

# Hull Zoning Board of Appeals

## Minutes

January 3, 2017

The January 3, 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  
Richard Hennessey, Alternate

**Members absent:** Corina Harper, Alternate  
Scott Grenquist, Alternate

**Others present:** James Lampke, Town Counsel  
Catherine Goldhammer, Recording Secretary

### Public Hearing: 3 M Street

**Start Time:** 7:35 p.m.

**Applicant:** Bill Morgan

**General relief sought:** To apply for a special permit to construct an addition off kitchen for new first floor bathroom as per plans pursuant to Hull Zoning Bylaws Chapter 40-A, Section 61, Non-Conforming Uses, para 61-2, sub-para f, Pre-Existing Structures.

### Summary of discussion:

The owner, Bill Morgan, was out of town and so the presentation was made by his contractor, John Boyd of Hamilton & Finch, Co.

This is an application for a special permit to add a first floor bathroom to an existing home. In order to do so, the contractor would like to square off a front corner of the house for a small addition. Setbacks remain compliant; however they will need approval for ½ % additional lot coverage.

There were no abutters present at the meeting to speak in support or against the proposal.

### Action Taken:

On a motion by Finn, seconded by Corson, the board voted unanimously to grant a special permit to increase lot coverage from 44% to 44.5% to construct an addition off kitchen for new first floor bathroom according to the plans presented from Nantasket Survey Engineering, site plan, David Ray, dated October 11, 2016, 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 according to the plans as submitted to the building commissioner and to the board on January 3, 2017 by Nantasket Survey Engineering, David Ray, dated October 11, 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 existing 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 and a written decision is issued approving the proposed expansion or extension.

The special permit will be issued to the owner, Bill Morgan, for 3 M Street.

The hearing was adjourned on a motion by Finn, seconded by Corson.

## **Public Hearing: 23 Beach Avenue**

**Start Time:** 7:47 p.m.

**Applicant:** Gary Stilphen

**General relief sought:** To apply for a special permit to construct a deck across front of house as per plans pursuant to Hull Zoning By-Laws Chapter 40-A, Section 61, Non-Conforming Uses, para 61-2, sub-para f, Pre-Existing Structures.

### **Summary of discussion:**

The applicant seeks to build a deck across the front of the house located at 23 Beach Avenue. Finn noted that it is the side of the house that faces the beach, not the literal front of the house. He further stated that there is a preexisting nonconforming front setback.

The letter from Building Inspector Bartley Kelly states in part that “the existing and proposed front and side setbacks are less than required, existing lot coverage exceeds 30%, proposed lot coverage remains the same (proposed deck is less than 5’ off the ground).

There were no abutters present at the meeting to speak in support or against the proposal.

### **Action Taken:**

On a motion by Finn, seconded by Corson, the board voted unanimously to approve a special permit to construct a deck across front of house as per plans, at 23 Beach Ave., special permit for encroachment, extending a pre-existing nonconforming front setback; 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 according to the plans as submitted to the Building Commissioner and the board on January 3, 2017, site plan by Ross Engineering Co. for 23 Beach Avenue dated May 23, 2016; along with building plans stamped by the Hull Building Department, December 7, 2016, for 23 Beach Ave. from Gary Stilphen.

(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 existing 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 and a written decision is issued approving the proposed expansion or extension.

## **Public Hearing: 296 Newport Road**

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

**Applicant:** Edmund P. and Peggy L. Chaput

**General relief sought:** To appeal the decision the of Building Commissioner in denying their request for zoning enforcement as relates to property located at 296 Newport Road (alleged business use of property in a residential district).

### **Summary of discussion:**

The Chaputs are appealing a decision of Building Commissioner Peter Lombardo, who on November 30, 2016 denied their request for zoning enforcement as it relates to 296 Newport Road, owned by Ray Sarno. The Chaputs live at 11 Lynn Avenue, an adjacent street.

Lombardo was not able to be present at the meeting due to an injury. The Chaputs' attorney was also not present. Kane offered the appellants the opportunity to continue the hearing to a time when their attorney could be there. The appellants decided to present their case in his absence.

