

Hull Zoning Board of Appeals

Minutes

June 16, 2016

The June, 16, 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: 112 Atlantic Avenue

Start Time: 7:35 p.m.

Applicant: William Pellicano

Public Hearing regarding 112 Atlantic Avenue: To apply for a variance/special to permit demolish existing structure; build new structure on raised pilings as per plans pursuant to Hull Zoning Bylaws Section 61, Non-Conforming Uses, para 61-2, sub para f, Pre-Existing Structures.

Summary of Discussion:

This was the opening of a public hearing regarding 112 Atlantic Avenue. William and Kara Pellicano were at the meeting to present their plans for the property. Also present on their behalf were Henry Arnato of HPA Design, and David Ray, of Nantasket Survey Engineering. Arnato did the architectural work for the proposed project. Nantasket Survey Engineering will do the elevation of the building.

Ray stated that the building has been unoccupied since 1991 and is completely noncompliant to FEMA regulations. The applicant would like to tear the building down and rebuild a FEMA-compliant house. The client is also moving the house back further than the house to the left. The proposed elevation would be 35'. This would be a three-floor, 4,200 square-foot house with a wrap-around porch.

Finn read in part, the denial letter from Building Inspector Bartley Kelly, as follows:

"I am in receipt of your building permit application dated May 16, 2016, on which you propose to perform the following work:

"Demo Existing Structure and Build New Home"

After having reviewed said application I have determined that this would be in violation of the Town's Zoning by-law(s).

Section 61, Non-Conforming Uses, paragraph 61-2, sub para f, Pre-Existing Structures.

The proposed addition requires a special permit from the Zoning Board of Appeals. Existing and Proposed side setbacks are less than required."

The following abutters spoke in favor of the project:

- Phil O'Brian, a direct abutter at 114A Atlantic Avenue, stated that the existing structure has become a haven for vermin. He said that he would like a piece cut out of an existing wall so that he could see the road when he pulls out into Atlantic Avenue. He said that the applicant had already agreed to do this.
- Dan Daley, 110 Atlantic Avenue, said that both kids and raccoons had been going into the building and that it is a blight and a fire hazard. He said that it would be wonderful for the neighborhood to have it rebuilt.
- Bill Oliver, 137 Atlantic Avenue, also voiced his support, noting the long vacancy of the building.

Tim Bergin, Atlantic Avenue, asked for more information on the parking, as did Lisa Campbell, 107 Atlantic Avenue. Ray said that there was room for four legal parking spots and that the egress would be on Bath Avenue at the bottom end of the lot nearest to Atlantic Avenue, in order to minimize openings onto Atlantic Avenue.

Finn stated said that the proposed structure would be less nonconforming, but stated that the relief applied for was for a variance/special permit and the variance questionnaire had not been filled out. He also noted that a special permit extends pre-existing nonconformities and to comply with this they may have to keep something of the existing building footprint.

During the meeting, Ray wrote responses to the variance questionnaire, stating that the uniqueness of the property is the narrowness of the lot, as is the hardship. He also said that the new house will improve existing nonconformities.

Finn said that he would like them to revise their plans; speak to the police chief about getting a curb cut; clarify the height issue; and do a more thorough variance questionnaire. Ray questioned whether the curb cut information was appropriate to require for zoning relief, as it can take up to two months to get a response. Corson said that the relief can be conditional on obtaining the curb cut.

Arnato said that at the site visit conducted prior to the meeting by members of the board, he became aware that the 35' height restriction might not be an absolute ceiling and asked if it would be permissible to go 18" higher to allow a 12x12' pitch rather than the currently proposed 12'x9'. Finn noted that new homes do not have any exemption as a matter of right.

Arnato said that they were going to look into this redesign. The board gave them the opportunity to come back on either July 5 or July 16 for a continuation of the hearing. The applicants said that they would prefer to return on July 5.

Action taken: On a motion by Finn, seconded by Corson, the Board voted unanimously to continue the hearing to 7:45 p.m. on July 5, 2016.

Vote:	Finn	Yes
	Corson	Yes
	Kane	Yes

The hearing was closed at 8:54 p.m.

Continuation of Public Hearing: 82 Atlantic Avenue

Start Time: 8:56 p.m.

Applicant: Kerry Cashman

Continuation of Public Hearing regarding 82 Atlantic Avenue: To apply for a special permit to remove/demolish existing dwelling; build new dwelling on raised pilings as per plans pursuant to Hull Zoning Bylaws Section 61, Non-Conforming Uses, para 61-2, sub para f, Pre-Existing Structures.

Summary of Discussion:

This was the continuation of a public hearing begun on June 2, 2106. The applicant, Kerry Cashman, was present at the meeting, as were Dick Rockwood of Rockwood Designs and David Ray, of Nantasket Survey Engineering. Rockwood did the design work for Cashman. Nantasket Survey Engineering will do the elevation of the building.

The project involves tearing down the existing structure and rebuilding a new two-and-a-half story home, elevated on pilings in keeping with FEMA requirements. The proposed structure would be 20' wide, 4' narrower than the existing one. In addition, the existing structure is set immediately on the right-side property line and the proposed building will be situated approximately 3' to the left of that, leaving more room between it and the house at 80 Atlantic Avenue. The height of the proposed structure when elevated will be less than 35'. By rebuilding 25' off the road there will be parking places for three cars, where no parking currently exists. A rear deck will be less than 5' off the ground.

