

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – *Draft*
January 21, 2021
Teleconference Meeting

Members Present

Bryan Provencal, Chairman
Norma Collins (via teleconference from home)
Anne Bialobrzeski (via teleconference from home)
Tom McGuirk
Bill O'Brien
Ed St. Pierre, Alternate (via teleconference from home)

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

The Pledge of Allegiance was said.

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.

Chairman Provencal introduced the members of the Board.

PETITION SESSION

Mr. O'Brien said the applicants for Petition 63-20, 87 Leavitt Road, have asked to withdraw.

Moved by Mr. O'Brien, seconded by Ms. Biablobrzeski, to allow Petition 63-20, 87 Leavitt Road, to be withdrawn.

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

Mr. O'Brien said the applicants for Petition 68-20, 42 Kings Highway, have asked to continue next month.

Moved by Mr. O'Brien, seconded by Ms. Bialobrzeski, to continue Petition 68-20, 42 Kings Highway, to next month only.

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

67-20... The continued petition of Kim Minasalli & Jason W. Leboeof for property located at 23 Epping Avenue seeking relief from Article(s) 1.3; 4.5.2; 6.3.1; 8.2.1; 8.2.2; 8.2.3; 8.2.4; 8.2.5;8.2.6 to demolish the structure that is closest to Epping Avenue and intends on replacing it within a more conforming structured. This property is located on Map 299, Lot 17 and in the RB Zone.

Attorney James Scully said they were before the Board last month and had a problem with the architectural plans. New plans have been submitted. The dwelling now is completely non-conforming. The applicant is trying to make this more conforming. Attorney Scully 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

Ms. Biablobrzeski said she was concerned about the space between the buildings. Ms. Collins said she also felt the space was narrow.

Mr. O'Brien said the plot plan does not show the deck and only shows about 7 stairs. The plot plan needs to be updated. Henry Boyd, Millennium Engineering, said the upper deck would be mounted to the building and this would eliminate any post. There will be 10 to 12 stairs.

Mr. O'Brien said he would agree with the first sentence only of 8.2.5. The second sentence has to do with lighting. 6.3.1 requires 6 parking spaces and that is what is there. 6.3.1 should be denied.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 67-20 with the stipulation that the plot plan be updated per discussion, 6.3.1 is denied, and the second sentence of 8.2.5 is denied.

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.

49-20... The continued petition of Robert E & Madelyn S Gearheart, Trustees of the Gearheart Revocable Living Trust for property located at 8 Cutler Avenue seeking relief from Article(s) 1.3 and 4.5.2 to renovate and modernize the existing home which is now well over 100 years old, as well as removing the existing nonconforming rear building to make room for an attached garage for direct access to the house and to supplement the two outside parking spaces. This property is located on Map 275, Lot 21 and in the RCS Zone.

Attorney Peter Saari said they had been before the Board in October. They have since re-engineered the plan and re-engineered the roof. Certification has been made as to the buildings' foundation capacity. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the building in the front was 8 feet from the lot line. Attorney Saari said that was correct.

Ms. Collins said previously there was concern about survey stamps being signed. Chairman Provencal said they are signed now.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Bialobrzkeski said she could not support this petition. There is too much expansion within the setbacks.

Mr. O'Brien said he also felt there is a lot of expansion. They could build the exact same thing within the setbacks but could not have a garage.

Chairman Provencal asked if there were any plans for the basement. Mr. Gearhart, applicant, said there were none.

Henry Boyd, Millennium Engineering, said they could reduce the width of the garage to 7 feet.

Chairman Provencal said if they could shrink the building on the garage side to meet the 7 foot setback to the roof line then they would only need relief on the existing structure where they are going up. Mr. Boyd said they could reduce the width of the garage to 7 feet. Ms. Bialobrzkeski said that would not change her opinion.

Moved by Ms. Bialobrzkeski to deny Petition 49-20 because there is too much structure expansion within the setbacks.

There was no second to the motion. Motion failed.

Mr. McGuirk said the applicant has the opportunity to withdraw and redesign this. The applicant agreed to withdraw.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to allow Petition 49-20 to be withdrawn without prejudice.

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

01-21...The petition of Edmund B. Kelty, II, Rosa F. Kelty and John P. Kelty II for property located at 1`1 Redman Street seeking relief from Article(s) 4.5.1, 4.5.2 and 4.5.3 to replace the existing one-bedroom 576 sq. ft. camp with a more livable two-bedroom home, both of which buildings are non-conforming as to setbacks but the proposed building will be brought into compliance with the sealed surface requirement. This property is located on Map 210, Lot 47-2 and in the RB Zone.

