

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES - Draft
January 16, 2020

Members Present

Bryan Provencal, Chairman
Norma Collins
Bill O'Brien,
Ed St. Pierre
Ken Lessard, Alternate

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

PETITION SESSION

01-20...The petition of Brent 16175 Parking Trust, Exchange Authority LLC, TTEE for property located at 6 Vrylena's Way seeking relief from Article(s) 2.34(B), 2.3.5, 2.3.7(C-4) to construct a single-family home on what is currently a vacant lot. This proposed project will consist of a portion of the structure being constructed within the 50' wetland buffer as well as the additional 12' setback from the Wetlands Conservation District. A variance has already been granted for relief from 4.5.1. This property is located on Map 209, Lot 112 and in the RB Zone.

Attorney James Scully and Henry Boyd, Millennial Engineering, came forward.

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

Attorney Scully said Mission Wetlands has proposed a wetlands enhancement program. This will continue to preserve and protect the wetlands more than ever before. A variance is needed for a reasonable use of this property.

Chairman Provencal asked if anything had changed in this plan from when they were here previously. Attorney Scully said no.

Questions from the Board

Attorney Scully said they had been before the Conservation Commission four times and the Planning Board two times. Chairman Provencal asked when they began seeking approval. Attorney Scully said in August. Mr. St. Pierre said there is a request before the Planning Board right now and this Board is circumventing that.

Mr. O'Brien said he had no problem with the 12 foot setback, but he did have a problem with a portion of the structure being constructed within the 50 foot wetland buffer. If the deck were changed to 12' x 12' it would keep the house out of the buffer. Mr. O'Brien said he is not in favor of this at all as presented on the plot plan.

Mr. Boyd said they hired one of the most talented scientists around. If this site is not developed, the wetlands will get worse.

Comments from the Audience

Rayann Dionne, Conservation Coordinator, said the Conservation Commission had made many recommendations. It is possible to build a reasonable size house outside the buffer. The challenge is to be creative with the design of the house.

Chairman Provencal said this could affect the owners' ability to sell. It is also patently unfair to use property on Huckleberry Lane as comparable. You can't take a new lot and compare it to a lot that has existed for 40+ years.

Mr. O'Brien said the Planning Board can grant relief if they wish. However, relief for the 12 foot buffer comes to the Zoning Board.

Ms. Collins said that Ann Carmody of the Planning Board said if a project can't get approved by several boards, it must be flawed.

Mr. O'Brien said he has no problem with the 12 feet. If the applicants get denied by the Planning Board on the 50' buffer, they can appeal.

Attorney Scully said it would now make sense to withdraw on 2.3.4(B) and 2.3.5 and seek relief on 2.3.7(C-4).

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to allow applicant to withdraw request for relief from 2.3.4(B) and 2.3.5. Relief is granted for 2.3.7(C-4).

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.

02-20...The petition of Ralph & Jean Pynn for property located at 2 Tide Mill Road seeking relief from Article(s) 4.2 (including footnote 22) and 4.3 to subdivide an existing one and a half acre tract into two lots, one of which would be 30,000 square feet and the other would be approximately 38,860 square feet, the former being a single-family home with a small one-bedroom accessory dwelling and the other lot being vacant but intended for

construction of a single-family home. This property is located on Map 218, Lot 22 and in the RA Zone.

Jean Pynn, Applicant, Attorney Timothy Phoenix, and contractor Bruce Scamman came forward.

Attorney Phoenix said they had previously been denied for this request. This now has a substantial change because of an ADU and can be heard again.

Moved by Mr. McGuirk, seconded by Ms. Collins, to hear Petition 02-20 due to an ADU.

Mr. St. Pierre said he did not agree with this.

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

Attorney Phoenix said there will be 35 feet frontage on the new lot. The driveway will be shared. The old lot will have 105 feet of frontage.

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

Questions from the Board

Mr. St. Pierre asked if there were any other shared driveways in the general area. Mr. Scamman showed other shared driveways.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Chairman Provencal said frontage is an issue. However, these are good sized lots.

Moved by Mr. McGuirk, seconded by Chairman Provencal, to grant Petition 02-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. Mr. St. Pierre and Ms. Collins said they did not because of the frontage issue. Mr. O'Brien said no because they were taking a conforming lot and creating two non-conforming lots.

Vote: 2 yes, 3 no (Collins, O'Brien, St. Pierre). Motion failed.

Moved by Mr. St. Pierre, seconded by Ms. Collins, to deny Petition 02-20.

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Vote: 3 yes, 2 no (McGuirk, Provencal). Motion passed.

03-20...The petition of Thomas & Sharon Chase for property located at 17 Mace Road seeking a Special Exception for relief from restrictions placed on variance granted for this lot, granted on 02-16-2012, case 34-11 for construction of new home and driveway. This property is located on Map 128, Lot 49-2B and in the RA Zone.

