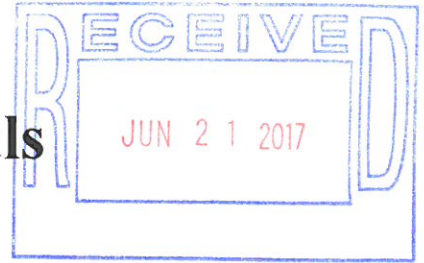


Hull Zoning Board of Appeals

Minutes

April 4, 2017



The April 4, 2017 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
Scott Grenquist, Alternate
Corina Harper, Alternate
Richard Hennessey, Alternate

Public Hearing: 17 Rockland Circle

Start Time: 7:35 p.m.

Applicant: Maryann Boothroyd

General relief sought: To apply for a variance to change interior commercial use to single-family residential dwelling as per plans pursuant to Hull Zoning By-Laws Chapter 40-A, Sec. 61, Non-Conforming Uses, para 61-2, sub-para f.

Sitting: Patrick Finn, Clerk
Andrew Corson, Member
Scott Grenquist, Alternate

Summary of discussion:

Prior to the meeting the applicant's attorney had notified the board by letter that the applicant wished to withdraw her case without prejudice. They had decided instead to appeal to the Planning Board, which has the capability to grant special permits in the Nantasket Beach Overlay District, in which the property is located. The rules and regulations of the Board of Appeals does not allow an applicant to withdraw after the case has begun, however. Therefore the case was continued to April 18, 2017 to allow the applicant to pursue an application with the Planning Board.

Action Taken:

On a motion by Finn, seconded by Corson, the board voted unanimously to continue the hearing for 17 Rockland Circle variance application for two weeks to April 18, 2017 at 7:35 p.m.

Vote: Finn - Aye
Corson - Aye
Grenquist - Aye

Public Hearing: 6 A Street

Start Time: 7:45 p.m.

Applicant: Arthur Augensterm

General relief sought:

1. To continue the use of the property as an auto body/boat repair shop, pursuant to Hull Zoning Bylaw, Section 34-1A-d.
2. To apply for a special permit to expand existing auto body shop located in Bay 4 and Bay 5 into Bay 3 and later into Bay 1 and Bay 2 if needed; the building will not increase in size.

Sitting: Neil Kane, Chairman
Patrick Finn, Clerk
Andrew Corson, Member

Summary of discussion:

The applicant, August Augensterm, and his tenant, Jim McCue, who operates an auto body repair shop in the building, were present at the meeting. Augensterm stated that this was the third time the property has been before the board and that he and McCue are being unfairly treated because of conditions imposed in a special permit decision granted in 1984 after a difficult tenant had been running a business from the property. He stated that these conditions restricted the applicant from interior expansion and further required that the special permit be extended every twelve months. He stated that McCue is currently using two bays and wants to expand into a third, and possibly more in the future.

[Note: On August 6, 2015, the board had unanimously voted “to approve an extension for a Special Permit issued November 7, 2013 to operate an auto body business in a portion of an existing building located on the premises of 6 A Street, bays four and five, owned by Arthur Augensterm, to cover the time frame from December 4, 2014 to December 4, 2015 to bring the applicant into compliance with those dates. All the stipulations defined in the original permit and the wording of the Board’s initial decision will be adhered to, with the addition that if something unusual or unexpected happens the business owner will proactively notify the Building Commissioner’s office so he will be aware of it in advance and the abutters can be notified.”]

Augensterm also stated that the condition that the doors had to be closed at all times placed an unfair burden on McCue and his workers during hot days and sometimes McCue was forced to close because of the heat. He stated that the complaints about the open door were from one person only and were made even though there was no noise coming from the building at the time the doors were open. He stated that the business is very quiet and that they shouldn’t have to have their doors closed if there is no noise. He also felt that he should not have to come back before the board just because the tenant wanted to use more space in the building.

Finn noted that a complaint on August 11, 2016 is the only complaint in the file that applies. He also pointed out that the garage is in a business district.

Speaking in opposition to the project was Charles Gould, 61Halvorsen Ave., who had made the complaints about the open door. Gould stated that all of the conditions are to protect the neighborhood. He said that people coming to buy a house will be adversely affected if they see the door open. He further stated that the previous special permit had lapsed on December 4, 2015, so the applicant had been operating without a permit for over a year.

McCue stated that he had more business and more employees than he had when he started and that his business was successful and growing. He has four employees and it is a family business. He pointed out that no one else in town has to keep their doors closed.

Grenquist said that if they expanded into another bay they could have the same condition of only two cars outside the building. Gould said that there were more than two, but he had not complained.

Hennessey stated that he was hesitant to go against the business owner's right to make a living. Harper said that it shouldn't matter how many cars were on the inside of the building.

