



## Hull Zoning Board of Appeals Minutes

Applicant: Raymond Sarno

Property: 565 Nantasket Avenue

Date: 6-5-2014

Time meeting began: 7:45 pm

Time meeting concluded: 9:35 pm

Place of meeting: Hull Town Hall, Main Meeting Room

Members present:	Alana Swiec, Chair	<b>Sitting</b>	Attending	Absent	Abstain
	Roger Atherton, Clerk	Sitting	Attending	<b>Absent</b>	Abstain
	Mark Einhorm, Member	Sitting	Attending	<b>Absent</b>	Abstain
	Patrick Finn, Associate	<b>Sitting</b>	Attending	Absent	Abstain
	Phillip Furman, Associate	Sitting	Attending	<b>Absent</b>	Abstain
	Jason McCann, Associate	<b>Sitting</b>	Attending	Absent	Abstain

In Attendance: Raymond Sarno, Applicant  
Diane Ledwell, Co-applicant

**General relief sought:** Applicant seeks to apply for a variance to change the use of a single-family one floor into two apartments on one floor pursuant to Hull Zoning bylaws article III, Section 31-1.

**General discussion:** Ms. Swiec opened the hearing and explained the procedure. She called on the applicant and Ms. Ledwell spoke to explain Mr. Sarno is a long-term resident, operates two businesses, and owns three properties in Hull – he lives at 296 Newport, rents 450 Nantasket to three families, and is requesting zoning relief to convert the Single-family at 565 Nantasket to a two-family. She provided the Board members with a presentation package which summarized her points, showed pictures of the property, and included a diagram of the ownership configuration of the neighborhood.

The Petitioner gave testimony and provided documentation to the Board which included the fact that the building was constructed in 1971 with bathrooms, kitchen, and living space in the walk-out basement/ lower level with two means of egress. Subsequently, previous owners of the property at 565 Nantasket Ave. were denied zoning relief for a secondary dwelling unit. Also,

previous owners of the property at 565 Nantasket Ave. were denied the use of the basement/ lower level living space by the Building Department, which cited new flood maps and flood zones. The elevation and topography of the property affect the structure and use of the basement.

The Petitioner suggested that the construction of an additional apartment will not substantially alter either the nature or the scope of the current use. The Petitioner provided a map of the 20 properties located in this Single Family District A area along both sides of Nantasket Ave. from Kenberma Street, in the Business District, to Packard Ave: Of these 20 properties, 40% are strictly multi-family (8); 35% are strictly single family (7); and 25% are both commercial and residential-mixed use (5).

The Petitioner is a long time Hull resident with deep ties to the community with the intentions to provide two small, (approximately 800SF each), efficient, affordably priced rental units to Hull residents who would like to remain in the community, but may not be able to purchase their own home. The Petitioner expressed willingness to pursue zoning relief through the M.G.L. c. 40B local initiative program, as an option if this variance is denied, but preferred not to deed restrict the Subject Property.

Mr. McCann asked when the basement was last occupied and Mr. Sarno responded that it was in 2006, he lived there then and it was a relative. He has owned the property since 2004. Mr. Finn pointed out that at that time it was owner-occupied, but that it no longer is; and so it can't be an in-law apartment. Mr. Finn wondered why they couldn't use the basement apartment just because it is in a flood zone? Mr. Sarno explained the previous owners had tried twice to appeal and were denied. Mr. Finn added they could use it, but not rent it. Mr. Sarno added that his flood insurance was going up 25% because he didn't live there, and he needed the extra apartment to cover the extra costs and making it affordable to renters.

Mr. Finn noted that the zoning was changed in 1978 and that the area had been commercial and residential and wondered if SF-A was in place when this home was constructed. Mr. Sarno indicated he had tried to find that out, but was unable to. Mr. Finn felt it was an important to know if it was built as a single or two family since a variance is very difficult to obtain. Mr. McCann asked if the issue of being in a flood zone had come up as a hardship before? Ms. Swiec remembered there was one that involved a variance for a raised deck, but it was not for living space.

Mr. McCann expressed concern that it will be difficult to justify the hardship argument since the basement unit has never been used as a rental, so justifying it now based on not being able to use it won't work. Mr. Finn added that either way they are creating a new non-conformity which requires a variance, where the standards are stricter than those for a special permit.

Ms. Catherine Morgan, 176 Kingsly Road, commented that there needs to be 2 parking spaces per bedroom and the number of units capped at three, so they need 8 parking spaces. (Editorial note, later discussion pointed out that the zoning requirement is for 2 spaces per unit, not per bedroom.)

Ms. Swiec commented that she supports the appeal and would like to add the stipulation that whatever amenities are in the basement for living space would be removed.

Ms. Swiec asked whether a site visit was needed. The consensus was no, as most of the Board are familiar with the site and the issue is the use, not the dimensional aspects. Mr. Finn pointed out that the issues are the use, and whether there is a hardship and the uniqueness of the property. Mr. McCann said he thought the hardship was clear, but the uniqueness is not. Mr. Finn suggested that the uniqueness is that everybody else in that area is using the lower level and Mr. Sarno cannot. He opined that perhaps the others are grandfathered uses. Mr. McCann repeated his difficulty with the argument as to whether there is a topographical issue regarding shape or soil conditions that prevents the land from being used, and the hardship of increased flood insurance costs applies to many properties in Hull. Mr. Finn argued that the uniqueness is not being able to use perfectly good living space in the basement due to the flood zone. They are proposing to do a one-for-one switch from the basement to a second apartment on the first floor and create two affordable apartments. As a possible condition, the Board could require they adhere to State guidelines for affordable housing, but not going through the long process of 40-B, just as a condition of the variance. Mr. McCann repeated his inability to see it as a topographical hardship.

Mr. Finn suggested it could be a structure related use issue as it was built as a two-family and never allowed to be used – that is the hardship. This is a use variance which only has to be related to the structure and the layout of the building, not the topography, which is a standard dimensional variance, not a use variance. A consensus was reached to support the variance requested. Mr. Finn agreed to write the decision.

Opposition: None

Action taken, if any: Mr. Finn made a motion to approve the request for a variance. Ms. Swiec seconded. A discussion then ensued about the conditions, which are:

- (a) Compliance with all applicable laws and codes of the Commonwealth of Massachusetts and the Town of Hull is required;
- (b) The construction shall be limited to two 800+/- SF dwelling units on the first floor with two bedrooms each, within the existing building footprint, and according to the floor plan and the parking plan submitted and approved by the Board on June 5, 2014;
- (c) The existing basement/ lower level housekeeping unit, including all kitchen appliances, shall be removed. The intent being that no living space shall be permitted in the flood zone and that the basement/ lower level shall be used primarily for storage; and
- (d) Following construction, no additional dwelling units, and no further expansion of the structure (vertically or horizontally) or extension of the structure into any setback areas (front, side or rear), shall be permitted in perpetuity.

Was final vote taken?	<b>Yes</b>	No	
Final Vote:	Alana Swiec	<b>Yes</b>	No
	Patrick Finn	<b>Yes</b>	No
	Jason McCann	<b>Yes</b>	No

Recorded by: Roger Atherton, Revisions by Patrick Finn

Minutes Approved: \_\_\_\_\_

**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.*