

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
May 15, 2014**

Members Present

Bryan Provencal, Chairman
Bill O'Brien, Vice Chairman
Norma Collins, Clerk
Tom McGuirk
Ed St. Pierre
Ken Lessard (Alternate)

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman Provencal called the meeting to order at 7:05 p.m.

The Pledge of Allegiance was said.

Board members were introduced.

PETITION SESSION

12-14...The continued petition of David L. and Elizabeth M. Cargill for property located at 501 Winnacunnet Rd. seeking relief from Article 2.3.7(C); 4.2 (incl. fn 22); 4.3, 4.5.1, 4.5.2 to divide a nearly 61,500 square foot tract containing an existing 1-family and an existing 2-family residence into two lots so that each building would be on its own lot, where variances are needed for frontage, lot width, interior side setbacks and wetlands conservation district lot area. This property is located on Map 222, Lot 117 and in the RB Zone.

David Cargill, Petitioner, and Attorney Peter Saari, Casassa & Ryan, came forward. Mr. Schultz noted that this petition had been published incorrectly, but the Board could decide at this meeting whether there is a substantial difference since a similar petition on this property was previously denied. If they so decide, there could be a rehearing next month.

Attorney Saari said there are some differences in this petition. There is less impact on the wetlands and petitioner is now only proposing a 1-unit building rather than a 2-unit as requested in 2003. There is now more room for parking. Attorney Saari said he felt this was a different application.

Mr. O'Brien said the buildings are 9 feet apart and if the lot is subdivided 20 feet would be required. Mr. O'Brien said he did not see where this proposal is substantially different from what was originally proposed and felt that the criteria had not been met. Mr. McGuirk said he did feel there was a substantial difference.

Mr. St. Pierre asked what was different about 2.3.7(C) this time. Mr. St. Pierre said he saw no substantial difference. Mr. Cargill said the substantial difference is that previously they asked for two 2-family residences and this time they are asking for one 2-family and one 1-family.

Moved by Mr. McGuirk, seconded by Mr. Provencal, that there is a substantial difference in the current petition and it should be heard at next month's meeting.

Vote: 2 yes, 3 no (Collins, O'Brien, St. Pierre). Denied. There will be no rehearing.

14-14...The petition of Swain Corner, LLC for property located at 421 Lafayette Rd. seeking relief from Article #2.8 (G) Table 1 to construct a mixed residential/commercial building with commercial use on the ground floor and 4 one-bedroom residential units on each of the next two floors measuring 33' to the 3rd floor ceilings with 13'6" of unoccupied attic space above that bringing the height at the highest ridge to 46'6". This property is located on Map 160, Lot 24 and in the TC-H Zone.

Mike Keene and Attorney Peter Saari came forward. Mr. O'Brien said when this project was approved in January there was a stipulation that the building would be five feet from the property line. Now the petitioner is asking for 3.8 feet.

Mr. Schultz noted that the plot plan in the package was not the correct one. Mr. St. Pierre said it was important that the plot plan that went to the Planning Board shows the stipulation of the five foot buffer on the north and south sides of the building.

Mr. Schultz said #2.8 (G) should have said "for building height only". Attorney Saari agreed. He said they were asking for a variance from height limitation only. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if this building could still be built without the pitched roof. Mr. Keene said it could, but the pitched roof creates a much more attractive building. Mr. St. Pierre said a stipulation should be made that the space above the third floor is not used for living space.

Mr. O'Brien said he liked this project.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. McGuirk, seconded by Ms. Collins, to grant Petition 14-14 only for line 7 (height) of Table 2.8(G) with the stipulation that there be no occupancy above the third floor and into the attic space. A corrected plot plan is to be submitted pertaining to line 5 of Table 2.8 (G) and showing 5 foot side setbacks as previously submitted and approved.

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 it was decided by the Board that Petition 15-14 and Petition 16-14 be heard together because they refer to the same properties.

15-14...The petition of Marc L. and Mary Jane Davis for property located at 19 Wild Rose Rd. seeking relief from Article I, Sec. 1.3, Article IV, Sec. 4.1, 4.1.1, 4.2, 4.3, 4.5.2 for land exchange between owners of Tax Map 116, Lots #6 and #10 to resolve a dispute over the location of their common boundary. This property is located on Map 116, Lot 10 and in the RA Zone.

16-14...The petition of Houman and Heather Baiany for property located at 23 Wild Rose Rd. seeking relief from Article I, Sec. 1.3, Article IV, Sec. 4.1, 4.1.1, 4.2, 4.3, 4.5.2 for land exchange between owners of Tax Map 116, Lots #6 and #10 to resolve a dispute over the location of their common boundary. This property is located on Map 116, Lot 06 and in the RA Zone.

Attorney Stephen Ells came forward. He said this is basically a land swap. The areas of the two lots will stay the same. 19 Wild Rose will have a smaller amount of frontage. It will not be possible to see any difference. This is just eliminating a survey issue. Attorney Ells went through the five criteria and said he 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

Mr. St. Pierre said his only concern would be that a back lot not be created on this property. Perhaps subdivision could be restricted.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to grant Petition **15-14** with the stipulation that the plot plan be updated to reflect the closest points to the property line on either side.

