

Hull Zoning Board of Appeals

Minutes

July 5, 2016

The July, 5, 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, Member
Corina Harper, Alternate
Richard Hennessey, Alternate

Members absent: Scott Grenquist, Alternate

Public Hearing: 3 Vautrinot Avenue

Start Time: 7:50 p.m.

Applicant: Steven Misdea

Public Hearing regarding 3 Vautrinot Avenue: To apply for a special permit to construct a second story 505 square foot addition located on the right hand side of house (existing) pursuant to Hull Zoning By-laws, Chapter 40-A, Section 61, Para 61-2, sub para F.

Summary of discussion:

The applicant explained that the existing rear setback is 17.9' and the proposed setback is 19.9'. Lot coverage increases from 30.5% to 38.9%.

Finn noted that he lives in the neighborhood, but is not within the abutter notification range of 300', so he was able to sit on the case, ~~and was in favor of the proposal in any regard~~. Finn read, in part, the denial letter from Building Commissioner Peter Lombardo dated June 19.

"I am in receipt of your building permit application dated May 18, 2016, on which you propose to perform the following work:

"To construct a two-story 505 square-foot addition located on the right-hand side of house (existing).

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 dwelling lies within a Single Family B Zone. Existing rear setback 17.8' is less than required 20'. Proposed rear setback, 19.9' is less than required 20'. Proposed right side setbacks 17', 13.3 feet are compliant. Required side

setback is 10'. Proposed front setback 19.2 feet is compliant per 60-2a based on existing front setback 18.1 feet. Existing lot coverage 30.5% exceeds the lot coverage allowed 30%. Proposed lot coverage is 38.9%."

Action taken: On a motion by Finn, seconded by Corson, the Board voted to approve the special permit application for Mr. Misdea for 3 Vautrinot Avenue to construct a two-story 505 square-foot addition located on the right hand side of house (existing), which will extend the preexisting nonconforming front and rear setbacks and extend the preexisting nonconforming lot coverage, 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 July 5, 2016 by Capone Architecture, and the plot plan by Hoyt Land Surveying stamped March 24, 2016.

(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 single family 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 8:00 p.m.

Public Hearing: 54 Holbrook Avenue

Start Time: 8:00 p.m.

Applicant: Brian Earley

Public Hearing regarding 54 Holbrook Avenue: To apply for a special permit to construct a 6'x19' single-story kitchen bump-out on existing approved foundation/remodel kitchen, construct 12'x23' deck on top of existing foundation as per plans pursuant to Hull Zoning By-laws chapter 40-A.

Summary of discussion:

Brian Earley was present, as were the property owners Guy Van Duser and Nikki Hu, and David Ray of Nantasket Engineering. This is a request to build a kitchen 6x19' bump-out to a previously approved foundation and kitchen remodel. They owners would also like to construct a deck on top of the existing foundation. Ray noted that this will all be less nonconforming than what is there currently.

Earley explained that the foundation has been there since 1980 and the applicants have lived there since 1986. He noted that the foundation has been looked at by Building Commissioner Peter Lombardo and given the okay, and that Conservation Administrator Anne Herbst had given it her approval as well. He stated that the existing house is already nonconforming on the rear corners and that they are staying on the current foundation.

Finn read, in part, the denial letter from Building Commissioner Peter Lombardo on May 31, which stated:

"I am in receipt of your building permit application dated May 18, 2016, on which you propose to perform the following work:

"Construct a 6'x19' single-story kitchen bump-out on existing approved foundation/remodel kitchen, construct 12'x23' deck on top of existing foundation

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

The proposed addition/kitchen requires a special permit from the Zoning Board of Appeals. Proposed existing kitchen rear setbacks of 8.9' and 19.9' are less than compliant 20'. Proposed west side setback 19.1 is compliant. Existing east side setback 5.5' 8.8' is less than required 10'. Proposed lot coverage 15.5% is compliant.

Therefore you are required to file for a public hearing and appeal with the Board of Appeals, pursuant to MGL 40a.

There were no abutters present at the meeting.

