

## HULL ZONING BOARD OF APPEALS

**Applicant:** David A. Foley

**Property:** 21 Mt. Pleasant Avenue

**Date:** Thursday, January 3, 2013

**Time Meeting Began:** 8:34 p.m.

**Time Meeting Concluded:** 9:16 p.m.

**Place of Meeting:** Hull Municipal Building, Main Meeting Room

**Zoning Board Members Present for Hearing:**

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

### **Others in Attendance:**

*Hildred Parent, Board Secretary*

*Karen Morgan, Recording Secretary*

*David A. Foley, Applicant*

*Attorney David Kellem, representing Mr. Foley*

*Attorney Bryan Duggan, counsel at Kellem & Kellem, representing Mr. Foley*

*Sean Cutting, Builder, Cutting Edge Homes, Hopkinton, P.O. 568, 01748*

*Marie Niland, abutter, 26 Mt. Pleasant Avenue*

**General Relief Sought: New Hearing** – filed by David A. Foley on property 21 Mt. Pleasant Avenue, seeking to erect a new home on existing foundation with three foot addition. Vertical expansion of living space setback (3.9') is less than required (10'). Front setback is as existing all others are compliant including lot coverage and height.

**General Discussion:** Mr. Duggan addressed the Board by stating that there were prior plans submitted that someone had questioned about the changes. There was an incorrect survey done and the changes have been resubmitted in this package this evening. The 3.9' is now 4.9'. Mr. Atherton said that it is non-compliant but less non-compliant.

Mr. Duggan further continues by talking about Attachment A, Page 5 in the packet so that everyone is familiar with the site in question. This provides a perspective as to where the site is located, views, etc. The homes behind the home being built are much higher than the home we are dealing with. Attachment F was added to what is looking to be done. The three photos show the existing home. The

new home would be built on the existing foundation with some added support on the foundation in the rear. An additional 3' of foundation will be added to the right side of the home to accommodate the extension to that side.

Also on this page is that on the proposed home, there will be not be an enclosed front porch as shown on the past home. The only part that will stay will be a small foyer. The left side of the home would have the 4.9' setback. The final photo shows the existing rear deck as being removed, for the new home it will be shifted to the left setback. Mr. Duggan said that the new entry way will be less. The existing front porch is 4.1' away and the furthest at 4.6'. When it is taken down and replaced, it will be 4.4' at its closest. This is discussed in the new memo and it's in the new attachments. Attachment B is the existing conditions, lot coverage, etc. Attachment C is the proposed conditions. The rear and right setback are currently conforming.

Working with Attachment B, the existing conditions, the front setbacks is currently non-conforming. The closest point is 4.1' is moved to the left of the document as 4.6'. On the front side setback under the current bylaw is 25'. On the left side of the setback the requirement is 10', we're at 4.9'. The two non-conforming is setbacks are the front and the left.

Working with Attachment C, the proposed conditions, it shows a vast improvement in going from 4.1' at the closest point of 4.4' of the front setback. The project itself instead of maintaining non-conformity is improving the non-conformity. One issue that the applicants was discussed that technically the foyer is considered an expansion of living space into a former porch area and needs the Board's approval as part of the special permit to be considered to allow the project itself. It's improving the overall front setback. There will be parking for one additional car. We are not extending the non-conformity as of a way to getting close to the lot line. It will still maintain the 4.9'. One point that the Building Commissioner did note that the new structure has an increased height. With a non-conforming structure, one can increase the height to 35' above average grade, this height extension is only 4' to 5'. The condition we don't meet in the bylaw is that the setback needs to be 5' and we are .1' away from having the height extension granted by right.

Ms. Swiec said that to the highest peak, 32' is proposed. Mr. Atherton asked if it was on the average grade level. Mr. Duggan agreed. Mr. Atherton said that it is currently 5' higher but it's still under 35'. Mr. Duggan now addresses the deck (Attachment C, the proposed conditions), the deck has been shifted to the middle of the rear of the home to parallel to the left side. The deck itself is still at 4.9', left side setback. It would require the Board's approval of the location of the deck. This is where the 30' separation that needed to be represented. From the lot line to the neighboring homes, we have 30' if you include the 4.9' to the closest home. In this single family B zone with 10' setback requirements, with two houses of 20' separation. To his understanding, there are no objections from the neighbors.

Ms. Swiec acknowledged two letters of support from neighbors (Robert A. Lincoln, 25 Mt. Pleasant Ave. and Marion Brennan, 19 Mt. Pleasant Ave.). Also, there is another letter of support that hasn't yet made its way to the file yet. Mr. Duggan also acknowledged additional letters from Con Comm whose approvals are required as well for this project because of the coastal impact.

Mr. Atherton drew drawings how the increase matches up with the old building. He suggested a site visit and Ms. Swiec agreed. Mr. Duggan would like to have the project started as soon as possible.

Mr. Foley spoke about the architecture. They attempted to match the houses to the left and right. The house on the right facing the house itself is higher. It's 23' to the right. It is all the same style.

Ms. Niland, 26 Mt. Pleasant Ave., Hull stated that she is in support of this project.

Mr. Einhorn hasn't see anything detrimental and suggested to not have a site visit.

Mr. Foley mentioned the flag markers that were put up by the previous surveyor that is incorrect. Ms. Swiec said for him to place additional markers to identify it as being the correct markers.

Mr. Kellem asked that the Board consider not doing the site visit. Not because there isn't anything to hide, but because there is nothing to gain by the site visit and prolong the project. The Historic Commission has approved. All the neighbors that are being affected are supportive. Mr. Atherton said that he can accept this request.

Ms. Swiec asked if everything that is reflected in the packet is accurate and Mr. Duggan said it was. Ms. Swiec continued to state to the applicant for him to place the correct markers for the construction crew for his own protection.

Mr. Cutting spoke of the two plans is that it is an upgraded survey from Nolan to David Ray and the recommendations from the historic commission. There are no architectural changes from a structural point of view, just the trim detail.

Ms. Swiec feels comfortable not having a site visit as long as the contestants swear to everything presented and for the applicants to correct the markers.

**Motion:** Mr. Atherton makes a motion to approve the application as submitted with plans as dated 12/18/12 contained with the cover letter introduction dated in the 1/3/13 packet.

Member	Motion	Second	For	Against
Alana Swiec, Chair			X	
Dr. Roger Atherton, Clerk	X		X	
Atty. Mark Einhorn, Member		X	X	

**Action Taken, if any:**

Mr. Atherton will write the decision. Mr. Kellem will send Mr. Atherton an outline of a rough draft for the decision.

*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.*