

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Amended
February 21, 2019

Members Present

Ed St. Pierre, Acting Chairman
Norma Collins, Clerk
Bill O'Brien,
Greg Grady, Alternate
Ken Lessard, Alternate
Fred Rice, Alternate

The Pledge of Allegiance was said.

Acting Chairman St. Pierre introduced the members of the Board.

Acting Chairman St. Pierre asked for a Moment of Silence to remember Judie O'Brien, wife of Bill O'Brien, who recently passed away.

PETITION SESSION

03-19...The petition of Stephen & Janet Consoli for property located at 489 High Street seeking relief from Article(s) 4.5.1 to install hip roof overhang to eliminate water run-off from the road from flooding inside garage. This property is located on Map 167, Lot 10 and in the RB Zone.

Stephen Consoli, Applicant, came forward. He said he wished to eliminate flooding inside his garage. Mr. Consoli went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Rice asked about the hump in the driveway which shows on the plans. Mr. Consoli said the hump is no longer there.

Comments from the Audience

Candy Stelmach said she felt the proposed improvements are wonderful and urged the Board to grant the variance.

Back to the Board

Moved by Ms. Collins, seconded by Mr. Rice, to grant Petition 03-19.

Chairman St. Pierre 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.

04-19...The petition of Patricia M. Pamciocco, Esquire for property located at 1076 Ocean Blvd. seeking relief from Article(s) 1.3 (expand N/C Structure); 4.5.2 (expand space within N/C Side Setback of 3.4' along northerly boundary) to expand second floor living space by raising roof over 1st floor living shown on plot plan. New space will include approximately 435 SF. This property is located on Map 98, Lot 5 and in the RA Zone.

Patricia Pamciocco, Applicant, and Adele Baker, owner, came forward. Ms. Baker said this property was built in the 1940's. In January, 2018 for some reason the gas was shut off, the pipes froze and there was a lot of damage. It is felt that now is the time to add extra bedrooms for use in the summer. The abutters across the street do not object to the project. Ms. Baker went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. O'Brien asked if the trailer out back would stay. Ms. Baker said it would not.

Mr. Grady asked if there would be a deck beyond the two new bedrooms. Ms. Baker said there would not.

Ms. Collins asked if there would be a new bay window off of the family room. Ms. Baker said there would not be a window like that.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Ms. Collins, seconded by Mr. O'Brien, to grant Petition 04-19 with the condition that there is no bay window as shown on SG2.

Acting Chairman St. Pierre 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.

05-19...The petition of Green & Company Building & Development Corp. for property located at 313 and 315 Ocean Blvd. seeking relief from Article(s) 4.1.1, 4.4 and 6.3.1 to raise the proposed building an additional thirty inches over what was approved by the Board at its July 19, 2018 meeting to provide safe and sound commercial space as part of a plan to demolish the existing 37-unit motel and re-arrange it with a residential/commercial condominium and re-arrange the previously approved four top two-bedroom units into eight one-bedroom units with an additional parking space. This property is located on Map 283, Lots 1,2 & 3 and in the BS Zone.

Rick and Mike Green, Applicants, and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said when this was previously approved, the Board felt that commercial space was needed on the first floor. There is a problem with the elevation if all commercial is on the first floor. Attorney Saari said they were also asking that the four penthouse units will be turned into eight one-bedroom units. Each unit would still have a parking space. This will have no impact on the public. Attorney Saari then went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Collins asked if the parking requirement would be met. Mr. Rick Green said it would be met. Ms. Collins asked what the square footage was for the units on the 6th floor. Mr. Rick Green said about 750 s.f.

Mr. Grady asked if all one-bedroom units would be 750 s.f. Mr. Rick Green said yes. Mr. Grady asked if the commercial space would be on the two corners of the building. Mr. Rick Green said that was true. Mr. Grady then asked if the purpose of raising the building was to grant access to the commercial on the corners. Mr. Mike Green said yes.

