

# Hull Zoning Board of Appeals

Minutes

April 21, 2016

The April 21, 2016 meeting of the Board of Appeals was held at 7:30 p.m. at the Hull Municipal Building, 253 Atlantic Ave., Hull, Massachusetts.

Members present: Neil Kane, Chair  
Patrick Finn, Clerk  
Andrew Corson, Alternate

## Public Hearing: 37 Beach Ave.

**Start Time:** 7:50 p.m.

**Sitting:** Kane, Finn, Corson

**Applicant:** Margaret and Aram Donabed

**Opening of Public Hearing regarding 37 Beach Ave:** To apply for a special permit to increase the size of an existing rear deck pursuant to Section 61, Non-conforming Uses, para 61-2, sub para f, Pre-existing Structures.

### Summary of Discussion:

The appellants would like to increase the size of an existing rear deck, pushing it out five feet, which would exceed the setback allowance. Finn noted that the applicants would be adding an extension of about 3'6" x 9'. Corson noted that this would put the deck 6.4' from the street, which is less than the required 10'.

Finn read a notarized letter from Erla Esposito, the owner of 32 Malta St., an abutter, stating that she opposed the deck, as it affects the value of her property and blocks the view. She would like the board to meet her at the site, as she was unable to attend this meeting. Finn noted that the meeting was duly posted and advertised and that it is her obligation to attend if she has an objection. He made a motion to not have a site visit, which was seconded by Corson and passed unanimously.

Finn read the Building Department's letter denying the applicant a building permit on the grounds of "existing and proposed side setback is less than required." He further noted that this is a pre-existing non-conformity and therefore needs a special permit based on whether or not it is substantially more detrimental to the character of the neighborhood.

**Action taken:** On a motion by Finn, seconded by Corson, the Board voted unanimously to grant a special permit to Margaret and Aram Donabed at 37 Beach Ave. to increase the size of an existing rear deck by approximately 3.6' closer to Malta St, and approximately 9' in length, with the following conditions:

(a) Compliance with all applicable laws and codes of the Commonwealth of Massachusetts and the Town of Hull is required;

(b) The construction shall be done substantially in conformance, according to the plans, as submitted to the Board on September 15, 2015, by Nantasket Survey Engineering.

(c) The owners shall submit an application for a building permit, to the extent necessary, along with an updated copy of a plot plan or survey, and an updated building plan, to the extent necessary, to the Building Commissioner for his review and approval in order to ascertain whether the proposed mixed use structure is in compliance with all code requirements for Business/Residential use.

(d) Following construction, no further expansion, change or alteration of the structure (vertically or horizontally) or extension, change or alteration of the structure into any setback areas (front, side or rear) shall be permitted at any future date, unless an application is submitted to the Board and a written decision is issued approving the proposed expansion or extension.

**Vote:** Finn        Yes  
Corson        Yes  
Kane        Yes

The hearing was closed at 8:45 p.m.

## **Public Hearing: 25 Hillside Rd.**

**Start Time:** 8:15 p.m.

**Sitting:** Kane, Finn, Corson

**Applicant:** Kevin Browne

**Opening of Public Hearing:** To apply for a special permit to add a second floor deck on side above existing deck, pursuant to Section 61, Non-conforming Uses, para 61-2, sub para f, Pre-existing structures.

### **Summary of Discussion:**

The appellant has renovated an existing home at 25 Hillside Rd. and would like to add a new deck on the second floor. This deck is within the footprint of the house and equal in size to the existing deck on the first floor.

Finn noted that the new deck would be within the existing setbacks other than one corner, which would be 7.4' from the street. The other sides would be within 13.2', 15.1', and 10.7' of the street, and all are compliant.

Emily Shannon, of Eastern Avenue was present at the meeting and stated that she had written a letter in opposition to the application. The Board had received the communication. [Note: Ms. Shannon says that they have always identified their property as 11A Eastern Ave., but that the town always identifies it as 13 Eastern Ave.) Shannon said that she had been concerned about the driveway and a retaining wall, and had also worried that the deck would impede her view. She stated that she no longer had these concerns and would like to withdraw her letter. Ms. Shannon's daughters were also in attendance at the meeting and said that their concern had been that there was now a retaining wall next to their parents' property, just where her father took the trash out of the basement. Next to the retaining wall there was a drop to the applicant's driveway and they were concerned about their father falling. Browne assured them and the Board that he would put a fence there so that there would be no possibility of such an occurrence. The abutters were satisfied with this action.

They also expressed concern that a great deal of work had taken place without them being notified. Finn explained that if work is within zoning bylaws, notification does not have to occur. Finn further noted that the only thing the board could take into consideration was whether the proposed change would be substantially more detrimental to the character of the neighborhood. He stated that views could not be taken into consideration.

Mike Lyons, of 12 Eastern Ave. and his wife were present at the meeting. They moved into the house across the street from Browne's two weeks ago and were concerned about the view from their bedroom deck. Again Finn explained that views were not taken into consideration in Hull's bylaws. He also explained that if the property has

an existing nonconformity it is possible to make it more nonconforming with a special permit, and that this applicant is expanding a preexisting nonconformity vertically.

Finn read the building departments letter denying the applicant a building permit and referring him to the Board of Appeals. He further made a motion that the Board not conduct a site visit. This was seconded by Corson and passed unanimously.

**Action taken:** On a motion by Finn, seconded by Corson, the Board voted unanimously to grant a special permit to Kevin Browne to add a second floor deck above an existing deck, approximately 8'x12', according to the plot plan by Nantasket Survey Engineering and design by Duxborough Designs, with the following conditions:

- (a) Compliance with all applicable laws and codes of the Commonwealth of Massachusetts and the Town of Hull is required;
- (b) The construction shall be done substantially in conformance, according to the plans, as submitted to the Board on February 4, 2016, by Nantasket Survey Engineers.
- (c) The owners shall submit an application for a building permit, to the extent necessary, along with an updated copy of a plot plan or survey, and an updated building plan, to the extent necessary, to the Building Commissioner for his review and approval in order to ascertain whether the proposed mixed use structure is in compliance with all code requirements for Business/Residential use.
- (d) Following construction, no further expansion, change or alteration of the structure (vertically or horizontally) or extension, change or alteration of the structure into any setback areas (front, side or rear) shall be permitted at any future date, unless an application is submitted to the Board and a written decision is issued approving the proposed expansion or extension.

**Vote:** Finn      Yes  
Corson      Yes  
Kane      Yes

The hearing was closed at 8:55 p.m.

Recorded by: Catherine Goldhammer

Minutes Approved: \_\_\_\_\_

*J Finn* *Clark* *July 5 2016*