Augenstern said that there was a possibility of using a parking lot he owns if the business expands. He further stated that all of the cars parked outside are either waiting to be worked on or waiting to be picked up. He pointed out that if he rented the other bays to other automotive businesses there would be no special requirement to keep the door closed. He stated that no other repair shop in town has a restriction like this and that the business owner is being punished for the behavior of a previous tenant.

The following were at the meeting to speak in support of the project:

- Jerry McLaughlin, 15 A Street, said that the neighbors had been active against the former tenant and had come up with the restrictions because they never wanted to have something like that happen there again. However, he said that McCue is running a fabulous business and has been very forthcoming and communicative with the neighbors. He also said that he doesn't hear any noise coming from the building.
- Brendan McCue, 6 A Street, the son of the business owner, said that there were no junk cars at the property.
- Jake Burke, 34 Brookline Ave., said that McCue is a "standup guy" who helps people and the town doesn't need to run a business out of town.
- Mark Lucreziano, 84 Cadish Ave., said that air conditioning is very expensive and doesn't help.
- Nazzareno DiVito, 11 Halvorsen Ave., said that McCue should be allowed to expand.
- Joe DiVito, Sr., 10 Alden Ave., said that McCue and his family have done an excellent job and should have a chance.
- John Burke, 40 L St., pointed out that Augenstern owns the wooded lot across the street and any noise is suppressed by the trees.

Joseph Duffy of the Planning Board was present at the meeting and he said that the Planning Board had noted that the property owner and business owner would have to come before the Planning Board for a site plan review. Finn said that the two bays were not 5,000 square-feet, but the proposed expansion could increase the number that would trigger a site plan review. Augenstern said that each bay was about 1,000 square feet, so an additional bay would bring the total to 3,000 square feet.

McCue said that the sound of the spray guns is the most noise made in the shop and that other operations are silent. He stated that he takes cleanliness, safety, and the concerns of the neighborhood seriously. He said that the business works on vehicles from the Police and Fire Departments as well as other town vehicles. He said that it is a metal building and it heats up rapidly in the summer. Keeping a door open allows a cross breeze inside.

Finn read aloud a letter from Building Commissioner Peter Lombardo, dated March 15, 2017, which stated, in part, that the applicant had to file an application with the Board of Appeals because: :

The proposed expansion of body shop into additional bay requires a special permit from the Zoning Board of Appeals.

Existing body shop (per s.p. [special permit] dated November 7, 2013 (Section 34-1a-d) Applicant proposes to expand body shop into additional bay; no future changes.

Corson suggested that the board continue the hearing and make a site visit to view the property at 6:45 p.m. on April 18, 2017.

Action Taken:

On a motion by Corson, seconded by Finn, the board voted unanimously to continue 6 A Street to April 18 at 7:40 p.m.

Vote: Kane – Aye
Finn – Aye
Corson – Aye

The hearing was adjourned at 9 p.m.

Public Hearing: 269 Nantasket Avenue

Start Time: 9:05 p.m.

Applicant: Anthony Ghosn

General relief sought: To apply for a special permit to construct all season patio with the same front setback (0') as the existing restaurant as per plans pursuant to Hull Zoning By-Laws Chapter 40-A, Sec. 61, Non-Conforming Uses, para 61-2, sub-para f.

Sitting: Neil Kane, Chairman
Patrick Finn, Clerk
Andrew Corson, Member

Summary of discussion:

The applicant stated that he wants to add an all-season deck to seat 75 patrons. It will be open on the upper level and sheltered on the ground level. All that is inside is the kitchen and counter and bathrooms. The business doesn't have licenses yet.

Finn read aloud a letter from Building Commissioner Peter Lombardo, dated March 15, 2017, which stated, in part that the applicant had to file an application with the Board of Appeals because:

The existing/proposed building is located in a business zone; the (prior/exist) proposed use – restaurant – is allowed; the exist/proposed front setback (0') is less than required (10') (this requirement may be waived by BOA and establish a frontage to conform to other buildings as per 50-2.u – footnotes); parking requirements – 7 spaces – per table 55 (no off street parking is available.)

No abutters were present at the meeting to speak in favor of or against the project.

Action Taken:

On a motion by Finn, seconded by Corson, the board voted unanimously to grant a special permit to 269 Nantasket Ave. and to waive front setback requirement as per plans, and the parking requirements as per Table 55, 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 April 4, 2017, by Sami, LLC, dated March 20, 2017, professional engineers, and the plot plan by C&G Survey Company, 37 Jackson Rd., Scituate, MA dated March 2, 2017;

(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 commercial 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: Kane – Aye
Finn – Aye
Corson – Aye

The hearing was adjourned at 9:20 p.m.


Administrative Business

The board voted unanimously, on a motion by Corson, seconded by Finn, to approve the minutes of March 7, 2017 and March 21, 2017.

The meeting was adjourned at 9:30 p.m. on a motion by Finn, seconded by Corson.

Recorded by Catherine Goldhammer

Minutes Approved:

A handwritten signature in cursive script, appearing to read "Patricia Lopez", followed by the date "6/20/17".

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.