Ms. Chaput read into the record a letter she had sent to Town Clerk Lori West as part of her application for the appeal. In the letter, available in the archives of this meeting, Chaput stated that Sarno uses his property as a place of business beyond what is customary for a home occupied business. She cited Hull Zoning Bylaw, Article II, Section 22-1, which defines home occupation as "an occupation in a dwelling unit by persons residing therein and involving no change in the customary external appearance of the premise or other visible evidence of the conduct of such home occupation other than one announcement sign as provided in Paragraph 70-2a."

Ms. Chaput contends that Sarno is using his home, garage, yard, and abutting public roadway for equipment storage, parking, and maintenance of the commercial vehicles used in connection with his businesses. Her application included numerous photos - dated from February, 2015 to December 2016 - of Sarno's vehicles parked in areas she felt were not appropriate based on the bylaws. She further stated that Sarno had previously been sent a cease and desist order by the Building Department to stop washing his commercial vehicles at the property.

Finn read into the record the Building Commissioner's letter denying the Chaputs' request for zoning enforcement. This document is available in the archives of the meeting. The letter stated, in part, that in Lombardo's opinion, Sarno's "home-based enterprise, as presently set up and observed, is allowed and complies with present regulations."

Finn and Kane noted that when they drove by the property trucks were parked in the driveway, not in the street. Kane further noted that the board is not tasked with enforcement of violations or apparent violations. He further stated that the board was not in the position to offer zoning relief. Lampke said that the issue before the board is the

Chaputs' appeal of the Building Commissioner's letter, and that their job as a board is to either affirm or overturn Lombardo's finding.

Ms. Chaput further read from the bylaw's home occupation definitions A, B, and C, which state that material or equipment or products shall not be visible from the street. She contends that the trucks constitute equipment as defined by businessdictionary.com. Finn noted that definition issues, if not definitive in the town's bylaws, go to Massachusetts state codes, and then to the American Heritage dictionary.

Finn read into the record an email sent by the Chaputs to Kevin Richardson, Chairman of the Board of Selectmen, as well as an email exchange between Ms. Chaput and realtor Mark Abatuno regarding property values. These emails are available in the meeting archives.

Corson stated that the specifics of the bylaw could be reviewed by the Town Bylaw Study Group and they could look at how other towns handle such matters, but that such review would not impact the current hearing.

Mary Purvis, 330 Newport Road, stated that she has lived on the next corner for 46 years. She said that Sarno does run two businesses out of his home. She is concerned about U-turns made by his trucks and the danger this may create for school buses and children. She further stated that the businesses have been detrimental to home values and to the peace and comfort of the neighborhood.

Christine White, 23 A Street, asked if the town had any contracts with the Sarno businesses. Finn stated that he didn't know.

Renee Skaggs, 52 A Street, said that the bylaw states that equipment can't be at the site and Sarno's equipment is. She asked why the bylaw isn't being enforced.

Sarno stated that he has been at the property since 2006 and has had no complaints for ten years until now. He said he is a one-person operation. He said there is no construction equipment around his house and that no mail deliveries for the businesses come to the house. He stated that he sometimes wipes the vehicles with a towel and hangs the towel over the fence. He said everything else should be referred to his attorney. He did note that out of the many people on the list of abutters, only a few were at the meeting to speak against him.

Finn stated that there has been enforcement from the town regarding a vehicle that was over the permissible weight threshold. He noted that the zoning isn't spelled out in such a way that the Building Commissioner can tell Sarno to stop parking in the road. He stated that in his opinion the appellants haven't shown that Sarno is violating the bylaws by parking commercial vehicles in the neighborhood. He noted that "contractor" is in the bylaws as an accepted form of home business.

Chaput stated that Sarno is on probation for malicious destruction of property at her home.

### **Action Taken:**

On a motion by Finn, seconded by Corson, the board voted unanimously to continue the case to January 17 at 7:35 p.m.

The board voted to adjourn at 9:27 p.m. on a motion by Corson, seconded by Finn.

Recorded by: Catherine Goldhammer

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

*Nature Finn* 2/21/17  
*clerk*

*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.*