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

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

Moved by Mr. McGuirk, seconded by Mr. St. Pierre, to grant Petition **16-14** with the stipulation that the plot plan be updated to reflect the closest points to the property line on either side.

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

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

17-14...The petition of Warren Kelly for property located at 377 Ocean Blvd. seeking relief from Articles 4.1.1; 4.4 to construct a 4-story 13-unit multi-family building, each unit having two bedrooms, at the front of the parcel, with seven individual 1-1/2 story cottages at the rear of the parcel, for a total of 20 units. This property is located on Map 116, Lot 10 and in the RA Zone.

Warren Kelly, Petitioner, Joe Coronati, Jones & Beach, and Attorney Peter Saari came forward. Attorney Saari said the building meets all parking requirements and meets the green space ordinance. There is adequate fire access. This project would be condo ownership. Attorney Saari said the height variance they are requesting is only 10 inches.

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

Questions from the Board

Mr. O'Brien said he was amazed at this package. The only variances requested are for height and minimum lot area per dwelling. Mr. O'Brien said his one concern was how the 50 foot buffer ordinance might affect this. Mr. Coronati said they would work with the Conservation Commission on this issue. The building will be six feet into the buffer. Mr. O'Brien asked if there was some way this could be done without going into the buffer. Mr.

Coronati replied that they will work something out with the Conservation Commission as they will be increasing green space and also end up with a decrease in impervious area.

Mr. St. Pierre said he was impressed with how well this project is laid out. Mr. McGuirk said this is a very attractive project.

Comments from the Audience

Mary Shaws came forward. She said she lives directly behind and is really impressed with this project and would encourage the Board to grant the petition.

Back to the Board

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 17-14.

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.

18-14...The petition of Kenneth J. Doyle, Jr. for property located at 23 Boars Head Terrace seeking relief from Article 1.3 and Articles IV, Sec. 4.5.1, 4.5.2, 4.5.3 to restore original front door with landing, stairs, and porch (7 ft. x 15 ft.). Remove stairs and landing from side deck. Stairs & landing 4 ft. x 7 ft. This property is located on Map 266, Lot 26 and in the RA Zone.

At this time Mr. St. Pierre stepped down from the Board and Alternate Ken Lessard stepped up to the Board.

Kenneth Doyle, Petitioner, came forward. He said the stairs and landing on the side deck are in disrepair and should be removed. Mr. Doyle went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the stairs in front could be moved to be farther from the road. Mr. Doyle discussed his reasons for the location of the stairs. Mr. Schultz noted that there were two letters of support for the granting of this petition.

Comments from the Audience

Ray Kilcoyne came forward. He said he lives across the street and everyone in the neighborhood is in favor of this project.

Back to the Board

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 18-14.

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

19-14...The petition of Lisa Urdanoff for property located at 150 High Street seeking relief from Article I, Sec. 1.3; Article III, Sec. 3.25d and Article II, Sec. 2.7 to use the existing structure at 150 High Street for a doggie day-care grooming and boarding business with an employee occupying the to be established second floor apartment. This property is located on Map 161, Lot 10 and in the POR Zone.

Lisa Urdanoff, Petitioner, and Attorney Stephen Ells came forward. Attorney Ells said they are asking only for a use variance. Ms. Urdanoff feels there is a strong need for a business like this. Also Hampton is a hospitality town and most lodging does not provide for pets. Very little would change with the physical structure of the building. A petition in favor of the project has been signed by 138 people. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk said he did not believe this location is in the tourist part of the town. He said he did not believe it would be in the spirit of the ordinance.

Ms. Collins said she felt a proposal like this has merit, but she was not sure this was the proper venue. Mr. Provencal said there is no direct abutter support for the project. Mr. McGuirk said this could be distracting for visitors to the cemetery.

Comments from the Audience

Deborah Covert, 6 George Avenue, came forward. Ms. Covert said no one wants to listen to dogs barking constantly. This will diminish the value of surrounding properties. Ms. Covert quoted 18.2, Public Nuisance Clause.

Lisa Beaudry came forward. She said in addition to the noise this would create, there are pet waste and odor concerns. Property values would plummet.

Madison Jardin, Kennel Management Specialist, spoke in favor of the project. She said that dogs who are having their needs met are happy and do not create noise. Waste can be taken care of and there would be no odor.

Bruce Nickerson, 46 Mill Road, said traffic could also be a concern. Also, the residents on George Avenue have the right to quality of life and this would be violated. They have a right to quiet enjoyment of their property.

Jodie Goucher, 158 High Street, said the entire length of this building abuts her property. Her concerns are traffic, noise and diminishing property values.

Mary-Louise Woolsey, 148 Little River Road, spoke in favor of the project. She said businesses are needed in town. This would be a tremendous opportunity. She urged the Board to take a chance and look to the future.

At this time, Attorney Ells said they would like to withdraw without prejudice.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to allow Petition 18-14 to be withdrawn without prejudice.

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

BUSINESS SESSION

Approval of Minutes

Moved by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of April 17, 2014 as amended.

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

Adjournment

Moved by Mr. St. Pierre, seconded by Mr. O'Brien, that the meeting be adjourned at 10:10 p.m.

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

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Respectfully submitted,

Joan Rice
Secretary