

# Hull Zoning Board of Appeals

## Minutes

July 17, 2018

The July 17, 2018 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, Associate  
Richard Hennessey, Associate

**Members absent:** Corina Harper, Associate

### Public Hearing: 121 Bay Street (Continuation)

**Applicants:** Beatrice Bergstrom and Steven Bergstrom

**General relief sought:** To apply for a special permit/variance to construct a new two-family home, each side with four bedrooms and 4 ½ baths, as per plans, pursuant to Hull Zoning By-laws Chapter 40-A, Sec. 61, Non-Conforming Uses, para 61-2. Building will replace previous three family unit. Proposed rear setback does not comply. Proposed front setback (13') may be waived.

**Sitting:** Finn, Hennessey, Grenquist

#### Summary of discussion:

This is a continuation of a hearing begun on November 21, 2017. Finn noted that the board has correspondence from the applicant requesting a continuance to August 7, 2018 at 7:30 p.m.

**Action Taken:** On a motion by Finn, seconded by Corson, the board voted unanimously to continue this to August 7, 2018.

### Public Hearing: 811 Nantasket Avenue (Continuation)

**Applicants:** Matthias Braeu

**General relief sought:** To Apply for a Special Permit/Variance to turn mixed use property into a multiuse property, as per plans, pursuant to the Hull Zoning By-Laws Chapter 40-A, Sec. 61, Pre-existing structures; Non-Conforming Uses. The existing mixed-use building – 2 apartments/office/commercial space—is located in a Business zone and is conforming. The existing use was established by a special permit in 1982. Converting office space to a residential unit may require amending special permit and/or variance for change of use to multi-family from mixed use. Multi-family use is non-conforming in a business zone. Existing parking appears to be adequate for proposed use.

**Sitting:** Kane, Finn, Corson

#### Summary of discussion:

Braeu said that he is considering changing his plans to create two apartments rather than three. He stated that he would like a continuance.

**Action Taken:** On a motion by Finn, seconded by Corson, the board voted unanimously to continue 811 Nantasket Avenue to August 7, 2018.

Finn suggested that Braeu sign an extension form, and Braeu did so.

## **Public Hearing: 101 Highland Avenue (Continuation)**

**Applicants:** Nicholas Orem, Jr. and Laura Scott

**General relief sought:** To Apply for a Special Permit/Variance to finish space above garage, as per plans, pursuant to the Hull Zoning By-Laws Chapter 40-A, Sec. 61, Pre-existing structures. The proposed project appears to create a separate additional dwelling unit in a single-family zone, which violates Article III, section 31.1 of the Zoning Bylaws.

### **Summary of discussion:**

This is a continuation of a hearing begun on June 5, 2018. Finn noted that the applicant has requested a continuance to August 7, 2018.

**Action Taken:** On a motion by Finn, seconded by Hennessey, the board voted unanimously to continue 101 Highland Ave. to August 7, 2018.

## **Administrative Business**

On a motion by Finn, seconded by Corson, the board voted unanimously to approve the minutes of June 19, 2018.

The board took a brief recess at this time, as it was not yet 8 p.m., the advertised time for the next hearing.

## **Public Hearing: 22 Sagamore Terrace(Continuation)**

**Applicants:** Bhavesh Patel

**General relief sought:** To Apply for a Special Permit/Variance to construct deck, as per plans, pursuant to the Hull Zoning By-Laws Chapter 40-A, Sec. 61, Pre-existing structures. Existing side setback (4.9') is less than required and the proposed side setback (4.8') is less than required.

### **Summary of discussion:**

Note: Although this agenda item was labeled as a 'continuance,' no discussion occurred during the 6/19/18 hearing, as the abutter notification mailing had not been sent out in a timely manner. At that time the applicant agreed to continue the meeting to the first scheduled meeting in July in order that abutters could be notified.

Patel stated that he has two businesses in town and bought a house here a year ago. He is renovating the house and would like to construct a deck as part of the renovation. Finn said that in his opinion this would not be substantially more detrimental to the neighborhood. Grenquist agreed.

Finn read into the record a letter from the Building Commissioner, stating that the project requires a special permit from the Board of Appeals because the existing side setback (4.9') and the proposed side setback (4.8') are less than required.

Grenquist said that in the plans onesetback is labeled 4.9' and one is labeled 4.8'. He said that this is because of the boundary line, not the house. He said that this is continuing an existing nonconformity.

