

Hull Zoning Board of Appeals
Minutes
January 15, 2019

The January 15, 2019 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
Scott Grenquist, Associate
Richard Hennessey, Associate
Corina Harper, Associate

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, Hennessey

Summary of discussion:

Braeu stated that instead of converting the office into a third residential unit, he would like to have the office become part of one of the existing apartments. Therefore, the house would have two residential units instead of three. Braeu currently lives in the downstairs apartment. He stated that there would be no change to the footprint.

Finn read a letter from Building Inspector Bartley Kelly stating that the changes initially requested by Braeu required a special permit/variance. Finn pointed out that Braeu was revising his request for zoning relief from three apartments to two, but that he was still asking to convert the office – currently commercial space – and incorporate it into one of the residential spaces. This would still require change of use from mixed use to multifamily, changing the building to a residential use in a business zone. He noted that this requires a variance. He stated that the hardship is Braeu's inability to rent the office space. Braeu said that he has tried to rent the office space for two years, with no success.

Finn read aloud the application and pointed out that the structure/layout of the building would be the unique quality of the building and should be checked off on the questionnaire. Braeu agreed to this change.

There were none present at the meeting in favor or against the application.

Action taken: On a motion by Finn, seconded by Hennessey, the board voted unanimously to grant the use variance for to Mr. Braeu, 811 Nantasket Avenue, to convert existing office space to residential space, making it a two-family building in a business zone, which requires a variance; with the following conditions:

(a) Compliance with all applicable laws and codes of the Commonwealth of Massachusetts and the Town is required;

(b) The construction shall be done substantially in conformance according to the plans as submitted to the board on January 15, 2019 by Mr. Braeu;

(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 conversion is in compliance with all code requirements for residential structure;

(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
Hennessey – Aye

The board took a brief recess at this time.

Public Hearing: 353 Beach Avenue

Applicants: Leif S. and Christa O’Leary

General relief sought: To Apply for a Special Permit/Variance to elevate structure and reconfigure/extend front and rear deck; enclose two porch areas, as per plans. Pursuant to the Hull Zoning-Bylaws, Chapter 40-A, Sec. 61, Pre-existing structures; Non-Conforming Uses. Proposed elevation exceeds the maximum allowed height and the proposed and existing side setbacks are less than required. Existing/proposed lot coverage is over 30%; existing lot coverage is 35.3% and proposed is 37.7%.

Sitting: Kane, Finn, Harper

Summary of discussion:

David Ray, Nantasket Survey Engineering, stated that he was asking for less than requested in the application. He said that the clients had initially planned for a 2' height increase, but applied for a 4' height increase, as suggested by the Conservation Commission. However, their structural engineer stated that in order to increase the height 4' they would need a different kind of foundation. The Conservation Commission did not approve that change. Therefore, the applicants have changed their zoning relief request to a 2' height increase. The whole house will be on pilings.

Ray also stated that they were asking for a lot coverage increase from 35.3% to 37.7% in order to square off the front of the house. Finn noted that this was a small increase. Grenquist pointed out that the stairs now come close to the property line. Ray said that the abutters on that side have a high fence and he doesn't think they will be able to see the stairs. Finn said that it doesn't count as lot coverage and egress stairs are allowed to be in the setback, but there are already two other sets of egress stairs. Ray said that all stairs are egress stairs and stairs have never been denied in setbacks.

Ray said that the footprint has not changed, but because they are enclosing a side porch to make it living space, the Building Department is requiring zoning relief.

Finn read aloud a letter from Building Inspector Bartley Kelly dated December 12, 2018, stating in part that that “proposed elevation exceeds the maximum allowed height and the proposed and existing side setbacks are less than required. Existing/proposed lot coverage is over 30%; existing lot coverage is 35.3% and proposed is 37.7%.”

Finn pointed out that the height is longer an issue due to plan changes, and made a note of this on the application. The board decided to continue the hearing so the applicants can submit the most recent set of plans. Ray said that he is concerned about having the house on temporary elevation. The owner said that he would immediately go to Staples and make copies of the updated plans and return to the meeting with them so the board can make a decision this evening.

Action Taken: On a motion by Finn, seconded by Harper, the board voted unanimously to adjourn the hearing to the end of the meeting.

Public Hearing: 185/185A Samoset Avenue

Applicants: Steven Faber

General relief sought: To Apply for a Special Permit/Variance to remove portion of covered porch, side kitchen expansion/addition, exterior deck modifications, new rear addition, new 2nd floor room over existing footprint. Existing and proposed lot coverage is more than the 30% allowed. For 185A Samoset Avenue: reconstruct as (2) car garage with guesthouse above. Existing side and rear setbacks are less than required, existing and proposed lot coverage is more than the 30% allowed.

Sitting: Kane, Finn, Hennessey

Summary of discussion:

Robert Rose, architect, spoke on behalf of the applicant. They want to remove a porch on the right, which will remove 102 square feet from the building and will also improve the setback on that side from 5' to 11'. They want to make the kitchen bigger and enlarge a den/family room to make room for a first-floor bedroom. He stated that the property is already over 30% lot coverage.

Finn pointed out that there is a bedroom already indicated on the current plan. The owner stated that this is a small room that his son sometimes sleeps in, but is not a usable space for a real bedroom. He stated that due to back problems, he would like to not have to climb stairs to the second-floor bedrooms.