The hearing had been continued in order to allow board members to conduct a site visit, which was done immediately prior to this meeting. In addition, it was noted on June 2 that there was reference to an addition in the denial letter from the Building Department. This created ambiguity, as there was no addition mentioned in the application. Cashman said that she had checked with the Building Department, which said that the reference was an error. She distributed a corrected letter to board members.

Abutter Ellen Morrissey, 80 Atlantic Avenue, voiced her opposition to the application, as she had at the previous meeting. She stated that she is a trustee of 80 Atlantic Avenue along with her sister Joan M. McAuliffe. Morrissey reiterated her objections at this meeting. They included her belief that she would be deprived of sunlight and view, and that the plan was too aggressive for the neighborhood.

Cashman stated that the letter submitted by Morrissey at the last hearing was not notarized and that in addition, Morrissey would be gaining sunlight at the front of the house. She further stated that the house at 86 Atlantic Avenue had a height of 39'. Rockwood showed a drawing comparing the proposed structure to other houses in the neighborhood and noted that the proposed house is in keeping with what is in the neighborhood currently. He said that moving the building over 5' would give more relief to the structure on the right and moving it back gets parking off the street. He said that moving the house back might encroach 12" on Morrissey's view and that the sunlight would be affected only 2% of the year.

Finn noted that the "sheer wall" 35' in height would block sunlight from the pond. Corson said that sunlight was a valid issue. Rockwood asked if it had been used in previous decisions. Finn said that light and air are appealable issues.

Erin Gibbons, 82A Atlantic Avenue, stated that she was not there to oppose the project, but didn't know that the house was going to be farther back toward the ocean. She said that it would block the only window they have on that side. She would rather it not go that far, but would like there to be something nice there rather than to look at the existing building.

Morrissey said that both of her letters had been notarized. She disputed that the house at 86 Atlantic Avenue was 39' in height and said that she had looked at the drawing in the building department's office and the ridge line was 28'. Ray said that 86 Atlantic had a permit to go beyond the 35' limit and was 38' to the ridge from the mean grade.

Morrissey said light, airflow, and noise made the project substantially detrimental and called the proposed house "an office building."

The following abutters spoke in favor of the project:

- Abutter Bill O'Brian, 114A Atlantic Avenue, said that it was going to be a beautiful addition to that end of the street and will improve parking problems on Atlantic Avenue.
- Bill Caldwell, 127 Atlantic Avenue, said that it was a vast improvement.

Finn said that the relief requested should have been advertised as a special permit/variance and recommended that the applicant do so. Cashman said that she has been told for a few months that it is a special permit. Finn noted that a preexisting nonconformity is needed in order for it to be a special permit, but they are tearing it down, so it will be a new nonconformity. Rockwood said that Building Commissioner Lombardo had been adamant that it was a special permit. Ray stated that bylaws were written to allow demolition of the home and carry forward special permit nonconformity onto the new structure. Finn said this is true if the applicant stays on the existing footprint.

After discussion, the board concluded that it was still unclear whether this was properly advertised as a special permit or whether it would require a variance. Finn suggested that the hearing be continued and recommended to Cashman that it would be safer to continue it to July 19 rather than July 5 in order to have time to re-advertise. Cashman stated that she would prefer to return on July 5.

Action taken: On a motion by Finn, seconded by Corson, the Board voted unanimously to continue the hearing to 8:00 p.m. on July 5, 2016.

Vote: Finn Yes
Corson Yes
Kane Yes

The hearing was closed at 10:00 p.m.

Continuation of Public Hearing: 172 Atlantic Avenue

Start Time: 10:02 p.m.

Applicant: Richard Hulverson

Continuation of Public Hearing regarding 172 Atlantic Avenue: To apply for a special permit to correct a non-conforming height. Existing height is 35.8 feet. It remains .8 feet above what is allowed pursuant to Section 61, Non-confirming uses, para 612, sub para f, Pre-existing Structures.

Summary of discussion:

Hulverson was present at the meeting to explain that April 2, 2016, the board had granted a special permit to build the dwelling at 172 Atlantic Avenue to a height of 35'. He said that the plans showed a continuous ridge, but when it was built it was brought to their attention that it was 35' 8" high rather than the approved 35'.

There were no abutters present at the meeting.

Finn noted that this was constructed as per the plans, but that they now needed a special permit to extend a preexisting non-conforming height.

Action taken: On a motion by Finn, seconded by Corson, the Board voted unanimously to grant a special permit to correct a non-conforming height at 172 Atlantic Avenue. The existing height is 35'8.

Vote: Finn Yes
Corson Yes
Kane Yes

The hearing was closed at 10:08 p.m.

Administrative Business

The board voted unanimously to move its meetings from Thursday nights to the first and third Tuesdays of the month, starting in July.

The board voted unanimously to adjourn at 10:19 p.m. on a motion by Finn, seconded by Corson.

Recorded by: Catherine Goldhammer

Minutes Approved: Wm Clark July 5 2016

All actions taken: All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at the meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussions is not required.