Mr. Rice said that with a height like was approved usually you will get five stories, but the applicants went below ground to get six floors. Now it is not going to work so you want to raise the whole building. Mr. Rice said they must have a really good reason to do this and they are between a rock and a hard place. Mr. Rice said he had a hard time with this and believes it is due to lack of planning. The other option is to take out a floor.

Mr. Rick Green said what it really comes down to is the ceiling height. He said they were here to save the commercial.

Mr. O'Brien asked about the elevator shaft. Mr. Rick Green said the elevator shaft was not counted. Acting Chairman St. Pierre said it should have been counted.

Mr. O'Brien said his major concern was the building casting a shadow on the beach. He said he went to the site last August around 5:30-6:00 p.m. and the shadow cast by The Surf at 275 Ocean Blvd. was 140 feet. The building at 339 Ocean Blvd. casts a 120 foot shadow. No one wants to use the shadowed area. Mr. O'Brien said he had also changed his mind on parking.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Attorney Saari said they would like to continue and get more information and facts. Mr. Mike Green said some interesting things have been brought up and they need to take a look at them.

Moved by Mr. Rice, seconded by Mr. Grady, to continue Petition 05-19 until next month.

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

At this time Acting Chairman St. Pierre stepped down from the Board, Mr. O'Brien stepped up as Acting Chairman and Mr. Lessard stepped up to the Board.

06-19...The Petition of Albert E., Saunders, III for property located at 50 Boars Head Terrace seeking relief from Article(s) 1.3 (expansion), 4.5.1 (front), 4.5.2 (side), 4.5.3 (rear) for second story addition to match the neighboring home. This property is located on Map 266, Lot 13 and in the RA Zone.

Mr. Albert Saunders, Applicant, and Mr. Jeff Dowd came forward. Mr. Dowd said this is a World War II home. Most of the homes in the neighborhood have been improved in this way. The house to the south was moved closer to Mr. Dowd's lot line. The value of Mr. Saunder's property will increase from \$250,000 to \$350,000 if this petition is granted. More taxes will be received by the Town. Mr. Dowd went through the five criteria and said he felt they had been met,

Questions from the Board

Mr. Lessard asked how far the second floor deck would be from the lot line. The reply was four and a half feet. Mr. Grady asked if they were going to be closer to the adjacent house.

Mr. Dowd said they were not. Mr. O'Brien asked about the overhang. Mr. Dowd said it would be 8 inches.

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Comments from the Audience

Mr. Ed St. Pierre, 514 Ocean Blvd., came forward. Mr. St. Pierre said he was a rear abutter. Mr. St. Pierre said the applicants were good neighbors and he will be working with them on the fence line. He said he was in favor of the plan as proposed.

Back to the Board

Moved by Mr. Lessard, seconded by Ms. Collins, to grant Petition 06-19.

Acting 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.

At this time Mr St. Pierre came up to the Board as Acting Chairman, Mr. O'Brien stepped down from serving as Acting Chairman, and Mr. Lessard stepped down from the Board.

07-19...The petition of Chinburg Properties for property located at Mary Batchelder Rd/Timber Swamp seeking clarification of the Condition, and an amendment to its approval granted on December 21, 2017 to permit condominium development on the entire property. This property is located on Map 102, Lot 3 and in the G/I Zone.

Justin Pasay and Corey Caldwell came forward.

Acting Chairman St. Pierre asked who advised the applicant to proceed in this manner to try to get an amendment to an approval. Mr. Caldwell said this was suggested by various Town officials.

Acting Chairman St. Pierre said he felt this was a whole different proposal. This is for 46 condo units vs. the 35 units that were approved.

Mr. O'Brien said the Board has never amended the granting of variances. Individuals have always been asked to come back with a whole new proposal.

Mr. Pasay said it was their feeling that this Board can do what they are asking.