Finn also read into the record a notarized letter from from Joe and Jean Zahn, 18 Sagamore Terrace, stating that they are opposed to the project because the deck will be 5' from their property line and will affect their sleeping and living quarters and quality of life. Joe Zahn was present at the meeting and stated that his quality of life will be

affected by the closeness of the deck to his property. Finn noted that according to the plans from Nantasket Survey Engineers, Zahn's house is 20.1' from the property line and Patel's house is 4.9' (proposed 4.8') from the property line. Patel noted that the decks are not yet built.

Abutter Leo Tarris, 39 Merrill Road, stated that Patel has invested hundreds of thousands of dollars in the house and is setting up roots for his family. He stated that the esthetics of the house look right and the property and the neighborhood need investment. He is in favor of the deck. Finn noted that Tarris was stating that the property is an improvement for the neighborhood. He also pointed out that there is 25+ feet separating that part of the deck from the neighbor's house, which is a lot of space for Hull.

**Action Taken:** On a motion by Finn, seconded by Corson, the board voted unanimously to grant the special permit to Lawrence Trubia for Mr. Patel at 22 Sagamore Terrace to construct deck, as per plans, 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 17, 2018, by Walter A. McKinnon Associates, 278 Washington Street, Weymouth MA, dated December 28, 2017, and a site plan from Nantasket Survey Engineering, David Ray, professional land surveyor number 35412, 46 Edgewater Rd. Hull, MA, dated March 7, 2018;

(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 single-family use structure is in compliance with all code requirements for 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:** Kane – Aye  
Finn – Aye  
Corson – Aye

## **Public Hearing: 12 Maple Lane (Continuation)**

**Applicants:** Frank Muccini

**General relief sought:** To appeal the decision of the Building Commissioner to issue a permit to construct a new home at 12 Maple Lane.

**Sitting:** Finn, Hennessey, Grenquist

### **Summary of discussion:**

The applicant, Frank Muccini, was not present at the meeting. Finn noted that Muccini lives in New York. He also stated that Muccini has requested a continuance to August 7, 2018. He stated that the board has received July 16 correspondence stating that the survey Muccini had requested is not yet complete and that the engineering firm is researching information from the land court. Finn read aloud an email from Cavanaro Consulting, which stated same. The email was dated July 10, 2018, and indicated that they were going to attend to the research the following day.

Grenquist said that when the board originally discussed this case he voted for the continuance based on it being for a limited time, but said he was no longer in a position to agree to a continuance.

Charles Williams, the owner of 12 Maple Lane, said that this was the sixth meeting for this hearing and he was challenging the continuance. He said that the building permit request was initially approved by Peter Lombardo on February 22, 2018 and the initial Board of Appeals hearing was on April 17. He said that a deadline was put into place for the parties to summarize and share information prior to the next meeting. He stated that this did not happen, other than hand-written notes delivered by the applicant on the day of the meeting. He said that on June 5, Muccini was permitted to obtain his own survey with the goal of disputing the owners' survey from Nantasket Survey Engineering. He said that he has two challenges to the continuance. First, that the email from the consultant was sent on July 10 and suggested that they would be reviewing information the following day, but it has been six days since then. He further stated that the map that accompanied the email indicated that they have been surveying Muccini's property at 8 Maple Lane rather than the 12 Maple Lane property at issue. He said that he thinks Muccini is going to claim that the owners do not have the permission to cross Muccini's property, which would not be a zoning issue. He requested that there be no further continuances. He also said that if there are any other steps going forward they should be time limited.

Kane said that the problem was that Muccini is not at the meeting. Grenquist said that this did not limit the board. Finn said that this was a formality of getting all of the information that would be needed if there is an appeal. He said that he felt that the board should give Muccini time to complete the survey process and that the surveyor will not want to put a stamp on anything without researching it thoroughly. He said not granting a continuance would not serve the owners well, and that if it is continued, the board can make a condition of no further continuances and that the board's administrator Sarah Clarren can notify Muccini that the board will be voting on the matter in two weeks and is prepared to uphold the Building Commissioner's decision unless Muccini provides a survey that shows the owner's information is incorrect. Hennessey agreed. Finn said that Town Counsel had been specific in a previous meeting about allowing Muccini to do the survey and to provide evidence that he had hired a surveyor, which he had done.

The owners said that Muccini has been adding different topics to challenge and has been changing the scope of the hearing. They would like a specific deadline with specific topics. They said that they wouldn't have purchased the land if several lawyers hadn't said it was buildable. Finn said that he assumes based on previous hearings, that the board agrees that it is buildable, but in order to build their house, they will have to go over Muccini's property, and will still have to deal with him.

