

## HULL ZONING BOARD OF APPEALS

**Applicant:** William & Ann Bradford

**Property:** 4 Q Street

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

**Time Meeting Began:** 8:31 p.m.

**Time Meeting Concluded:** 9:15 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.

### Others in Attendance:

*William Bradford, Applicant*

*John Boyd, 4 Sunset Ave., Hull, MA, Contractor*

*Gregory Howard, Abutter*

*Karen Morgan, Recording Secretary*

**General Relief Sought: Opening** – Of a Public Hearing on an application filed by William & Ann Bradford regarding property at 4 Q Street, Hull, MA which according to the application seeks: To apply for a Special Permit to convert existing porch roof to second floor deck; pursuant to Hull Zoning Bylaws, Section 61-2f.

### General Discussion:

Mr. Bradford – My father was Chairman of the Board for 20 years and my mother was the secretary during that period of time. He served with Jim Lampke's father at the time. My wife Ann and I are the proud owners of 4 Q Street. My current address is 34 Porche Pinckney, Beaufort, South Carolina. We are long time Hull residents but about a year ago we looked at downsizing our long time family home in Hull and it sold very quickly in January. We started looking for something smaller in the Town of Hull. We found 4 Q Street and it was very small but it had wonderful views and we thought about what we

can do with the property. We needed at least 2 full size bedrooms for the family and would love to enhance the views. The house itself is very long and thin and had a very small roof. We made up some plans and brought them to Peter and Bartley and they gave us direction of what to go for and then we quickly learned that the smallness of the lot was that whatever we do, we will do with the existing footprint of the house. That was a goal we tried to achieve. They liked the plan for the building itself and gave us the affirmative with starting with the house but we were very clear with what we wanted to do with the existing side deck. We want to change the roof to a second floor deck. They were clear that it was a non-conforming structure to begin with and this would be a continuation. Then we submitted plans to that change to the house we were building for that we were permitted to build. We believe that structure is not going to be intrusive to the neighbors.

Mr. Atherton – The plan you gave us doesn't show just this request.

Mr. Bradford – That is correct.

Mr. Atherton – It shows that substantial additions are approved; I don't think they are.

Mr. Bradford – They are, by the Building Commissioner, since they are within the existing footprint. If it already has an existing roof, we're adding a second floor on top of that roof. It's in its existing form, you're just taking the old roof, putting on another floor and putting on a new roof.

Mr. Atherton – The one that is in your deed is the further out one that gives you 5.7 ft. It shows as 1.7 ft., but that's the piece of property before the exchanged property. David Ray said in his write up that this land swap hasn't been recorded, but it's in your deed. If it's in the deed, it has to be recorded.

Mr. Bradford – We discovered that when we inspected the house. We're hoping that the changing from a roof over the deck to a second floor deck we think will make the house look much less storage box and we think the neighbors will think so too. In terms of the plot, the neighbors, the Harris and the owners before us, the Burkes have gone through a process to change the lot lines. There was exchange of 500 sq. ft. between the two. They sold the house as that. When we got surveys, I had Dave Ray go through the records; he said that they never filed these. The deeds were never updated with the new lot lines. The existing lot lines still show. I said to David to please put both lot lines on the plan so everyone is clear on what was filed today and what we are trying to achieve.

Mr. McCann - He effectively does have 1.7 ft. setback from the porch. If we account for the land swap, that has not been recorded, but will be. Then it will be 1.7.

Mr. Atherton – He gave me the opposite, it was 5.7.

Mr. Finn – So Peter knew you only had 1.7 ft. and gave you the building permit.

Mr. Furman – He's not changing anything, he's just taking a roof and making it a deck. Is anyone complaining about it?

Mr. Howard – I live at 5 Eliot Ave., I also have property in Kadish that is near this property and I'm also a summer resident. I got the notice from you and I don't oppose in general what he is doing. What I do oppose is that these are very small lots and they are close to the lot line about a foot away. The two prior owners, Harris, is the house that backs up next to me. They were involved in a long lawsuit with the Burkes and didn't agree on anything and were in litigation for 2 years. It was bitter, I just tried to stay out of it. I have no problem, looks like he's building a beautiful house. I do have a problem is that he's extending the pre-existing use. This plan actually shows the pre-existing porch and it does not go the entire length. So the porch when the application was made, I agree that he has the right to rebuild that porch, now, it used to be here, there was a porch roof there, now the building commissioner has allowed a building permit to allow all this additional roof and wall and there was in fact just a patio there so that what happened before was there was a porch with a roof on it.

Mr. Boyd – It would look nice so we talked to the building commissioner about it. If you looked at the plot plan, ironically the patio with the roof on it is in the area that is non-conforming. After the roof, the lot line increases to 10 ft. That is the conforming area, the roof.

Mr. Finn – So you are going to have a 10 ft. side setback in that area.

Mr. Howard – I don't have a full plan, the original porch is 121 sq. ft. That's the plan this is on file upstairs. That was the existing porch. What the plan, the building permit has allowed is an additional 23 ft. of roof and sidewall. The zoning law says that you can extend the house upwards inside the house, it says you cannot, the porches, you can only put back what you had, you cannot build out into that porch area. He's entitled to go up, I have a problem with is this is right on our property line, you look up and we're looking into Fenway Park with the seats on the top. His house would have a big deck looking into our back deck and back yard. The addition shows the roof section covered porch as 85 sq. ft. So clearly the roof section has been increased. That whole thing is an addition into the porch, so they are basically making a brand new porch and deck. The bylaw says that it excludes existing porches. You have to put it up in the existing footprint. I just sent the letter to you and to the building commissioner.

Ms. Swiec – You need to have this letter notarized.

Mr. Howard – I meant to have it notarized. The issue that I have is just is primarily that the way the zoning laws says on page 2, 61-2f, the existing footprint should be defined as the perimeter outline of the structure excluded eaves, decks and porches. Any legally existing non-conforming eave, deck or porch may be reconstructed in its former entity only. I think technically he can't even put a deck over the existing porch without getting a variance. It's not a special permit. The special permit is supposed to go for special properties and for uses. The way I read this is that you if someone wants to build, they go to you for a special permit to make some finding and that going up is an increase in the use and intensity and you have to make a finding that this is not detrimental to the neighborhood. Inside the footprint of the building itself, I am not saying anything. I don't want this new second floor roof and deck overlooking my back yard. This house is 10 ft. away from the property line, they are very small lots. I want that he can rebuild his porch and off the record I would not oppose him putting a deck over the porch, but I do oppose the extension.

Mr. Finn – You should fill out an application appealing the building commissioner’s determination of issuing a building permit. There are statutes of limitations and timelines.

Mr. Furman – Maybe the best thing to do is give them time to speak to each other and maybe you two can come to a compromise what would be best for both of you and then if you come to an agreement what would be good for you to him and you and be friendly neighbors and it would be well worth it. I understand both points and you should talk a little bit to figure something out.

Mr. Howard – I would be happy to do that, I got the notice and went to the building commissioner to find the stuff.

Mr. Boyd - I do want to stress the reason the building commissioner went this way, where the existing deck is. The existing porch is in the area that has the setback problems; the existing area that has the roof has the setback problems. Going back is much further setbacks. I felt it would look better for the house.

Mr. Furman – If he had a smaller deck, then you wouldn’t mind?

Mr. Howard – That is correct.

The applicant and the abutter agree to take some time to work out the plan.

**Action Taken, if any:**

The Board will continue the Hearing to May 1, 2014 at 7:45 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.*