Action taken: On a motion by Finn, seconded by Corson, the board voted unanimously to approve Mr. Earley's 54 Holbrook Avenue application for a special permit to construct a 6'x19' single-story kitchen bump-out on existing approved foundation/remodel kitchen, and construct 12'x23' deck on top of existing foundation. This will be to extend preexisting nonconforming setbacks 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 July 5, 2016, by Mr. Earley, dated July 5, 2016, and the plot plan by Nantasket Survey Engineering LLC, dated 5/18/16.

(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 single family 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 8:15 p.m.

Continuation of Public Hearing: 112 Atlantic Avenue

Start Time: 8:15 p.m.

Applicant: William Pellicano

Public Hearing regarding 112 Atlantic Avenue: To apply for a variance/special permit to 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 continuation of a public hearing begun on ~~July~~ ^{JUNE} 16, 2016. 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, David Ray, of Nantasket Survey Engineering, and Pellicano's lawyer, Walter Sullivan. Arnato did the architectural work for the proposed project. Nantasket Survey Engineering will do the elevation of the building.

At the June 16 session, questions about the permissible height of the proposed dwelling were raised by Arnato, who stated that he would like to increase the height to 36'10", greater than the allowed 35'. Questions also came up regarding the granting of a curb cut by Hull Police Department. The hearing was continued at that time so that the applicants could revise their plans; speak to the police chief about getting a curb cut; clarify the height issue; and do a more thorough variance questionnaire. At that time, Ray had 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. Finn stated that he had discussed the curb cut permit time frame issue with Building Inspector Bart Kelly, and he was told that it does not typically take two months for a permit.

At this continued hearing, Arnato formally requested that the board allow the height increase of 1'10" and distributed adjusted plans. It was noted that the height would be 34'10" from the bottom of the first floor. A variance questionnaire was provided by the applicant. The applicant has also applied for a curb cut, but has not yet had a response. Sullivan noted that they would do whatever is granted by the Police Department and stated that they were only seeking relief for the dimensional issue. Corson noted that the applicants had met the criteria set forward in the previous meeting, as listed in the minutes of that meeting.

Dan Daley, 110 Atlantic Avenue, spoke in favor of the project, noting that people had been getting into the home, which has been vacant for many years, and that it is in poor condition. Phil O'Brien, 114A Atlantic Avenue, stated that the house has been a problem for decades and this proposed project will be a great improvement. Daley and O'Brien noted that they were both potentially affected by where the curb cut was and that this did not affect their support of the project. Ray argued that a curb cut is a separate permit, not related to the Board of Appeals.

Finn noted that an existing home is allowed by right to go above 35' if elevating on pilings, but there is a loophole regarding new structures. He asked whether there would be a wall in the new structure that is on the existing structure. Ray stated that the right deck lines up with the existing structure. Finn noted that he did not have a problem with the height. Sullivan offered to write a draft decision for the board's revisions and noted that the applicants would like to move forward with their financing.

Action taken: On a motion by Corson, seconded by Finn, the Board voted unanimously to grant a variance/special to permit demolish existing structure; build a 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, to include a maximum height of 36'-9 5/8", 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 July 5, 2016 by Henry Arnato of HPA Design and David Ray 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 single family 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 of Appeals and a written decision is issued approving the proposed expansion or extension.

(e) Subject to curb cut permit and review and approval by the Chief of Police and the Safety Officer to check line of sight.

Vote: Finn Yes
Corson Yes
Kane Yes

The hearing was closed at 9:00 p.m.

Continuation of Public Hearing: 82 Atlantic Avenue

Start Time: 9:00 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 second continuation of public hearings held on June 2 and June 16, 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. At the previous sessions, objections were voiced by an abutter, Ellen Morrissey of 80 Atlantic Avenue, who objected on the grounds that she would lose her sunlight and that the project was too aggressive for the neighborhood.