Applicants not present.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to postpone hearing of Petition 01-21.

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

02-21...The petition of Christina & Ross Eberhart for property located at 80 Kings Highway seeking relief from Article(s) 4.5.1 and 4.5.2 to add 30 X 32 second level addition to include 3 bedrooms and 1 bathroom and small living room with access to deck. This property is located on Map 196, Lot 23 and in the RB Zone.

Christina Eberhart, Applicant, said she and her husband are new owners of this home. As the house sits today it is non-conforming. It was built in 1955. Technically it is a 2 bedroom, 1 bath house. She said they would like to do a second level addition to convert to a living room on the first floor with bedrooms upstairs. Ms. Eberhart went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. O'Brien said on the existing structure there is a garage door. Would the area beyond that be considered the basement. Ms. Eberhart said yes. The door on the right has stairs that go to the main living space. The garage space would be their utility room. Mr. O'Brien

asked if there was living space on that ground floor. Ms. Eberhart said no. Mr. O'Brien asked how you get to the parking spaces. Ms. Eberhart said she hasn't figured that out yet. There is a spot where it appears the former owners parked. Mr. O'Brien said in theory you could put two 9 X 18 spots behind the house. Ms. Eberhart said that was correct, but she still needs to talk to the Building Inspector.

Ms. Bialobrzkeski asked if there has been any wetlands assessment behind the house. Ms. Eberhart said her surveyor said it wasn't in wetlands jurisdiction. Ms. Bialobrzkeski said the wetlands might be a consideration. Also the house is in a flood zone and the question is whether or not the improvements are going to add up to 50% of the value of the structure. If so, she will need to bring this into compliance with FEMA and Town requirements and you can't have a basement. There might be more to be done than the applicant thinks.

James Marchese, Building Inspector, came on the line and was asked if the applicant could have a basement. He said that will have to be addressed when they apply for a building permit. He said in his opinion it doesn't have any bearing on what she is asking for now.

Mr. McGuirk asked Ms. Eberhart what she intends for the back lot. She said she has no intention to develop it at this time. Perhaps just a patio.

Comments from the Audience

Bart Bartlesman, 76 Kings Highway, said there is a right-of-way that belongs to Randy Radke. That property is being used in the summer for overflow parking for JB's Coffee Shop. Mr. Bartleman said water does come up in the back lot.

Back to the Board

Mr. McGuirk said this is on the property line on the south and east and would impact Mr. Bartleman's view. If this Board approves, there might be a lot of things to be addressed that they might not be able to do.

Mr. O'Brien said he would like the applicant to talk to the Building Inspector about what needs to be done beneath the building.

Ms. Bialobrzkeski said the property is right on the street and another story would be even more non-conforming.

Chairman Provencal said he felt the Board had issues with expanding into the front setback and the applicant might want to withdraw and redesign.

Ms. Eberhart asked if she did an addition on the back would she still need a variance. Chairman Provencal said she would still need a variance but she would not be encroaching into the front setback

Ms. Collins said she would like it better if the expansion was in the back.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to allow Petition 02-21 to be withdrawn without prejudice.

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

At this time the Board was able to connect with Attorney Peter Saari to address Petition 01-21.

Attorney Saari said what you have now is approximately a 576 s.f. building which he would call a camp. Applicants want to replace it with a real type home. This will raise property values in the neighborhood. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski said this is not a lot. It is a condo unit. The plan is a condo site plan that was approved in 2019 and the declarations were filed. She said she could not tell what the existing and proposed setbacks are.

Mr. McGuirk said this makes it a multi-family and the applicant should withdraw and re-apply as such

Chairman Provencal asked Attorney Saari if he could withdraw and come back with better plot plans. Attorney Saari agreed to do so.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to allow Petition 01-21 to be withdrawn without prejudice.

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

03-21...The petition of Joseph M. Jones for property located at 8 Lamprey Terrace seeking relief from Article(s) 1.3, 4.5.2.48a to construct a 24' x 24' garage attached to his house and install a new pervious paver driveway. This property is located on Map 178, Lot 41 and in the RA Zone.

Attorney James Scully said the applicant wants to build a 24' x 24' garage attached to his home. Slight side setback relief is needed. He will remove his concrete driveway and replace with pavers. There will be a 2.7% reduction in impervious surface bringing it down to 34.7%. It is not possible to meet the 25% requirement. Applicant will remove the existing shed and gravel bed. Attorney Scully went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski asked if the middle section of the home was once a garage. Mr. Jones said it was. Ms. Bialobrzkeski asked why 24 feet is needed instead of 22 feet. Attorney Scully said 24 feet is adequate. With 22 feet it would be extremely tight.