**Action taken:** On a motion by Finn, seconded by Hennessey, the board voted to continue the hearing for two weeks and that we vote in two weeks and that Mr. Muccini will be notified by Sarah Clarren that we voted to continue it for two weeks with no further continuances.

Finn added that Muccini will be notified that he needs to be at the meeting with his survey if he wants to present further evidence.

**Vote:** Finn – Aye  
Hennessey – Aye  
Grenquist – Nay

## **Public Hearing: 101 Rockaway Avenue**

**Applicants:** Joanne and Alan Marks

**General relief sought:** To Apply for a Special Permit/Variance to demolish existing stair and landing and construct a new deck and stairs, as per plans, pursuant to the Hull Zoning By-Laws Chapter 40-A, Sec. 61, Pre-existing structures. Proposed/Existing setback is less than required.

**Sitting:** Kane, Finn, Corson

**Summary of discussion:**

Attorney Bernie Nunn was present to speak on behalf of the applicants. He explained that the existing set of concrete stairs go to the edge of the roadway and perhaps slightly into the roadway. They are severely deteriorated and the owners would like to demolish and replace them with stairs that go in the direction of the driveway. The new stairs would be set back further from the street.

Finn read the letter from Building Inspector Bartley Kelly, dated May 24, 2018, which stated that the applicant would have to appear before the board because the proposed/existing setback is less than required and requires a special permit.

Finn also stated that in his opinion this project is not substantially more detrimental to the character of the neighborhood.

Donald Moncevicz stated that he is an abutter at the southwest of the property. There is no building on his land, but he showed the board where it is on the assessor's map. [It is 43-030 on the assessor's map.] He said that he supports the project.

Joseph McNamara, 87 Rockaway Ave., said that there is a town drainage pipe that goes under the front of the walkway and asked how the applicant was going to address that. He asked if Marks would fix the pipe if anything happened to it during construction. Nunn stated that the contractor would fix the pipe if they broke it. McNamara asked if the contractor is bonded and insured. Nunn said that he could not address that. The board said that this was not a zoning issue. The applicant said that the pipe is not near the walkway. Nunn added that the footings would not be on top of the pipe. McNamara said that the pipe is not very deep and that a few years ago a fence was put in by an abutter and it blew out a section of the pipe.

Corson said that Dig Safe would have to be called before any construction or demolition. Finn said that they should also coordinate with the town. Kane encouraged the parties to talk outside of the meeting in order to make sure they understand each other in order to avoid future issues.

The board took a brief recess at this time.

Walter Pizzano, 90 Rockaway, asked if the project will change the parking characteristics of the neighborhood. The owner said that they park in the driveway and not on the street. Finn said that if they have two parking spots they comply with zoning.

**Action Taken:** On a motion by Finn, seconded by Corson, the board voted unanimously to grant a special permit to Mr. Marks at 101 Rockaway Ave., for the demolition of the existing stair and landing and construct a new deck and stairs, as per plans, with the following standard 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 17, 2018, by Mr. Marks, and the plot plan for 101 Rockaway Ave., by David Gilmore surveyor, dated September 2, 2004, registered professional land surveyor number 28615;

(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 single-family use structure is in compliance with all code requirements for 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: Kane – Aye  
Finn – Aye  
Corson – Aye

## Public Hearing: 685 Nantasket Avenue

**Applicants:** Giselle Stilphen

**General relief sought:** To Apply for a Special Permit/Variance to remove nonstructural wall, add two doors to convert existing commercial space into additional living area. The existing mixed-use building (2 apartments and commercial space) is located in a Business Zone; the proposed conversion of existing commercial space to a third residential unit requires a Special Permit and/or Variance.

**Sitting:** Kane, Finn, Corson

### Summary of discussion:

The applicant was not present at the meeting and therefore the board decided to continue the hearing to its next meeting.

**Action taken:** On a motion by Finn, seconded by Corson, the board voted unanimously to continue Ms. Stilphen's hearing for 685 Nantasket Avenue until August 7, 2018.

The meeting was adjourned at 9:11 p.m. on a motion by Finn, seconded by Corson.

The board's next meeting will be on August 7, 2018.

**Recorded by Catherine Goldhammer**

**Minutes Approved:**

*Patricia Finn 11/20/18*  
*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.*