

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Draft
September 17, 2020
Teleconference Meeting

Members Present

Bryan Provencal, Chairman
Norma Collins
Anne Bialobrzeski
Tom McGuirk
Bill O'Brien,

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.

PETITION SESSION

18-20...The continued petition of Craig S & Amanda L Field for property located at 37 Ann's Lane seeking relief from Article(s) Article IV Table II Section 4.2 and footnote 22 and 4.3 to subdivide the 1.26 acre parcel into two lots. The existing structures are all located I the northwestern portion of the lot and the intent is to maintain 125' of frontage for the front parcel ("Parcel A"). The second parcel ("Parcel B") will be situated on the back portion (southern) of the current lot with a driveway extending down the eastern portion of the lot with a 28.46' of frontage. This subdivision plan precludes the proposed lots from meeting of the zoning requirements. This property is located on Map 127, Lot 20 and in the RA Zone.

Ms. Biablobrzeski said there was a letter asking for continuance.

Moved by Mr. O'Brien, seconded by Ms. Collins, to deny the request for continuance for Petition 18-20.

Roll Call Vote: 3 yes, 0 no, 2 abstentions (McGurik,Provencal). Motion passed.

Mr. O'Brien said if the petitioners want to come back they will have to reapply.

Attorney James Scully said they would like to withdraw.

Moved by Mr. O'Brien, seconded by Ms. Collins, to allow Petition 18-20 to be withdrawn.

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

38-20...The continued petition of Raymond A & Sheila A Buttaro, Trustees of Chimera Realty Trust for property located at 157 High Street seeking relief from Article(s) Art. 1, Sec. 1.3; Art. VI, Sec. 6.3.1. Art. VIII. Sec. 8.2.1,8.2.3, 8.2.4, 8.2.5 (first sentence only) 8.2.6 to remove existing garage and replace with new four (4) bay garage with two (2) apartments above. Currently existing eight (8) units in main structure, a basement unit to be removed leaving a total of nine (9) units for this site. This property is located on Map 162, Lot 40 and in the POR Zone.

The applicant did not call in to the meeting.

Moved by Mr. O'Brien, seconded by Ms. Bialobrzkeski to continue Petition 38-20.

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

40-20...The petition of David Grzybowski & Diana Daniels for property located at 237 Mill Road seeking relief from Article(s) 4.2 (for both "Lot 1 and Lot 2"). The Applicant intends on subdividing the lot located at 237 Mill Road into two lots labeled on the Plan as "Lot1" and "Lot 2". Both lots require frontage relief as they do not meet Zoning Ordinance Article 4.2 for the RA Zone. This property is located on Map 72, Lot 27 and in the RA Zone.

Mr. O'Brien said he felt the applicant needs relief from 2.5.4.e.11.

Attorney Scully said it was their opinion that the 400' radius from a well does not apply in this case. This well preceded that rule.

Chairman Provencal said the applicants are asking for frontage relief and this Board does not have jurisdiction on the well issue and it will probably go to legal. Chairman Provencal said this Board should address only what the applicants are asking for in this petition.

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

Questions from the Board

Ms. Bialobrzkeski asked if there was a barn behind the house. Attorney Scully said there is a barn with garage spaces. It is attached to the dwelling structure.

Ms. Collins asked why more room wasn't given to the first lot since lot 2 is so large. Chairman Provencal said that was because of the 30,000 square foot minimum.

Comments from the Audience

Carl McMoran, Operating Manager for Aquarian, said he was here to resubmit objections given at the August meeting. Chairman Provencal said the well was not going to be discussed at this meeting. Mr. McMoran said this petition is not in the public interest.

Back to the Board

Ms. Bialobrzkeski said in 1999 when the Wayside Road subdivision was approved the Planning Board made sure that the 400' radius was respected. Having a house this close to the well threatens the water supply. She said it is important to protect that because that is where we get our water. Also the lot does not meet the 25% impervious limit. Neither lot meets 4.3.

Moved by Ms. Bialobrzkeski to deny the requested variances based on the fact that this petition does not meet the required criteria.