Henry Boyd, Millennial Engineering, said applicants want to build a pool deck. Would also have driveway come directly through frontage.

Mr. Boyd went through the criteria for a Special Exception.

Mr. McGuirk said the removal of some of the trees would improve the line of sight for all. Ms. Collins asked about the length of the driveway. Mr. Boyd said it was 180 feet. Also the owners next door have agreed to remove one of the driveways on their property. The Chases would have their own driveway and would not have to use their neighbor's property.

Comments from the Audience

Martha Baroody, 29 Mace Road, said she was asking about the driveway with respect to her building. She was assured that it would not be a detriment.

Back to the Board

Mr. O'Brien said he would like to postpone for one month and have all the others involved come in and tell the Board what their intentions are. Mr. Boyd asked if this couldn't all be included in conditions.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, regarding Petition 03-20, that the driveway on the southerly side at 15 Mace Road is to be removed prior to any construction. Reference Plan dated 12-10-19. Also building envelope is increased by 2 feet.

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

04-20...The petition of Jamie Provost for property located at 31 Ocean Drive seeking relief from Article(s) 1.3 and 4.5.2 (side setbacks) to add a side entrance on the street North West corner. A true second means of egress. This property is located on Map 305, Lot 36 and in the RA Zone.

Jamie Provost, Applicant, came forward. Mr. Provost read the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal said the reason this petition was back before the Board was because it was not noticed properly.

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 04-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed they had with the exception of Mr. McGuirk who abstained because he had been absent at the first hearing of this petition.

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

05-20...The petition of Susan F. Foster Revocable Living Trust for property located at 58 Briar Road seeking equitable waiver for existing new dwelling, front overhang invades building setback (is 18.9' where 20' is required) and a variance seeking relief from Article(s) 4.5.1 to allow front steps within setback. This property is located on Map 116, Lot 25 and in the RA Zone.

Henry Boyd, Millennial Engineering, came forward. He said the overhang was larger than it was supposed to be. It does not affect anything. Mr. Boyd went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre said he felt a little extra that goes beyond the drip edge could be okay.

Mr. O'Brien asked about the date of the plan. Mr. Boyd said it was 12-20-19. It appears the scale of the plan is incorrect. Mr. Boyd agreed.

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 05-20 with the condition that there be a 15' setback to the stairs and that a revised plan put to proper scale be submitted.

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.

06-20...The petition of 48-52 High Street LLC for property located at 48-52 High Street seeking relief from Article(s) w.8 C.1, 2.8 G.1.6, 2.8 G.1.10, 28 G Footnote 4(b), 2.8 H.1.2/8 H.2, 6.2, 6.3.1, 6.3.4, 6.3.9, 8.2.1, 8.2.3, 8.2.4, 8.2.6 to demolish the existing structure on site and build two new buildings. The proposed building that will be closest to High Street will consist of both commercial and residential units and the rear building will only consist of residential units. This property is located on Map 161, Lot 2 and in the TC-H Zone.

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

Attorney James Scully, Henry Boyd and Architect Michael Keane came forward. Mr. Scully said this project would increase the character and value of this neighborhood. Attorney Scully went through the five criteria and said he felt they had been met. Attorney Scully also provided letters of support.

Mr. Boyd went through and explained the plans. He said this is a very oddly shaped piece of land, Mr. Boyd said the buildings will be classic for the area.

Attorney Scully said they have all necessary residential parking. They do not have visitor or commercial parking. Mr. Lessard said it is important to look ahead. The town parking lot is only so big.

Mr. O'Brien asked about the height of the peak of the building. Mr. Keane said it was 38 feet.

Comments from the Audience

Matt Taylor, 70 High Street, said his biggest concern is parking management. Mr. Taylor said he felt this would be a great project for the town.

Peter Thomas, 2 Dearborne Avenue, said he was only made aware of this early this morning. He would like to have more time to review and perhaps seek legal advice. Chairman Provencal said noticing requirements were met and he cannot hold this up.

Mr. Thomas said he did not agree with the five criteria. This project will alter the neighborhood. There is also the question of the commercial being successful. Mr. Thomas said he felt this would decrease the value of his property. Mr. Thomas said if this is approved he will appeal.

Shane Pine said he felt this would be a great addition to Hampton and a great opportunity for business.

Back to the Board

Chairman Provencal said he liked parking underneath the building. Something new and fresh is needed in downtown Hampton.

Mr. St. Pierre said there are too many variances. This does not fit on the lot. Mr. Keane said the size of the building is actually smaller than what is allowed.

Ms. Collins said the rules are important, but sometimes you have to look at the spirit and intent.