Finn said that there are already two dwellings on a small lot. The lot size conforms, but there are two houses and very little yard. He also noted that it was a shed that put the property over the 30% lot coverage and that this change is significant because it created a pre-existing nonconformity by adding something that doesn't require zoning relief. Adding the shed moved the lot coverage from 28.5% to 30.4%, which means that the current project would require a special permit rather than a variance. He noted that projects have been denied for similar reasons in the past. The owner stated that there was a shed there when he bought the property and that he replaced it because it was damaged. Finn acknowledged that he didn't do this deliberately to increase lot coverage. He said that the board would need to do a site visit to see how tight the lot is. Grenquist said that they couldn't have gone over 30% without a variance, but now they want to go up to 35%.

Rose said that they will be tearing down the existing secondary structure and making a garage with living space above, increasing the height from 14' to 25' to comply with FEMA regulations. Finn noted that the height would require a variance. He also noted that if they shift the footprint of the new structure, they can make it compliant with setbacks for an accessory structure, which are 6'. Existing setbacks are 10' on left; 5' on right; and 4.3' in rear. Finn said that one structure has to be considered a primary structure and the other will be considered an accessory structure by right according to current bylaws, but a variance will be required for height.

Robert Hassett, 9 Adams Street, said that he bought his house and the two houses being considered tonight in 1979. He said that all houses going down the street toward the Senior Center have two houses on them.

Finn noted that every dwelling unit needs two means of egress and the secondary structure only has one. The applicant said that he didn't think two were required in this case and he will check with the Building Department. Finn said that if they need a second set of stairs on the outside, it will not count as going into the setback. He stated that his concern was the lot coverage and wondered if the applicant could make some small changes to make it comply.

Finn read the assessor's cards which noted "multi hs," which seemed to indicate "multiple houses." Each structure has its own card. One of the cards referenced a residence, the other one referenced a bungalow. Finn noted that the use is pre-existing nonconformity.

He read a letter from Building Inspector Bartley Kelly, dated October 29, 2018, informing the applicants that they required a special permit for their project. Finn noted that the letter doesn't address the height issue. He suggested

that maybe the building department is addressing this case as pre-existing nonconforming houses rather than house and accessory structure. He pointed out that the advertisement said special permit/variance. He suggested that the applicant check on whether the second building is technically a second dwelling or an accessory structure.

Finn suggested continuing the hearing to allow for a site visit. Harper said that the applicant needed to fill out the variance questionnaire. Grenquist pointed out that there is an ability to go to 18' on the garage without a variance.

Finn suggested that they take a look at paring down the addition to try to comply with lot coverage. Harper pointed out that if even if they stay completely on the existing footprint, they still won't comply to 30% lot coverage. The applicant said that he thought that he was allowed to increase the lot coverage under a special permit because it is already over 30%.

Amber Kelly, a direct abutter at 189 Samoset, asked where the applicant will be putting his boat. The applicant said that it will be in the back. Finn said it needed to be 3' at least from the property line. Kelly said that she didn't want the side of the house to be a parking spot for the boat. She also said that right now her house gets hardly any sun and she is concerned that the addition on the second floor will block even more light from her home and make it darker and colder. The height is an issue for her. Kane recommended that she and the applicant have a conversation after the meeting about her concerns.

Finn noted that they need four parking places for the two structures.

Action Taken: On a motion by Finn, seconded by Grenquist, the board voted unanimously to continue this to February 5.

Public Hearing: 353 Beach Avenue(Continuation)

Applicants: Leif S. and Christa O'Leary

General relief sought: To Apply for a Special Permit/Variance to elevate structure and reconfigure/extend front and rear deck; enclose two porch areas, as per plans. Pursuant to the Hull Zoning-Bylaws, Chapter 40-A, Sec. 61, Pre-existing structures; Non-Conforming Uses. Proposed elevation exceeds the maximum allowed height and the proposed and existing side setbacks are less than required. Existing/proposed lot coverage is over 30%; existing lot coverage is 35.3% and proposed is 37.7%.

Sitting: Kane, Finn, Harper

Summary of discussion:

This is a continuation of a hearing begun earlier in the evening and continued to allow the applicant to obtain copies of updated plans showing the correct height. However, upon reviewing the obtained plans, David Ray stated that they still show the higher elevation. They will provide the requested sets to the board's administrator. Ray asked if the board had a problem with the porches being reconfigured as living space. The board said no, because these are already on the existing footprint.

Action Taken: On a motion by Finn, seconded by Harper, the board voted unanimously to continue the hearing to February 5.

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:

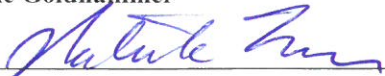
The board received a letter from the applicant's son dated January 10, 2019 stating that they have had several discussions with Building Department and are working on a new solution, but would like to keep the current application open and would like to continue their hearing to February 19, 2019.

Action Taken: On a motion by Finn, seconded by Grenquist, the board voted unanimously to continue this to February 19, 2019

The meeting was adjourned at 9:55 p.m. on a motion by Finn, seconded by Grenquist.

The board's next meeting will be on February 5, 2019.

Recorded by Catherine Goldhammer

Minutes Approved:  4/16/19

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.