There was no second.

Attorney Scully asked to withdraw.

Moved by Ms. Bialobrzkeski , seconded by Ms. Collins, to deny Petition 40-20 because it does not meet the required criteria. It is not in the public interest because it threatens the water supply and takes one non-conforming lot and makes it into two non-conforming lots.

Roll Call Vote: 4 yes, 1 no (Provencal). Motion passed.

41-20...The petition of Tyler Olbres, Trustees of Yankee Faust Trust for property located at Lafayette Rd. and Drakeside Rd. seeking relief from Article(s) 2.8.G1.2/minimum frontage and 2.8.F/Allowed Uses to construct 3 single-family dwellings on three to be subdivided lots (one dwelling per lot). This property is located on Map 189, Lot 14 and in the TC-S Zone.

Attorney John Soekel said they are requesting two variances to allow three residential buildings where single family dwellings are not allowed. There is an existing structure which is a very historic building. A plan was previously brought to the Planning Board for six units, but they said they would require less density.

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

Questions from the Board

Mr. McGuirk said the drawings in the package did not match the plans. The buildings would not fit in the footprints..

Chairman Provencal asked if the applicant would like to remove the drawings from the record. Attorney Soekel said they would.

Mr. O'Brien said he agreed with Mr. McGuirk.

Attorney Soekel said this is a very preliminary conceptual stage. Chairman Provencal said this Board is not going to approve something conceptual.

Ms. Bialobrzkeski said the applicant wants one point of access to three single family houses that are not permitted in this zone. She said the applicant is taking different aspects of requirements to get these three houses too close together.

Ms. Collins said she agreed this was better than a large multi-family situation. But there are two issues . One is Town Center South and the other is the deed restriction. Chairman Provencal said this Board cannot deny on a deed restriction.

Ms. Bialobrzkeski said the applicant notified Historic New England when they went to the Planning Board. She asked why they were not notified of this meeting.

Ms. Bialobrzkeski said she received a letter today from Historic New England requesting the Board to deny this petition. She read the letter.

Mr. McGuirk noted that a duplex would not require Article 8. You could put four units (two duplexes) without needing any variances. Mr. McGuirk said he thought this is what the Planning Board was asking for. Mr. McGuirk said this petition does not meet all five criteria.

Mr. O'Brien said he did not see a hardship.

Attorney Soekel said they would like to withdraw.

Moved by Ms. Collins, seconded by Ms. Bialobrzkeski, to allow Petition 41-20 to be withdrawn without prejudice.

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

42-20...The petition of Dockham Builders for property located at 5 Harris Avenue seeking relief from Article(s) 4.5.2 Side Setback to construct a 24' x 26' (624 SF) one-story rear

addition to an existing home located at 5 Harris Avenue. The proposed addition would setback 2'6" from the side property line, consistent with the alignment of the existing building, to the drip edge. In June, this project was granted an approval for a 5' setback. After working with the Building Inspector and having the property surveyed, we found that additional relief was needed. This property is located on Map 295, Lot 14 and in the RB Zone.

Jeff Kessel, Dockham Builders, said they came before the Board in June without a survey. An approval was received at this time. Construction began and the Building Inspector raised some concerns. The new building was 5'5" from the property line. The drip edge went over. The Building Inspector felt it would be best to come back to the Board and re-apply.

Mr. Kessel went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman Provencal asked that if this were denied, the soffit could be cut off and it would work. Mr. Kessel said yes.

Mr. O'Brien said there was always a 2' soffit and all that is being done is going back.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. McGuirk said the house looks really good.

Ms. Bialobrzkeski said the only thing she was concerned about it is that there might be an issue with the pervious. They have to be sure to comply with the 60' pervious.

Moved by Chairman Provencal, seconded by Mr. O'Brien, to grant Petition 42-20.

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.

43-20...The petition of Ralph Carpinella, Trustee of the Carpinella Family Trust for property located at 4 Second Street seeking relief from Article(s) 4.5.1, 4.5.2 and 4.5.3 to demolish both of the nonconforming dwellings now on the property and replace them with

a smaller building than previously proposed and which would be more in conformity with the ordinance. This property is located on Map 223, Lot 53 and in the RA Zone.

