

## HULL ZONING BOARD OF APPEALS

**Applicant:** Mark Zuroff

**Property:** 20 Park Avenue

**Date:** Thursday, April 3, 2014

**Time Meeting Began:** 7:56 p.m.

**Time Meeting Concluded:** 8:30 p.m.

**Place of Meeting:** Hull Municipal Building, Louis C. Costa Room, 253 Atlantic Avenue

**Zoning Board Members Present for Hearing:**

Alana Swiec, Chair	Sitting	<b>Attending</b>	Absent	Abstain
Dr. Roger Atherton, Clerk	Sitting	<b>Attending</b>	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	<b>Absent</b>	Abstain
Phillip Furman, Associate	Sitting	<b>Attending</b>	Absent	Abstain
Jason McCann, Associate	Sitting	<b>Attending</b>	Absent	Abstain
Patrick Finn, Associate	Sitting	<b>Attending</b>	Absent	Abstain

\*ZBA members were not decided upon at this time. If the Board decided if this application required a Variance, then the Board will need to re-advertise and reschedule.

### **Others in Attendance:**

*Mark Zuroff, Attorney for potential owner*

*Joseph McLaughlin, Developer*

*Karen Morgan, Recording Secretary*

**General Relief Sought: Opening** – Of a Public Hearing on an application filed by Mark Zuroff regarding property at 20 Park Ave., Hull, MA which according to the application seeks: To apply for a Special Permit to construct a two-family dwelling; pursuant to Hull Zoning Bylaws, Section 61-2f.

### **General Discussion:**

Mr. Atherton stated that he has a letter from one of the abutters for distribution. Also, he has an email from Atty. Lampke from 5:23 p.m. this afternoon on the issue of the Special Permit. At this point, Ms. Swiec introduced herself and the ZBA to the applicants.

Mr. Zuroff – I had an extension discussion with Mr. Lampke for his counsel and I appreciated it. I am an attorney and have an office at 175 Highland Avenue in Needham, MA. I am here for the potential owner of the property for an application for a permit to rebuild a family house on a lot that has been vacant for quite some time. I do know that you have a memo from Mr. Lampke and I understand that the question

is if a special permit or variance is required for this particular application. Mr. Lampke's position is that it requires a variance. If the judgment of the Board is that a variance is required for this particular construction, I would ask that the Board allow us to postpone and re-advertise and continue so we can amend our application because when my client approached the building dept. for the permit he was told after some delay he could not get the permit and he would have to apply to this Board for a special permit. This is what we applied for at the suggestion of the building dept. As it turns out, it may be Mr. Lampke's decision does not apply for this case and we would like to be able to approach it on an application for a special permit or variance as necessary. I understand there is a difference between the two.

Mr. Atherton – We would we need to hear them go through a presentation because the problem is that the lot is now empty so that there is no pre-existing anything so you can't use Peter's point.

Mr. Furman – But it's single family zoning right?

Mr. Atherton – It's multi-family.

Mr. Finn – The ZBA has to determine the Building Commissioner's decision, not Town Counsel. I just want to hear from the applicant.

Mr. Zuroff – We are here to appeal from the decision of the Building Commissioner's denying the application for a permit.

Mr. Atherton – It's a Special Permit and I'm calling for a Variance.

Mr. Zuroff – I don't want to prejudice my client and having the Board deny it.

Mr. Atherton – If we decide that it's going to be a variance and all that was advertised that it was a Special Permit, we need to re-advertise. I raised the issue with Mr. Lombardo that two years have passed; the use has been discontinued and not used; therefore the pre-existing non-conformity is lost.

Mr. Finn – When you pay for an application you get to present your case and then the Board can decide the facts. We don't get information from Town Counsel and Building Commissioner. You sound like you already made a conclusion without hearing it.

Mr. Atherton – I can't make a decision at this point.

Ms. Swiec – Why don't we open the floor to Atty. Zuroff to allow him to make a presentation based on what was advertised and then we can decide after his presentation what direction we want to take at that point. Additional information may be helpful for us to decide one way or another.

