters, 8 Loy Drive, spoke in opposition to the project. She cited the pitch of the property and rain water. She also noted that all the owners had paid an extra \$40,000 for utilities, etc. Chairman McGuirk said they did not. This was included in the cost of the house. This is not a good argument.

Back to the Board

Ms. Bialobrzkeski said she could not support a variance for two houses.

Ms. De Vries said all this information about the possibility of building on this lot was available to the people who bought in this community.

Mr. Provencal said he met with the Town Planner and asked him if this was a buildable lot. Mr. Bachand said he would assume that it was.

Ms. De Vries said 125 feet compared to 31 feet is too big of an ask. As for traffic, this is a Town road. Ms. De Vries said she was not convinced there was a hardship.

Chairman McGuirk said he could see there being two lots here but not the way it was being proposed.

At this time the Applicant decided to withdraw,

Moved by Chairman McGuirk, seconded by Ms. Bialobrzkeski, to allow Petition 39-22 to be withdrawn without prejudice.

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

BUSINESS SESSION

Approval of Minutes

Moved by Ms. Bialobrzkeski, seconded by Mr. Provencal, to address the July 21 and August 18, 2022 Minutes at the next meeting.

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

Adjournment

There being no further business, the meeting was adjourned at 9:28 p.m.

Respectfully submitted,

Joan Rice
Secretary