Ms. Collins asked if there was a pool. Mr. Jones said there was and there is no decking, just a ladder around the pool.

Mr. O'Brien said the applicant asked for relief from the dimensional requirements for the Aquifer District, but not for the Aquifer District requirements which is 2.5.4b. Attorney Scully said it was his understanding that if you ask for one you ask for the other. They are the exact same requirements. The Building Inspector agreed with Attorney Scully.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Chairman Provencal, seconded by Mr. McGuirk, to grant Petition 03-21.

Chairman Provencal asked the Board if the five criteria had been met. All members agreed they had with the exception of Ms. Bialobrzkeski who felt the Applicant could go with 22 feet instead of 24 feet for the garage.

Roll Call Vote: 4 yes, 0 no, 1 abstention (Bialobrzkeski). Motion passed.

04-21...The petition of Stephen & Maura Howe for property located at 5 Trafford Road seeking relief from Article(s) 1.3 – expansion of non-conforming use; 4.8a / Section 2.5.4 B – Aquifer Protection 25% maximum impervious coverage to convert existing carport to 2-car garage, and add a bulkhead. This property is located on Map 193, Lot 78 and in the RA Zone.

At this time Ms. Bialobrzkeski stepped down from the Board and Ed St. Pierre stepped up by telephone.

Ms. Howe, Applicant, said they want to convert the carport to a garage and add a bulkhead. This will not increase impervious surface. This will increase safety and security and provide protection from the elements and theft. Ms. Howe went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. O'Brien asked if the existing driveway was going to be removed. Ms. Howe said they had no plans for the driveway.

Mr. St. Pierre asked if they were only asking for 35 s.f. above what is required. Ms. Howe said that was correct.

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 04-21.

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.

At this time Mr. St. Pierre stepped down from the Board and Ms. Bialobrzkeski stepped up to the Board.

05-21...The petition of Gerald & Cheryl LeBlanc for property located at 4 Brown Avenue seeking relief from Article(s) C to build an 8 x 10 wood shed, pitched roof 9 ft. high. This property is located on Map 274, Lot 39-2 and in the RCS Zone.

There was discussion regarding Article C. No one was able to say what this was. Ms. LeBlanc said there was an easement. Ms. Bialobrzkeski read the easement for clarification. Chairman Provencal said a shed could not be put over that easement line. The applicant would have to decide where the shed was going and ask for any necessary relief. It will be necessary for the applicant to re-file.

Mr. O'Brien said the applicant should only be charged for re-notification to neighbors.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to allow the applicant for Petition 05-21 to re-file and be charged only for notification of neighbors.

Roll Call Vote: 4 yes, 0 no, 1 abstention (Bizlobrzeski). Motion passed.

At this time Chairman Provencal asked for a motion to go into Business Session.

Moved by Mr. McGuirk, seconded by Mr O'Brien, to go into Business Session.

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

BUSINESS SESSION

Seabrook-Hampton Estuary Alliance

Jay Diener, representing the Seabrook-Hampton Estuary Alliance, came on the line to discuss the recommendations of the Coastal Hazards Adaptation Team for Hampton to consider dealing with sea level rise and increasing tidal and storm-surge flooding.

Because of the late hour and also because some of the Board had not had time to examine these recommendations it was decided that this would be addressed at the next meeting.

Mr. O'Brien asked about Recommendation #2 "How coastal properties are assessed". Mr. Diener said this would be the possibility of taking the potential for tidal flooding into account when doing assessments for properties. Mr. Diener said this is just a proposal for the Town to look at. Mr. McGuirk asked if this would require filing elevation certificates with the Town. Mr. Diener said yes. Mr. McGuirk noted that other towns do this.

Mr. O'Brien asked about Recommendation #3 where it suggests considering the merits of requiring PRC review before ZBA hearings. Mr. Diener said if an applicant has a project they would be asked to go to the PRC before they go to any Boards. This way it would be reviewed by all departments first. This way everybody can discuss the issues. After this the Applicant would know what they need to do and then move on. Chairman Provencal said the PRC is an advisory committee and not elected. He said he had a problem putting them ahead of everybody. The PRC does not have jurisdiction. Chairman Provencal said he could not agree with this. Mr. McGuirk said he agreed with Chairman Provencal. Ms. Bialobrzeski said she did not agree. Chairman Provencal said the Board would go over all of the recommendations in detail next month.

Approval of Minutes

Moved by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of December 17, 2020 as amended.

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

Adjournment

Moved by Chairman Provencal, seconded by Mr. O'Brien, to adjourn the meeting at 10:43 p.m

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

Respectfully submitted,

Joan Rice
Secretary