At this session, Cashman stated that in response to abutters' concerns she had modified her plans for the proposed house, pulling it back 4' toward the street. A new set of plans reflecting these changes was presented by Rockwood. In addition, the applicant had also applied for a curb cut, but had not yet had a response. However, she noted that there is only one option, which is onto Atlantic Avenue. She stated that she had also submitted an application for a variance for July 19, dependent on the outcome of the special permit hearing.

Finn read into the record part of a previous decision filed on September 19, 2011 for the premises at 28 Sunset Ave., Hull, Mass. This decision was submitted by Cashman, as she felt it was pertinent to her case. A revised letter had also been received by the board, correcting a typo referring to addition.in the previous denial letter from the Building Department

Finn asked about the three parking spaces on the plans and said that these would require a variance. Ray said that the parking area is 3' off the lot line on both sides. After discussion the applicant agreed to go to two parking spaces, in order to meet the two parking space minimum required by zoning and to ensure the improved parking area would be at least 3 feet from the property line. This revision will be reflected in the curb cut permit application to the Police Chief.

Abutter Bill O'Brien, 114A Atlantic Avenue, said that it was going to be an improvement to the neighborhood. Bill Caldwell, 127 Atlantic Avenue, said Cashman has made more than enough concessions and he fully supports the project.

Morrissey voiced objections to the new plans, continuing to state that the height of the elevated house would affect her sunlight and that the plan was too aggressive for the neighborhood. Morrissey had provided a notarized letter stating her objections and photographs that she felt would support her claim. She also presented photographs of houses that she felt were good examples of what she would like to see on the property. Ray noted that these houses were in Rhode Island and that Massachusetts state law requires that all houses on a barrier beach be built on pilings. He also noted that this is a house with a lower peak and is not 35' tall on the sides. Rockwood added that the wall height would be 12' less on the sides than at the peak. Morrissey said light, airflow, and noise made the project substantially detrimental. She said that she would like to see all of the elevations of the pilings and asked if the board would want it next to their houses. Kane stated that this was not relevant to the case. She stated that she did not want to live in a cave. She said that she is not interested in having an elevation that benefits someone courtesy of FEMA.

Rockwood argued that they are not "mansionizing;" are in compliance with what is in the neighborhood; have worked very hard to compromise; and that this was the house they wanted.

Finn said that he had spoken to the Building Inspector who had convinced him that the project was a special permit rather than a variance. He stated that he would rather wait until the curb cut had been granted. He also stated that he would go with the consensus of other board members, but that he would not like to have this project next to his house. Corson stated that he would like to move forward on this application with a vote.

Action taken: On a motion by Corson, seconded by Finn, the Board voted unanimously to approve Kerry Cashman, based on a corrected denial letter of June 14, 2016, "to remove/demolish a house/dwelling; build new dwelling on raised pilings as per plans. After having reviewed the site application, I have concluded that based on Section 61, Non-Conforming Uses, para 61-2, sub para f, Pre-Existing Structures, the proposed new structure requires a special permit from the zoning board of appeals. The existing and proposed setbacks on the left and right are less than required. The existing front setback is less than required. The proposed front setback would be allowed." The motion was to approve this 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 July 5, 2016 by Mr. Ray, Nantasket Survey Engineers, and the drawings submitted by Rockwood Design on July 5, 2016, and plot plan dated June 22, 2016.
- (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 residential structure is in compliance with all code requirements for single family 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 of Appeals and a written decision is issued approving the proposed expansion or extension.

(e) Conditional to a curb cut permit to be issued by the Chief of Police with the amendment as offered to go down to two parking spots.

Vote: Finn Yes
Corson Yes
Kane Yes

The hearing was closed at 10:30 p.m.

Administrative Business

The board voted unanimously on a motion by Corson, seconded by Finn, to approve the minutes of the following meetings:

- February 4, 2016
- March 17, 2016
- April 21, 2016
- May 5, 2016
- May 19, 2016
- June 2, 2016
- June 16, 2016

The board voted unanimously to adjourn at 10:40 p.m. on a motion by Corson, seconded by Finn.

Recorded by: Catherine Goldhammer

Minutes Approved: Nate Finn August 16, 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.