Attorney Peter Saari, Casassa & Ryan, and Joe Coronati, Jones & Beach, came on the line. Attorney Saari said last time the Board said the building was too large. They have been working on it. It has been substantially reduced in size. There are five parking spaces. The design allows elimination of the problem with sealed surface. This will enhance the neighborhood. Attorney Saari went through the five criteria and said he felt they have been met.

Questions from the Board

Setbacks were discussed. Mr. O'Brien asked about air conditioning. Mr. Coronati said that they have not talked about that. He said if the Board grants 8'9" to the overhang on Kings Highway side the air conditioner could be put there and not violate the ordinance. Mr. Coronati asked if air conditioners are considered part of the building. Chairman Provencal said that they are. Mr. O'Brien cited the rule confirming this.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Bialobrzkeski said she is still concerned about the fact that the front setback is way closer than what was approved on the other lot right next to it. The lawn in front is occupying more of the right of way so that Second Street is being usurped. Ms. Bialobrzkeski said she has a problem with the front setback.

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 43-20.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said they had with the exception of Ms. Bialobrzkeski who said they had not.

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

44-20...The petition of Jeffrey & Michaela Scott for property located at 12 Bradstreet Road seeking relief from Article(s) 4.5.1 and 4.8.a to construct farmer's porch with hipped roof on front of home. Porch 7' x 29' (9' x 29' drip edge to foundation). This property is located on Map 193, Lot 25 and in the RA Zone.

Michaela Scott, Applicant, came on the line. She said they want to construct a farmer's porch. They need two variances, one for the front setback and one for impervious surface.

She said she felt this addition would enhance the neighborhood. Ms. Scott went through the five criteria and said she felt they had been met.

Questions from the Board

Ms. Collins said this was a nice project.

Mr. O'Brien said there was 16 feet to the overhang so it is 18 feet to the porch itself. Ms. Scott 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 44-20. There will be 16 feet to the overhang and 18 feet to the porch.

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.

45-20...The petition of Jeffrey & Jennifer McCarthy for property located at 1080 Ocean Boulevard seeking relief from Article(s) 4.5.1, 4.5.2, 4.5.3, 2.3.7.C.4 to demolish the existing single family dwelling and construct a new home. As is depicted on the plans, this new proposed home will be more in conformity to the Zoning Ordinances established by the Town of Hampton than the existing structure. This property is located on Map 99, Lot 10/1 and in the RA Zone.

Attorney James Scully read a letter from the Conservation Commission saying they do not oppose what is being asked for tonight. There is still more information needed and they will meet at a later date. Attorney Scully also noted three letters of support that had been received.

Henry Boyd, Millennial Engineering, gave an overview. He said the driveway they had originally proposed has been changed due to safety concerns. There will be a side entry to the garage instead. Sealed surface is presently 30.2% and will be reduced by 10%. There is an existing paved parking area that will be removed. There will be improvements to the setbacks on all sides.

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

Questions from the Board

Ms. Collins asked about the size of the driveway. Mr. Boyd said there will be two parking spaces in the garage and room for two or three more in the driveway.

Ms. Biablobrzeski asked if they were working on getting a wetlands permit. Mr. Boyd said they were.

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 45-20 for 1080 Ocean Blvd. for 4.5.2 and 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.

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

46-20...The petition of 22 Drakeside, LLC for property located at 239 Drakeside Road seeking relief from Article(s) 4.1.1, 8.2.3, 8.2.4, 8.2.6 to construct four (4) single family homes with associated drive and parking that will be connected to town sewer and to renovate the existing office building into four residential units. This property is located on Map 157, Lot 2 and in the G Zone.

Attorney James Scully and Joe Coronati came on the line. Attorney Scully said the intent is to take the existing building and convert it into four residential units and to place four single family homes to the rear..