Mr. Zuroff – What we have here is a lot that was a two-family structure that burned down. There was a structure there and a vacant lot close to 40 years. We seek to build a tastefully designed and well-proportioned two-family structure on the property. This plan that you are looking at here is the street scape with the building on it. Two units will be in it and parking underneath. It would take additional cars off the street so there would be no impact on the parking situation in the area. The dimensions are

such that the requirements would exceed the side setbacks and the description under the code section for permitting, 6-1, 2 I believe. The reason we are applying for a non-conforming structure is basically because the lot is so small if we put conforming structure on it, it wouldn't be economically feasible. To build a conforming structure would not be economically feasible. We are saying to the Town that after 40 years, this area was a trash collector and contributed nothing to the neighborhood. We would improve the general character in the neighborhood. This lot is bordered on one side of a rooming house and another side by a Town-owned lot and then bordered by another rooming house. Also, it would encourage developers to buy those rooming houses and approve the neighborhood. This is a neighborhood with very small lots, lots created prior to the zoning laws coming into effect. It's a multi-family neighborhood. This lot was legally abandoned for many years and has nothing to do with my client. He had the opportunity to obtain this lot and develop it if he could and that's why he is here to seek relief from the Board. We are asking what is best for the Town.

Mr. Atherton – I agree with everything you just said. If it stuck to the bylaws, the house would be only 5 ft. wide because the bylaw says that the side setback 15 ft., 15ft on the other side, that adds up to 30 and the lot width is 35. I don't think we can do it with a special permit as advertised and we need to reschedule it and re-advertise it but I'm comfortable listening to the argument.

Mr. McLaughlin – I'm Joe McLaughlin, 11 Vernon Ave., Hull. We purchased this lot as part of a portfolio three years ago for \$5M and then I bought another 22 units on Bay Street, we have 20 different properties in Hull and this was part of that portfolio and we wanted to do something in the future. We were excited about the overlay district. We invested about \$7M in three years down here and \$1M with improvements without asking. On Bay Street, it was the worst housing problem we had with property taken over by the Town and I bought it 2 years ago and spent \$400,000 in renovations. Now you only get emergency calls to the properties. I moved here, we invested in the community. I put in an application with Peter and finally got a response back to go for Special Permit which we did and found out yesterday that it might not have been the right avenue, we would still like you to consider us. We are the largest property owner other than Avalon. I have letters from the immediate abutters on Park Ave. that are all in favor of the project.

Mr. Finn – If you talk to the Town about purchasing that lot next to it, then you have 6,000 sq. ft. lot with 7 ft. of frontage and I'm sure the Board will look more favorably on this lot.

Mr. McLaughlin – I stepped in and bought that from the other partners so my time is almost up from when we did apply a long time ago and so I told my partners that there might be a difference of a opinion of a special permit and variance.

Mr. Finn – Would you consider the lot next to yours to be eligible to build the same exact thing?

Mr. Zuroff - Again, it's the economics would play into that.

Mr. McCann – If we continue this and we did review it as a variance, the shape of this lot is unique in this zoning district and that's a tough argument to make and that's a piece of the variance. Not generally affecting the zoning district, that's why all these lots are the same size.

Mr. Zuroff – Within the neighborhood, it's not unique but not within the Town.

Mr. McCann – But this is not in a zoning district that is not prevalent to this Town.

Mr. Zuroff – You as a Board get to make a decision of all those factors to make that under 40A to grant this.

Mr. Atherton – That accessory egress in the back is like 18.8 ft. from the back, it's non-conforming. It's into the 20 ft. setback. That's one of the things you need to address.

Mr. Zuroff – It's only a stairway, it's not part of the living space.

Mr. Atherton – Otherwise, it's a new non-conformity which is another justification for a variance.

Mr. Zuroff – We ask you to continue the Hearing, to re-advertise it, and we will come back before you with the same arguments with more details.

**Action Taken, if any:**

The Board will continue the Hearing to re-advertise to May 1, 2014 at 7:35 p.m.

*Recorded by Karen Morgan*

Approved by Roger Atherton

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**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 a meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussion is not required.*