

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
April 20, 2023**

Members Present

Bill O'Brien, Chairman
Nichole Duggan
Erica De Vries
Tom McGuirk
Ken Sheffert

Chairman O'Brien called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the Board. He then welcomed Ken Sheffert as a new member of the Board.

Election of Officers

Moved by Ms. De Vries, seconded by Ms. Duggan, to appoint Bill O'Brien as Chairman of the Zoning Board of Adjustment for the coming year.

Vote: 4 yes, 0 no, 1 abstention (O'Brien). Motion passed.

Moved by Ms. Duggan, seconded by Chairman O'Brien, to appoint Erica De Vries as Vice Chairman of the Zoning Board of Adjustment for the coming year.

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

Moved by Mr. McGuirk to appoint Nichole Duggan as Clerk of the Zoning Board of Adjustment for the coming year.

There was no second to the motion and it was withdrawn.

Moved by Chairman O'Brien, seconded by Ms. De Vries, to appoint Ken Sheffert as Clerk of the Zoning Board of Adjustment for the coming year.

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

PETITION SESSION

11-23 The petition of TRD Entertainment Co LLC, for the property located at 81 Ocean Blvd. The applicant is seeking a Special Exception from Article III, Section 3.45. The expansion of existing gaming establishments into already existing space. The property is located on Map 293, Lot 23-1 in the BS Zone.

Tony Fusco, representing the Applicant, and Attorney Robert Casassa, Casassa & Ryan, came forward. Attorney Casassa said this is a Request for Special Exception for a proposed expansion to continue the same use but in a greater amount of area. This will be for gaming use. Attorney Casassa then went through the Seven Elements for Exception and said he felt they had been met.

Questions from the Board

Ms. De Vries asked how much they raised last year. Mr. Fusco said \$1.2 million. Ms. De Vries asked if revenues would increase with this expansion. Mr. Fusco said they would.

Mr. McGuirk asked if they would be limited only to slot machines. Mr. Fusco said they have to make things work together and follow the rules of the Gaming Commission.

Chairman O'Brien said that in the beginning this was just for local charities (Hampton and all abutting towns). He asked how many charities were in those areas now. Mr. Fusco said there were 35. Chairman O'Brien asked which town was the farthest away. Mr. Fusco said Manchester.

Ms. Duggan asked if they choose the charities or does the Gaming Commission do that. Mr. Fusco said they choose the charities.

Chairman O'Brien asked if 35% of proceeds still goes to charities. Mr. Fusco said that was correct.

Comments from the Audience

Bryan Provencal said he was in favor of this request. They have done a very nice job. The area they wish to expand into has always been a dead space in that building. This will be a good improvement.

Back to the Board

Moved by Ms. De Vries, seconded by Mr. McGuirk, to grant Petition 11-23.

Chairman O'Brien asked if the Seven Elements for Exception had been met. All members agreed that they had.

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

12-23 The petition of Michael and Cheryl Walsh, for the property located at 58 Kings Highway. The applicants are seeking relief from Article(s) 1.3 Expansion of a Nonconforming Use AND Article IV Table II, Dimensional Requirements. Section 4.5.2 side yard. Required is 7 feet. Proposed is 4.65 feet. The property is located on Map 210, Lot 48 in the **RA** Zone.

Michael Walsh, Applicant, and Henry Boyd came forward. Mr. Boyd presented existing and proposed plans. He said the Applicants want to provide access to their deck with a spiral staircase. Mr. Walsh said the deck was put on six years ago with the intent to put stairs to provide access. Due to other considerations this has not happened. Mr. Boyd then went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. De Vries asked if the cement pad is there and if so, what is the size. Mr. Walsh said it was 4 feet. Ms. De Vries asked about the size of the center pole. Mr. Walsh said the pole was 4 inches in diameter. Mr. McGuirk asked why the staircase was not put in front where a variance would not be needed. Mr. Walsh said there were several considerations such as blocking the view.

Comments from the Audience

Paul Anastasi, 111 Kings Highway, said he was in favor of the project.

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Back to the Board

Moved by Ms. De Vries, seconded by Mr. McGuirk, to grant Petition 12-23.

Chairman O'Brien asked if the five criteria had been met. All members said that they had with the exception of Chairman O'Brien who abstained because of code compliancy.

Vote: 4 yes, 0 no, 1 abstention (O'Brien). Motion passed.

13-23 The petition of James and Laurie Hogan for the property located at 47 Highland Ave. The applicants are seeking relief from Article VI Section 6.3.11 Stacked Parking. The requirement is no stacked parking. Proposed is Stacked Parking for 2 spaces. The property is located on Map 274, Lot 117 in the BS Zone.

