



Hull Zoning Board of Appeals

Minutes

The April 30, 2015 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:	Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
	Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
	Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
	Patrick Finn, Associate	Sitting	Attending	Absent	Abstain
	Phillip Furman, Associate	Sitting	Attending	Absent	Abstain
	Jason McCann, Associate	Sitting	Attending	Absent	Abstain

Town Counsel James Lampke was also in attendance.

Hearing: 20 Park Ave.

Start Time: 7:40 p.m.

Applicant: John McLaughlin

In Attendance: Michael Nuesse, Attorney
Joseph McLaughlin, Developer
David Ray, Nantasket Survey Engineering
Leo Martin, co-owner

[The applicant notified the Board at the start of the hearing that Nuesse was now representing him in this matter, taking the place of Mark Zuroff, his previous attorney.]

General relief sought: A public hearing on a reconsideration of an appeal regarding a property at 20 Park Ave., Hull, MA, which sought to apply for a special permit/variance to construct a two-family residence, pursuant to Hull Zoning bylaws, Section 61-2.f.

Summary of discussion:

Swiec noted that this was a continuation of a previous hearing, in which the Board requested that the applicant supply additional information supporting the request for a variance. The applicant had initially applied for a variance or special permit to build a two-family house on the location. They subsequently amended their application to include only a single family home. At the

December 4, 2014 meeting, the Board requested that the applicant supply information regarding topography, soil conditions, or lot shape in order to meet the criteria for a variance.

In response to that request, McLaughlin introduced David Ray, of Nantasket Survey Engineering, whom he had hired to look at the site. Ray stated that the lot was unique because it was one of the two lowest sites in the neighborhood and a build-up of trash and silt on the lot prevented proper water infiltration, creating drainage issues for the entire neighborhood. He said that in order to remedy this, the developer would create a water infiltration system, removing soil to a depth of four feet, three feet off the lot line. In addition, Ray explained that the construction would include a FEMA-compliant foundation and flood vents, and freeboard in excess of four feet.

McCann asked if there were parts of the lot that couldn't be built on due to the topography. Ray said there were not.

McLaughlin explained that in addition to the improvement of the water infiltration system they planned to seek permission to landscape the abutting town-owned lot with a bench and lighting in order to improve the area, which he said was now a "hangout." Another benefit of building the home, he said, would be tax revenue for the town. In the new plan, revised from the previous meeting, lot coverage decreased from 36.7% to 34%, and Nuesse pointed out that the change from a two-family to single-family was a more harmonious fit with the neighborhood. McLaughlin noted that no one has come forward against the project and that there were in fact letters of support from three neighbors.

Atherton said that he had hoped to hear some response to the issues presented in the Mitchell case, as requested in the previous meeting. Nuesse pointed out that the Board in that case voted for the applicant. Atherton noted that the first judge did also, but the case was overturned on appeal because the Board did not tie the variance to soil conditions, topography, or the shape of the lot. McLaughlin said that he didn't think that the Mitchell case had any relationship to his application because the Mitchell case lot had never been built on and all of the surrounding lots were bigger.

McCann said that the Board had to adhere to the rules required for a variance and that he didn't see how the topography of the lot was unique or constituted a hardship. He said that he didn't see how he could go to a decision without having this solved.

In the course of the discussion, the Board also considered whether the property would meet the criteria for a special permit if the square-footage of the building were decreased to 30%. However, in order to qualify for a special permit, there would need to be an existing structure on the property. The house that was once on the site burned down in 1972 and was not rebuilt, making it ineligible as a preexisting nonconforming structure. Nuesse said that a special permit would have to be tied to the fact that a building was once there. If so, he said, the Board would only have to make the argument that the proposed change was not more detrimental to the neighborhood. McCann said he didn't see how a special permit would apply without a pre-existing nonconforming structure on the property, as it is an undersized lot.

Regarding the size of the lot, Atherton said that he would like to see a smaller building on a lot of that size. He also noted that it was essentially a non-buildable lot and that McLaughlin, as a

developer, was used to taking risks. Nuesse pointed out that the Board knew from the beginning that it was a small lot. McLaughlin stated that he never considered it unbuildable. In a discussion regarding the abutting town-owned land, Lampke said that he didn't know if the town would or would not sell the land, but when they sell undersized lots, they typically like to sell them to an abutter.

Swiec said that the uniqueness of the lot was that it had not changed since 1910 and everything around it had. She said that while the proposal served the greater good, and the drainage would be very beneficial, she could not see a way to word a decision in support of the request.

Nuesse said that the Board has discretion to allow a variance given the lot sizes in the neighborhood and the size of the houses. He argued that the hardship would be to not allow them to build on the lot and that the Board has the opportunity to rule that this will benefit the neighborhood. McLaughlin argued that the lot is small, it catches everything, and the soil is no good. He said that it is unique because it had once been built on and taxes had been paid. He said that if he had had any questions about the viability of the project, he wouldn't have pursued it or spent money on engineering.

McCann said that he didn't see how the property met the criteria for a special permit or a variance. Swiec suggested that it was time to take a vote.

Action taken

Nuesse said that if the Board was not convinced, he would ask to withdraw without prejudice. Swiec noted that once a hearing is advertised, the applicant cannot do so. Lampke pointed out that the Board can vote to amend its rules and regulations on a case by case basis. The Board voted unanimously to allow the applicant to make the request. Nuesse gave them a written request to withdraw without prejudice, and the Board voted to approve, on a motion by Swiec, seconded by Atherton.

Vote:	Swiec	Yes
	Atherton	Yes
	McCann	Yes

The hearing concluded at 9:35 p.m.

Minutes

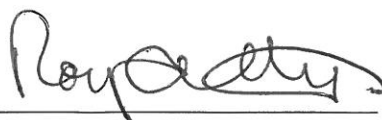
Minutes of the April 2 meeting on 172 Atlantic Ave. were unanimously approved on a motion by McCann, seconded by Atherton.

Minutes of the April 2 meeting on 52 Nantasket Ave. were unanimously approved on a motion by Atherton, seconded by Swiec.

Meeting was concluded at 9:40

Recorded by: Catherine Goldhammer

Minutes Approved: _____



9/3/15

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.