

**HAMPTON ZONING BOARD OF ADJUSTMENT**  
**MINUTES – Draft**  
**October 15, 2020**  
**Teleconference Meeting**

**Members Present**

Bryan Provencal, Chairman  
Norma Collins  
Anne Bialobrzkeski  
Tom McGuirk  
Bill O'Brien  
Greg Grady, Alternate

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**

At this time Mr. McGuirk stepped down from the Board and Mr. Grady stepped up to the Board.

**47-20...**The continued 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 Map 266, Lots 31/32 and in the BS Zone.

Attorney James Scully said that last month there was a conflict between the plot plans and the architectural plans. The intent is for 465 and 467 to be merged into one lot. 467 has a structure on it which would be demolished and a condo built in its place. Height and density relief is needed. Attorney Scully went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Grady said he was confused about the front stairwell. Attorney Scully said it will go down to the first floor. It will not go to the basement.

Ms. Collins asked about parking spaces. Chairman Provencal said they have 9 spaces.

Mr. O'Brien said he saw an elevator shaft. Attorney Scully said that was 18 feet above the last level. Mr. O'Brien said a letter had been received from Steve LaBranche expressing a lot of concerns. Attorney Scully said these improvements will actually be better for Mr. LaBranche. Attorney Scully said he did not feel traffic would increase and this would be a safer environment. The petitioners are trying to create a nicer access for themselves and the abutter.

Ms. Collins asked about enough traffic room. Attorney Scully said two vehicles could pass at 22 feet and turning radius is in the plans.

Chairman Provencal said he felt this is a plan that works. The Planning Board will address a lot of these issues.

*Comments from the Audience*

Steve La Branche, 469 Ocean Blvd., said he had the following concerns. He did not give his permission for any changes to the easement. This property is not like others in the area. There will be increased traffic. There is the concern about enough room to enter and exit. Mr. LaBranche said he felt his property will be put at high risk of having someone drive into it. Mr. LaBranche asked why the driveway and building couldn't swap positions. The proposed driveway is within one foot of his house. A common driveway would have to be elevated and this would restrict his ability to use his back yard. This project would affect the value of his property.

Rita \_\_\_\_\_, said she was the president of the Sea Breeze Condo Assn. She said all Sea Breeze residents are in unity with Mr. LaBranche. Sea Breeze windows will be obstructed. There will also be headlights and gas fumes. Chairman Provencal said the garage will be in the basement so no worries about headlights and gas fumes. Ms. \_\_\_\_\_ said this does not meet the hardship criteria. She said she is also worried about green space and drainage. Chairman Provencal said those items will be addressed by the PRC and then the Planning Board.

Virginia Tupin said she owns a condo at Sea Breeze. She said she was opposed to the project. A smaller 3-story building would be much better.

*Back to the Board*

Ms. Bialobrzkeski said by her count there are approximately 80 properties from Island Path to Winnacunnet Road. There are five structures over 50 feet in height, so saying this would blend in is not correct. Also there is no reason to grant a height variance to house units that are not permitted. There is also the issue of pervious surface.

Mr. O'Brien asked about total building height. Attorney Scully said it was 60'11" to the top of the elevator shaft.

Chairman Provencal explained why the building could not be on the other side.

Ms. Bialobrzkeski said she did not see why a 5-unit building could not be built. This would meet the ordinance.

Chairman Provencal said he didn't think they are overbuilding. Living space stops at 50 feet. The other is architectural detail.

**Moved** by Chairman Provencal, seconded by Mr. O'Brien, to grant Petition 47-20 with the condition that the front of the building is to be illuminated with lighting year round. Any changes to the front decks must be approved by the Zoning Board.

Chairman Provencal asked the Board if the five criteria had been met. All members said that they had with the exception of Ms. Bialobrzkeski.

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

At this time Mr. Grady stepped down from the Board and Mr. McGuirk stepped up to the Board. Mr. McGuirk said he had some items he would like to discuss during the Business Session.

**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.

Raymond Buttaro, Applicant, said he wants to take down a 70-year old garage and build a new 4-car garage with two units over it. He will remove the basement unit and have a total of 9 units. Mr. Buttaro went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. O'Brien asked if the storage in back on the lower level would be gone. Mr. Buttaro said it would be gone.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Ms. Collins said all of the improvements are very good.

**Moved** by Ms. Bialobrzkeski, seconded by Chairman Provencal, to grant Petition 38-20 with the condition that there be no basement in the garage.

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.

**48-20...**The petition of Donald & Sharon Groele for property located at 31 Epping Avenue seeking relief from Article(s) 4, Section 4.5.2 (side setback) to add one York Model YFD 24B 24,000 BTU air conditioning unit to rear building with an outdoor condenser measuring 24" x 24" x 30" high with a sound level of 70.7 DBA on a 3' x 3' pad/stand. This property is located on Map 299, Lot 11 and in the RB Zone.

Donald Groele, Applicant, said he wants to add central air to his home. Mr. Groele went through the five criteria and said he felt they had been met.