Mr. Coronati said this property has been around for many years. It has been unoccupied and it is overgrown. The homes would be small starter homes with a one-car garage. There will be room for one car in the garage and one car outside. The existing building would be renovated into four units which could be for rent or sale. There will be a recreational area for each unit.

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

Questions from the Board

Mr. O'Brien asked why they were asking for 4.1.1. Attorney Scully said it was for density.

Comments from the Audience

Jody B., 245 Drakeside Road, said she lives next door to this property. She said according to law 3 units are allowed and the applicants are proposing 8 units. She said she was also concerned about having four houses in her backyard without a buffer. This will change the character of the neighborhood and her property value would be impacted.

Richard Barry, Hampton Woods #4, said he was the Association President. Hampton Woods residents are completely opposed to this project. There is not room to do this. There is a petition signed by 23 people opposing this. There will also be safety issues. There is a potential for 16 cars. The lot is not big enough. There is also a dog park that the residents enjoy. This will be lost

Connie Wittel, Hampton Woods, said she agreed with Mr. Barry

Attorney Scully said the intent is to make this project tasteful and they will move the homes as far away from the neighbor as possible. There will also be landscaping. There are 16 parking spaces because that many are required by law. The dog park would not be disturbed.

Back to the Board

Mr. O'Brien said he was concerned about 4.1.1. Ms. Collins said this is a very dense project and the character of the neighborhood would be changed.

Ms. Bialobrzkeski said she felt they could improve the building by having 3 or 4 units, but 8 units is overkill. This can be developed according to the ordinance. This is asking for three times the density the ordinance allows.

Attorney Scully asked to withdraw without prejudice.

Moved by Mr. O'Brien, seconded by Ms. Collins, to allow Petition 46-20 to be withdrawn without prejudice.

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

47-20...The petition of Elaine & Frederick Ayotte / J. Hunter Properties, LLC for property located at 465/467 Ocean Boulevard seeking relief from Article(s) 4.1.1, 4.4 to merge 465 and 467 Ocean Boulevard into one lot, demolish the existing building located at 467 Ocean

Boulevard and construct an eight unit condominium building on the site. This property is located on Map266, Lots 31/32 and in the BS Zone.

At this time Mr. McGuirk stepped down from the Board.

Attorney James Scully and Joe Coronati came on the line. Attorney Scully said the intent is to take two lots and make one lot and construct an 8-unit condo.

Mr. Coronati said the units would have views of the marsh and ocean. There will be parking behind the building. There are 17 spaces. This would be an upgrade to the area and fill up a vacant lot.

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

Questions from the Board

Chairman Provencal asked about building height at the top of the living space. Mr. Coronati said that is 50 feet. Then you have to add the average grade plan. Chairman Provencal asked about the height of the ridge. Mr. Coronati said that was 58'11". They have asked for 61' to be safe.

Mr. O'Brien asked if the staircase in front of the building opens up at street level. Attorney Scully said yes.

A discussion continued about the disparity in drawings concerning the staircase and parking spaces. Chairman Provencal said there were only 8 spaces, not 9 in the basement. Mr. O'Brien said drawings of the basement need to be redone. Mr. O'Brien said he wanted to see consistent drawings.

Ms. Bialobrzkeski said she had a concern about the driveway encompassing a cross easement on the other property. Mr. O'Brien asked that this be checked out.

Moved by Mr. O'Brien, seconded by Ms. Collins, to continue Petition 47-20 at the next meeting at which time it will be first on the Agenda.

Roll Call Vote: 4 yes, 0 no. Motion passed unanimously.

Mr. O'Brien asked that the Applicant have the Building Inspector look over whatever changes are made.

At this time Mr. McGuirk stepped back up to the Board.

Moved by Mr. O'Brien, seconded by Ms. Collins, to move into Business Session.

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

BUSINESS SESSION

Approval of Minutes

Moved by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of August 20, 2020 as amended.

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

Moved by Mr. O'Brien, seconded by Chairman Provencal, to approve the Minutes of June 18, 2020 as amended.

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

Adjournment

Moved by Mr. McGuirk, seconded by Ms. Bialobrzkeski, to adjourn the meeting at 10:31 p.m

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