Moved by Mr. O'Brien, seconded by Ms. Collins, to grant Petition 06-20 with the condition that there be an addition of two parking spaces for residential.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had with the exception of Mr. St. Pierre whose concern was too many variances.

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

At this time Chairman Provencal announced that Petitions 07-20, 08-20, and 09-20 will be heard next Thursday, January 23, 2020, at 7:00 p.m. in the Selectman's Meeting Room.

BUSINESS SESSION

101 Ocean Blvd.

Chuck Belmore, Applicant, Attorney Peter Saari, Joe Coronati, Jones & Beach, and Architect Michael Keane came forward.

Attorney Saari explained that the reason for appearing again before the ZBA is because there is a change in the footprint size that was previously approved. Mr. Coronati said they have pulled in the side of the building

Chairman Provencal said the building is getting smaller.

Mr. McGuirk who is the project owner next door to Mr. Belmore's property said his only concern was if trash was put in the alley, but this cannot be done because it is egress.

Mr. O'Brien said he did not like this. He said he felt they should have come back before.

Chairman Provencal asked each Board member for their thoughts. Chairman Provencal, Mr. Lessard, and Ms. Collins all said they approved of this project. Mr. O'Brien said he did not. Mr. St. Pierre said he did not.

Adjournment

There being no further business, the meeting was adjourned at 11:12 p.m.

Respectfully submitted,

Joan Rice
Secretary

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(continued from January 16th meeting)

Members Present

Bryan Provencal, Chairman
Bill O'Brien,
Ed St. Pierre
Fred Rice, Alternate
Ken Lessard, Alternate

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

Chairman Provencal said this meeting was a continuation of the January 16, 2020 Agenda items.

PETITION SESSION

07-20...The petition of 11R Johnson Avenue, LLC for property located at 11R Johnson Avenue seeking relief from Article(s) 1.3, 4.5.2, 4.5.3 to raise the existing structure to a height in which we can park cars underneath the house. The house will be within the same footprint and the house will remain as is, but be raised to an adequate height for parking underneath. This would assist in alleviating flooding concerns for the property owner and also create more parking. This property is located on Map 293, Lot 45/A and in the RB Zone.

Al Fleury, Applicant, and Attorney James Scully came forward. Attorney Scully said they are asking for a variance to take what is existing on the property and raise it up on pylons to create parking underneath. Attorney Scully went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Rice asked how much additional parking would be added. Attorney Scully said two spaces would be added. Mr. Rice said he thought the stairs would block direct access to the parking. Attorney Scully said the stairs would have to go to the back.

Comments from the Audience

There were no comments from the Audience.

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Back to the Board

Mr. O'Brien said the requirement is to be 7 feet off the side and 10 feet off the back. He said he would like to see the house moved.

Attorney Scully said the intent would be to raise the house directly in the footprint. Mr. O'Brien asked if the eaves would be within the footprint. Attorney Scully said they would.

Mr. O'Brien said he would prefer that the applicant come back with drawings that show what he really wants to do. Mr. St. Pierre said the plans should also show how much frontage there is.

At this time the Applicant chose to continue his petition next month.

Moved by Mr. Lessard, seconded by Mr. Rice, to continue Petition 07-20 next month at which time it will be second on the Agenda.

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

08-20...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 to remove a foundation that currently exists on this site and replace it with piles. A new house will be constructed on these piles allowing for adequate legal parking underneath. In order to allow for parking and this structure the requested relief is necessary. This property is located on Map 293, Lot 47 and in the RB Zone.

Attorney James Scully came forward. He said Henry Boyd, the engineer for this project, was not available for this meeting. Therefore they would like to continue next month.

Moved by Mr. St. Pierre, seconded by Mr. Rice, to continue Petition 08-20 to next month's meeting at which time it will be third on the Agenda.

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

Attorney Scully asked for comments from the Board.

Mr. St. Pierre said he should look at projects on Boar's Head Terrace for Petition 07-20. Mr. O'Brien noted that the Applicant was asking for 4.1 on this project and asked why it was not requested for Petition 07-20. Attorney Scully said that because a new house was being built the foundation was removed and the grandfather status was removed.

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Mr. O'Brien said he would still prefer 4 feet to the property line and a deed relief is needed to drive a car to the back. Attorney Scully said they have an easement prepared for that. They can also provide a copy of the deed relief.

BUSINESS SESSION

Approval of Minutes

Moved by Mr. St. Pierre, seconded by Chairman Provencal, to approve the Minutes of December 19, 2019 as amended.

Vote: 3 yes, 0 no, 2 abstentions (Lessard, Rice). Motion passed.

Adjournment

There being no further business, the meeting was adjourned at 7:27 p.m.

Respectfully submitted,

Joan Rice
Secretary