

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
May 18, 2023**

Members Present

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

Others Present

Dennis Howes, Assistant Building Inspector

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.

PETITION SESSION

16-23..The petition for relief of Maura Pare & Christine Pelkey, Trustee, Maura Pare Family Trust for the property located at 1 Dumas Avenue. The applicant is petitioning for Variance relief from the following Articles of the Zoning Ordinance. Article I Section 1.3 expand non-conforming front setback. Section 1.3 expand non-conforming two family use, Article III Section 3.3 two family in RA. Article IV Section 4.5.1 front setback, Section 4.5.2 side setbacks, Section 4.5.3 rear setback. Applicant proposes to remove existing structure and construct a new structure containing two dwelling units. The property is located on Map 256, Lot 1 in the RA Zone.

Attorney Dustin Pasay came forward.

At this time Chairman O'Brien said he had reviewed the package and noticed there are some problems with the notification. He said the Board would not be able to go forward until this is corrected. Two abutters were not notified and the applicant failed to apply for

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the buffer to buffer 2.3.7C4 and the 12 foot separation from the Wetlands Conservation District 4.9. The two abutters missed are the motel on Ocean Blvd. and 6 Dumas Ave.

Attorney Pasay said they use an automatic list for abutters and apparently these two were missed. Ms. De Vries asked if it would be possible for any abutter present to speak. Chairman O'Brien said the proposal may change so they would also have to be present when the application is heard later. If, however, an abutter is present he or she may speak if they so wish.

Jacquelyn Cavanagh, 6 Dumas Ave., said going back to April 2021 she was apparently on an abutters list. The meeting was held virtually. She got in the que to speak. Then some issues were brought up and she did not get to speak. Chairman O'Brien said there were some title issues and the Board asked the applicant to come back. Ms. Cavanagh said when this was again on the Agenda, an attorney spoke for about 25 minutes and again she was not able to speak. Now she is not on the abutters list. Ms. De Vries asked if Ms. Cavanagh believed this should be postponed. Ms. Cavanagh said she did.

Attorney Pasay said they would like to withdraw and resubmit. Chairman O'Brien reminded Attorney Pasay that the abutters list must be correct and they must apply for 2.3.7C4 and 4.9.

Moved by Ms. De Vries, seconded by Ms. Duggan, to allow Petition 16-23 to be withdrawn without prejudice.

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

17-23. The petition for relief of Patricia Donald McGowan for the property located at 24 North Shore Road. The applicant is petitioning for a Special Exception from Zoning Ordinance Article 21, Section 21.2, Location. Applicant is seeking relief from the Zoning Board of Adjustment to allow Short Term Rentals at the aforementioned property address. The property is located on Map 131, Lot 8 in the RA Zone.

Patricia McGowan, Applicant, said she wants to continue short-term rentals on her property. Ms. McGowan said she purchased the home in 2018 and her intention was to retire. Prior to purchasing she was assured she could have the short-term rentals. The Building Inspector granted the Certificate of Rental Occupancy for a period of 10 years. This year Ms. McGowan said she received a letter from Building Inspector Paul King saying it was okay to do long term rentals of 30 days or more. Few can afford a long term stay like that. Ms. McGowan said Mr. King said she should apply for a Special Exception from the Zoning Board. Ms. McGowan also explained that she is a nurse and because of Covid she was sometimes not able to be on site herself. Ms. McGowan said she already has reservations for this summer.

Questions from the Board

Mr. McGuirk said the Certificate of Occupancy was issued for 10 years and he was not sure what the legality of just revoking this is. Mr. McGuirk said he would like to have some legal

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interpretation of this. In March 2023, a warrant article was passed which would revoke Ms. McGowan's ability to have these short-term rentals.

Ms. De Vries agreed that a legal opinion was needed.

Chairman O'Brien noted that Ms. McGown is the only individual who had a Certificate of Occupancy outside of the short-term rental area.

Comments from the Audience

Eileen McEachern, 20 North Shore Road, said she is a direct abutter. She said she opposes this request. She said because it is a commercial property she and her husband never know who is next door. There are others who are also opposed. Ms. McEachern said sometimes there is drinking, loud noise and foul language. She said she fears for the safety of her grandchildren when they visit.

Mr. McGuirk said the zoning change is what matters.

Bob Phair, 44 North Shore Road, read a letter from Ann Barclay opposing the granting of a Special Exception.

John McEachern, 20 North Shore Road, said he opposes the Special Exception. He said prior zoning does not say you can run a short-term rental operation. If it is not permitted, it is prohibited. Mr. McEachern said this would destroy single-family zoning.

Jeffrey Shreck, 28 North Shore Road, said he is next door to loud parties. Ms. McGowan has said this is under control, but sometimes she is there and sometimes not. Mr. Shreck said they always hear the partying. Ms. McGowan was told not to do this anymore. At times there are more than 10 people in that house and the septic system is a worry. This could only cause problems.

Ms. De Vries gave a reminder that the Zoning Board is not an enforcement body. The Building Department handles enforcement. She said these short-term rentals are party places.

Sandra Lally, 20 Edgewood Drive, said when the first letter was received Scott McDonald said it was okay to do short-term rentals. Ms. Cavanagh did everything asked and the permit was received. The permit that was issued to her should be honored.

Back to the Board

Mr. McGuirk said he agreed that anybody there less than 7 days is going to be there for a party. Mr. McGuirk asked Ms. McGowan if she received a letter to cease and desist after she received this permit. Ms. McGowan said it was received prior to that. Mr. McGuirk said this was revoked because of the approval of the warrant article at the March 23, 2023 Town Meeting.

Ms. De Vries said rental occupancy was granted and then 5-1/2 months later Ms. McGowan was told to cease and desist. Now 2 years later it is still being rented out short-term.

Mr. McGuirk asked if there was any action from this letter. Ms. McGowan said she was told to stop the weekends. Mr. McGuirk noted that Ms. McGowan had weekenders on her current log. Mr. McGuirk said he was not in favor of granting this. This Board cannot give

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any legal interpretation. Chairman O'Brien said he would ask the Town Manager for legal support. This should be continued.

Mr. McGuirk advised Ms. McGowan to obtain her own attorney. Any legal guidance from the Town is for the Board only.

Moved by Ms. De Vries, seconded by Mr. McGuirk, to continue Petition 17-23 until next month's meeting.

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

BUSINESS SESSION

Approval of Minutes

Moved by Ms De Vries, seconded by Mr. McGuirk, to approve the Minutes of February 16, 2023 as amended.

Vote: 3 yes, 0 no, 2 abstentions (Duggan, Sheffert). Motion passed.

Moved by Ms. De Vries, seconded by Ms. Duggan, to approve the Minutes of April 20, 2023 as amended.

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

Application & Instructions

Chairman O'Brien said he had made some minor adjustments.

Moved by Ms. De Vries, seconded by Mr. Sheffert, to approve the ZBA Application package as amended.

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

Rules of Procedure

Chairman O'Brien said no changes were made to the previously reviewed Rules of Procedure.

Adjournment

Moved by Mr. McGuirk, seconded by Mr. Sheffert, to adjourn the meeting at 9:08 p.m.

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

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Respectfully submitted,

Joan Rice

Secretary