*Questions from the Board*

Ms. Collins asked if the abutter has been heard from. Chairman Provencal said no.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Ms. Bialobrzkeski said she was okay with this project. She said the new flood maps will take effect soon. It is possible the Applicant might be in the flood zone so he must be careful. Mr. Groele said they are taking that into consideration.

**Moved** by Ms. Collins, seconded by Mr. McGuirk, to grant Petition 48-20 with the condition that the air conditioner be set at the rear of the building.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said that they did.

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

**49-20...**The 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, Casassa & Ryan, said this is a 100-year old home. Construction, mechanics, etc. are all out of date. The intention is to also get rid of the rear building which is non-conforming. There is plenty of parking. There will be no inconvenience to the public. Many letters of support have been received from abutters. Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Chairman Provencal said the existing roof overhang is over the property line. He asked if the proposed building would be within the same footprint. Chairman Provencal said relief could not be given to build over the property line. Ms. Bialobrzkeski said the plan shows it is over the property line. Chairman Provencal said you can't build it back after you take it down. Attorney Saari said it does not go over the property line.

Mr. O'Brien said the plan for the third floor shows a fireplace. He asked where they would vent. The architect replied it would vent out the back. Ms. Collins asked about drainage. The architect said drainage would be out the back on the right side.

Chairman Provencal asked how much of the original structure would be saved. The architect replied that all would be saved. Mr. O'Brien asked if the original foundation would be changed. The architect replied that it would be reinforced.

Mr. McGuirk said he saw property markers all over the place. They are either out of place or the survey is incorrect. Ms. Bialobrzkeski noted that there is no survey stamp on the plan. She said this is concerning.

*Comments from the Audience*

Frank Timioi said he has the property to the south. He said his concern is the height of the garage. This could affect his view of the ocean and lower his property value.

*Back to the Board*

Mr. McGuirk discussed the loss of a view. He said no one has a right to this. Ms. Bialobrzkeski said you cannot restrict someone building to the height that is allowed.

Mr. McGuirk said if they want to build a third floor the entire house must be town down.

Ms. Bialobrzkeski said the Board does not know where the property lines are and there is no confirmation with a land surveyor's stamp. Mr. O'Brien said a surveyor's stamp is needed and also a confirmation from a structural engineer saying the existing foundation will support the structure.

Chairman Provencal asked if the Applicant would like to continue next month and bring the documentation requested by Mr. O'Brien. Attorney Saari agreed to this

**Moved** by Mr. O'Brien, seconded by Ms. Bialobrzkeski, to continue Petition 49-20 to the next meeting at which time it will be first on the Agenda. Applicant will come with additional information requested by the Board.

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

**50-20...**The petition of Adam Denio & Jessica Smith for property located at 6 Reuben's Driftway seeking relief from Article(s) 8.2.3 to remove the existing and dilapidated 16' wide by 6' long deck on the rear of our home with an 18' by 18' deck that conforms to building safety standards and offers safe egress from our home to ground level. This property is located on Map 209, Lot 111 and in the RB Zone.

Adam Denio, Applicant, said they want to remove the existing and dilapidated deck on the rear of their home and replace it with a deck that meets safety standards. Their Esker Road abutter is in favor of the project. Mr. Denio went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. O'Brien asked if the Board grants the 18' x 18' deck, will the stairs go to the ground. Mr. Denio said that was correct.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Ms. Bialobrzkeski said she felt the application was complete and it was a good project.

Mr. O'Brien asked about the stairs. Mr. Denio said the stairs will come off towards the driveway. Ms. Smith said the plan shows that the stairs will come down next to the retaining wall next to the driveway. Mr. McGuirk said he had no problem with this project.

**Moved** by Ms. Collins, seconded by Ms. Bialobrzkeski, to grant Petition 50-20 with the condition that the stairs be outside the 40' setback.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said that they did.

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

**51-20...**The petition of Kishbaugh Revocable Trust, Levi & Mary Kishbaugh, Trustees for property located at 233 Mill Road seeking relief from Article(s) 1.3, 4.5.2 to construct a previously approved ADU. When applicant went to apply for a building permit, it was discovered that the new ADU which will be built above the garage requires variance relief. A deck is also being constructed on the rear of the home and relief is also necessary. This property is located on Map 72, Lot 28 and in the RA Zone.

Attorney Scully said this home was constructed in 1864. When the applicant went to obtain a building permit it was found that variances were needed for an encroachment to the side setback. Attorney Scully went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. O'Brien asked how much of a setback is needed on the rear of the garage. Attorney Scully replied 11' where 15' is required. Mr. O'Brien said the deck is 8' x 14' and therefore no relief is needed for the deck. Attorney Scully said that was correct. Ms. Bialobrzkeski said she was not concerned because a stone wall has been there for years.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Ms. Bialobrzkeski, seconded by Mr. O'Brien, to grant Petition 51-20 on the condition that there is no further encroachment on the 10'6" side setback and the deck gets no relief.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members said that they did.

**Roll Call 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 17, 2020 as amended.

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

**Adjournment**

**Moved** by Ms. Bialobrzkeski, seconded by Mr. McGuirk, to adjourn the meeting at 9:44 p.m

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

Respectfully submitted,

Joan Rice  
Secretary