James Hogan, Applicant, John Saurman, Contractor, and Henry Boyd came forward. Mr. Boyd said they were present to validate the long term parking use on the site. They want to make it legal to have stacked parking. Pervious pavers will be installed on the existing driveway. Nothing will change for abutters. Mr. Boyd went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk said if two driveways were made, this would be denied. Mr. Sheffert said he liked what he was seeing. Ms. Duggan asked if any parking was shared with the neighbors. Mr. Logan said no.

Mr. Boyd said this is in the flood zone, but meets all requirements. Ms. De Vries asked if they were using the existing foundation. Mr. Logan said they were not. Ms. De Vries asked how many bedrooms are in the original building. Mr. Logan said three bedrooms. Ms. De Vries asked how many bedrooms there are now. Mr. Logan said there were four bedrooms. Ms. De Vries asked how many cars are parked during the peak summer season. Mr. Logan said there were only three or four. Ms. De Vries said she was concerned about the maintenance of the pavers.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. McGuirk said he did not have a problem with this. It is an historic use.

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Moved by Mr. McGuirk, seconded by Mr. Sheffert, to grant Petition 13-23 with the condition that the Applicants meet the new pervious maintenance aspect of the Ordinance regarding maintenance and inspection.

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

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

14-23 The petition of Brian and Kathy Ronan for the property located at 20 Susan Lane. The applicant is seeking relief from An Equitable Waiver of a Dimensional Requirement. 4.5.1 Front Yard Setback and 4.5.3 Rear Yard Setback. The property is located on Map 281, Lot 99 in the RB Zone.

Bryan Provencal, representing the Applicants, came forward. Mr. Provencal said they were requesting an Equitable Waiver of a Dimensional Requirement. What happened here was that there were two contractors. When he came on the scene there was already a foundation there. He was told all was good to go. The items in question are eaves that are 19.64 inches in the front where 20 inches are required and 9.64 inches in the rear where 10 inches are required.

Questions from the Board

Chairman O'Brien said they would need to go to the Conservation Commission for the shed. Mr. Provencal said that would not be necessary because the shed would be taken down. Chairman O'Brien said that there was no signature page on the application. He said if this is approved that would have to be rectified.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Ms. De Vries, seconded by Ms. Duggan, to grant Petition 14-23 contingent upon approval by the Conservation Commission re the shed or removal of said shed.

Chairman O'Brien asked the Board if the four criteria had been met. All members agreed that they had.

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

15-23 The petition of David and Elizabeth Dally for the property located at 109 Kings Highway. The applicants are seeking relief from Articles IV Dimensional Requirements. Section 4.5.2 Side Setback. Requirement is 10 Feet. Proposed is 7.4

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feet (8.0 Existing). Section 4.5.3 Rear Setback. Requirement is 10 Feet. Proposed is 3.8 feet (existing). Article 1.3. Expansion of nonconforming use. Adding a partial second story.

David Dally, Applicant, and Paul Anastasi came forward. Mr. Dally said he wants to make the existing structure FEMA compliant and to add a 435 sq. ft. second floor living space on a portion of the existing structure. The base will be at the existing footprint. This will make a better use for family. Mr. Anastasi went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. De Vries asked if there was a shared decking between the two structures. Mr. Anastasi said there was. Ms. De Vries asked if this was to make just 109 Kings Highway FEMA compliant. Mr. Anastasi said yes, 111 Kings Highway has already been done.

Mr. McGuirk said there were some inconsistencies on the tax card. He offered to speak to Mr. Tinker and take care of this issue.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. De Vries said this looks like a good project. The Applicant has been responsible and there is no one in opposition.

Moved by Ms. De Vries, seconded by Mr. McGuirk, to grant Petition 15-23.

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

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

BUSINESS SESSION

Approval of Minutes

Moved by Ms. Duggan, seconded by Mr. McGuirk, to approve the Minutes of March 16, 2023 as amended.

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

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Miscellaneous

Chairman O'Brien said the Master Plan Implementation Committee needs a representative from the Zoning Board. Ms. De Vries will be the rep and Ms. Duggan will be the alternate. Zoning Board representatives to other committees were reviewed.

Chairman O'Brien said Nancy Stiles from the Hampton Beach Area Commission has invited members to a presentation next Thursday at 11:00 a.m. This will be followed with a tour of three sections of the beach area.

Ms. De Vries said there will be a Planning and Zoning conference on April 29th. This is a good refresher.

Adjournment

Moved by Mr. McGuirk, seconded by Mr. Sheffert, to adjourn the meeting at 8:52 p.m.

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

Respectfully submitted,

Joan Rice
Secretary