Acting Chairman St Pierre said he saw material differences from the original proposal. Traffic will be increased. He said he would like to see this in its entirety and that he did not think this was the right way to do this.

Mr. Caldwell said they were not asking for variances. There are benefits to this new plan. Most is identical, but better.

Mr. Rice said the applicants went to more units. Now this is different. Two entrances will make traffic different. Mr. Rice said he saw enough changes in this to require a whole new proposal.

The applicants said they would like to withdraw without prejudice at this time.

Moved by Ms. Collins, seconded by Mr. Rice, to allow Applicants for Petition 07-19 to withdraw without prejudice.

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

A break was called at 9:15.

The meeting resumed at 9:25 p.m.

08-19...The petition of Fred G. Arrigg for property located at 871 Ocean Blvd. seeking relief from Article(s) III-A Section 3-A.5e. The Applicant plans no changes to the interior or exterior of this structure. It was a duplex when the Applicant purchased it in 2013 and has apparently been an unauthorized duplex for some 35 years. The Applicant seeks a variance from the ADU size requirements for the first floor accessory apartment which is 1,090 s.f. Upon receiving the variance, the Applicant will seek a Conditional Use Permit from the Planning Board. This property is located on Map 183, Lot 17 and in the RA Zone.

Fred Arrigg, Applicant, and Attorney Tom Phoenix came forward. Attorney Phoenix said this was one of the old Town owned lots. Around 1985 the owner got permission to put a second floor on and somehow it was changed into a full unit which became primary. No one ever got a permit to put a second unit in. Dr. Arrigg bought the property in 2013. Attorney Phoenix said he met with Kevin Schultz. His suggestion was a second floor as opposed to an ADU. Attorney Phoenix said he met with various Town officials and everything was approved. Attorney Phoenix said he and Dr. Arrigg believe they have everything for an ADU, but an ADU is limited to 800 s.f. This is 1,090 s.f. However, we are going for an ADU. Attorney Phoenix said the Planning Board will not approve unless the ZBA gives approval for over 800 s.f. for an ADU.

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

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Questions from the Board

Mr. O'Brien said he was not comfortable going over 800 s.f. for an ADU because that is what the voters have said they want.

Acting Chairman St. Pierre said he was not sure this was in the best interest of the public. There is recent legislation regarding these ADU's. Acting Chairman St. Pierre said he believed the Town said 800 s.f. Now the Applicant wants an exception from this Board. This is recent legislation and it would be opening a can of worms to grant this.

Ms. Collins said she empathized with Dr. Arrigg and did applaud his trying to make things right. But this might be making a wrong. Ms. Collins said she agreed with Mr. O'Brien and Acting Chairman St. Pierre.

Mr. Grady said he agreed with Ms. Collins. Mr. Grady said the Town went to great lengths deciding that an ADU should be 800 s.f.

Mr. Rice spoke in favor of the petition.

Acting Chairman St. Pierre said he did not feel this was in the public interest and therefore couldn't vote for it.

Attorney Phoenix said they wished to withdraw without prejudice at this time

Moved by Mr. O'Brien, seconded by Mr. Rice to allow Petition 08-19 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 Ms. Collins, to approve the Minutes of September 20, 2018 as amended.

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

Moved by Mr. O'Brien, seconded by Ms. Collins, to approve the Minutes of September 27, 2018 as amended.

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

Moved by Mr. O'Brien, seconded by Ms. Collins to approve the Minutes of October 18, 2018 as amended.

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

Moved by Mr. O'Brien, seconded by Ms. Collins, to approve the Minutes of November 15, 2018 as amended.

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

Moved by Mr. O'Brien, seconded by Mr. Rice, to approve the Minutes of December 20, 2018 as amended.

Vote: 2 yes, 0 no, 3 abstentions (Collins, Grady, St. Pierre). Motion passed.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to approve the Minutes of January 17, 2019 as amended.

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

Adjournment

There being no further business, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Joan Rice
Secretary