



Hull Zoning Board of Appeals Minutes

Applicant: **Mark Zuroff, Esq.**

Property: **20 Park Avenue**

Date: **May 1, 2014**

Time meeting began: 7:35 pm

Time meeting concluded: 8:12 pm

Place of meeting: Hull Town Hall, Main Meeting Room

Members present:	Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
	Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
	Mark Einhorm, 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

In Attendance: Emily Hardej, Board Secretary

Mark Zuroff, Lawyer for Owner - ERM, Hull, LLC

Joseph McLaughlin, ERM, Hull, LLC

General relief sought: Applicant seeks to a variance to construct a two-family dwelling pursuant to Hull Zoning Bylaws 61-2f.

General discussion: Mr. Zuroff explained this is the same application the Board saw previously, but, as we agreed then, it needed to be corrected because the building has not existed for forty years, so to re-build it needs a variance to build the dwelling and a special permit for

dimensional relief. The lot is in a sub-division that existed long before Hull's zoning bylaws came into existence. The original two-family burned down. They intend to build a two-family that is essentially the same dimensionally as the others in the neighborhood, with the exception of a rear stairway for access, which protrudes into the rear setback.

Mr. McLaughlin mentioned that he submitted three letters of support from abutters, but was told the Board could not accept them until they were notarized. Mr. Zuroff agreed to have this done by the next hearing. He then described the variance bylaws and explained that the current bylaws make this lot essentially unbuildable. He argued that bylaws generally encourage owners to build on lots that they own. This sub-division existed years ago and the lots then were buildable and so this proposal does not derogate in any way, and is a beneficial use to the Town and to the neighbors, as otherwise it is an empty lot – an eyesore and trash collector. The plan shows an attractive structure with underneath parking, so it takes cars off the street – an added benefit. There is case law that says that if you buy a lot that is non-conforming, you are not creating your own hardship. Bylaws generally encourage development and use of property as it was intended to be used. The proposed dwelling will improve the neighborhood and increase the tax base.

Mr. Finn requested a continuance so the applicant can fill out the part of the application that applies to variances. Mr. Zuroff indicated that he would be willing to do so. Mr. McLaughlin stated that he had made this application many months ago and had several meetings with Town officials, and has done everything they've asked for, and yet new things keep coming up, and he is running out of time. Mr. Finn argued that he had made it clear when he agreed to continue the hearing that the applicant needed a variance, which would include a requirement for the applicant to complete that part of the application form that applies to a variance, which has a much more complex set of requirements than a special permit.

Mr. Einhorn pointed out that a continuation will be needed for a site visit to be scheduled. He also explained he lives next door to one of Mr. McLaughlin's properties, but is not sitting on this appeal, so it should not matter. Mr. Zuroff added that he believes he has answered all the needs of a variance. Mr. Finn indicated he wanted these responses in writing - a brief of the legal

arguments in defense of each of the four criteria. Mr. Einhorn commented that he didn't believe the responses had to be in writing, but that Mr. Finn is entitled to whatever additional information he needs. Mr. Finn suggested that it is better to have the formal packet that is required by the ZBA rules and procedures. Dr. Atherton asked if the voting members are open to granting a variance because if the lot is unbuildable without a variance, the Board has to be willing to grant a variance, if the applicant justifies it. Mr. Finn said he was unwilling to decide either way until he has seen the required documentation. Ms. Swiec indicated she was willing to hear the arguments and get the paperwork later. She wants to give the applicants a chance to present their arguments. Mr. Zuroff responded that they were going to have to come back anyway, and he could provide a brief and entertain questions at that time. Mr. Finn asked about timing and Mr. Einhorn suggested the applicant sign a request for a continuation, which was done.

Dr. Atherton proposed the applicant consider re-locating the proposed structure. He explained that the way the bylaw is written is that the front setback is measured to the main building. Their current plan has a 20' front setback to the porch which has a 7' width. If they moved the structure that 7' forward, it would still have a 20' setback to the main structure and would move the rear stairway and platforms to 25' from the rear lot line which would make the rear set back compliant. That way the only non-conformities would be the two side setbacks and lot coverage, which is the same as almost every other home in that development area due to the small lots allowed by the Town at the time. It would also provide a bigger back yard for kids to play and make the dwelling more attractive to young families.

In response to questions from Mr. Zuroff and Mr. McLaughlin, Mr. Finn and Dr. Atherton provided information on how best to fill out the variance questionnaire and submit it along with a legal brief (if they choose to do one) and submit to the ZBA through Ms. Barone, ZBA Administrative Assistant.

Mr. Finn asked if the applicant could pursue the option he proposed earlier to purchase the adjacent lot, making it conforming, and would then have a buildable lot? Mr. Zuroff indicated that would be too time consuming and the more likely option, if the variance is not granted,

would be to drop the project.

Action taken, if any: The next hearing was scheduled for June 5 at 7:35 pm.

Was final vote taken? Yes **No**

Recorded by: Roger Atherton

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.