

# TOWN OF HINGHAM

## Board of Appeals



### DRAFT MEETING MINUTES

DATE: 1/15/19

PLACE: East Hearing Room, Town Hall

MEMBERS PRESENT: Fisher, Freeman, Romania

The Chair called the duly noticed meeting to order at 7:04 pm. Regular Members Joseph Fisher, Chair, and Associate Members Joseph Freeman and Mario Romania, Jr. were in attendance. Senior Planner/Zoning Administrator, Emily Wentworth, was also in attendance. The Chair noted for the record that the proceedings were being recorded by the Board.

**7:05 pm Cont. of Hearing: 39 Smith Street**

**For the Applicant: Craig Caudill**

The Chair reopened a hearing on an application from Craig and Jennifer Caudill for a Variance from § IV-A of the Zoning By-Law and such other relief as necessary locate two sheds within the required 15' setback required at 39 Smith Street in Residence District A.

The Applicant addressed the Board. He described the project. The Board reviewed the legal ad with staff to ensure that the revised plans, dated 1/8/19 and received 1/15/19, were consistent. Staff confirmed that no inquiries were received by staff related to the application since the initial hearing. The Applicant noted that a "neighbor consent" form was submitted with the application, which included signatures from two of the three affected abutters. The Applicant described on site topography as challenging. The Board reviewed the septic plan submitted with the application. The Applicant indicated that the lot had been regraded since the plan was prepared.

The Board reviewed the statutory criteria. A member indicated that the lot shape was regular. He was unclear about the topography conditions, given the Applicant's representation that the property had been regraded. He suggested that the soil conditions, related to the leaching field specifically, may distinguish the property. The Chair suggested that the mere presence of a wastewater disposal system would not justify a variance. The lot in his opinion may simply not be able to fit a shed. He also questioned whether the absence of a shed would constitute a hardship. In terms of impact on neighborhood, a member suggested that there were similarly

sited sheds in the neighborhood, so it would be consistent in terms of character; however, significant incursions are proposed. The Chair said that the property may be constrained, but he was not convinced that the application met the statutory criteria.

Staff reviewed the exemption from the definition of structure for detached accessory buildings, which allows a 5' setback for structures up to 64 SF, but only to the rear of a dwelling.

The Board discussed a potential site walk to view the property on Saturday, 1/19/19 between 10am and 12pm (individually). The Applicant confirmed his availability and agreed to show members the property.

J. Freeman then made a motion to continue the hearing to 2/12/19 at 7:00 pm. M. Romania seconded. All in favor.

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department comments, peer review report(s), and other related documents, all as filed with the zoning department as part of this application and all of which are available in the zoning department, were considered.*

**7:45 pm                      Hearing:                      10 Pine Street**

**For the Applicant:      Ralph Schirmer**

The Chair opened a hearing on an application from Ralph F. and Elaine P. Schirmer to renew a Special Permit A1 originally issued on December 14, 2010 under § III-A, 1.8.3 of the Zoning By-Law and such other relief as necessary to continue to park two commercial vehicles at 10 Pine Street in Residence District C.

The Applicant addressed the Board and described the application. The Chair reviewed the conditions imposed by the Board in the original special permit in order to confirm continued compliance. A member indicated that they did not have any issues with elimination of the lapse period, but another expressed concern that vehicles had a certain lifespan. Following substantial discussion, members agreed to remove the renewal requirement and instead limit the special permit to the Applicant's use of the property and business operations.

Public comment:

Kevin Batista, 14 Pine Street, expressed support for the application.

J. Freeman then made a motion, seconded by M. Romania, that the Board grant the Special Permit Renewal under Section III-A, 1.8.3 of the By-Law, allowing the continued parking of two (2) commercial vehicles and one (1) trailer on the Property, subject to the following conditions:

1. All current conditions of the Special Permit A1, dated December 14, 2010, as renewed on January 17, 2012 and January 28, 2014, remain in effect with the exception that the special permit shall not expire unless and until the Applicant (1) no longer owns or no longer resides at the Property or (2) no longer operates a business that requires the commercial vehicles.

The motion passed unanimously.

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department comments, peer review report(s), and other related documents, all as filed with the zoning department as part of this application and all of which are available in the zoning department, were considered.*

**7:56 pm                      Hearing:                      5 Bare Cove Lane**

**For the Applicant:      Rod Gaskell, SITEC Environmental**

The Chair opened a hearing on an application from Peter & Lois Scanlon for a Special Permit A1 under § III-C, 4.a of the Zoning By-Law and such other relief as necessary to install a 150' pile supported dock/float at 5 Bare Cove Lane in Residence District C.

The Applicant's agent, Rod Gaskell, addressed the Board. He described changes made to the plan since submission based on the Conservation Commission's review. The Commission expressed concern about the proposed stairs to provide lateral access along the seawall. The originally proposed double piles were also reduced to uni or single piles made of steel to reduce massing of the structure. He submitted for the record a copy of the Commission's Order of Conditions, along with a copy of the Construction Mitigation Plan prepared in connection with the Commission's review. He confirmed that the dock complies with all local and state regulations. He indicated that approximately 2 SF of salt marsh would be impacted and the applicant would mitigate that by replicating 3 times that, or 6 SF.

Mr. Gaskell then reviewed the special permit approval criteria.

A member asked Mr. Gaskell to respond to a concern, raised in written comments from Dorcas Wagner, about erosion during the construction period. Mr. Gaskell said he is not aware of any erosion from the 20 or more docks he has designed. He said the construction would operate from a jack barge to mitigate impacts. A member said that a silt barrier would be required about the construction, so silt should not migrate. Also, no excavation is planned for piles since they would be driven into ledge. Mr. Gaskell said there would be short term impacts and measures would be implemented to mitigate these impacts. There would not in his opinion be any long term impacts.

Public comment:

Dorcas Wagner, 22 Seal Cove Road, addressed the Board. She expressed concerns about development along the waterfront. She pointed to the location of annual moorings close to her property. She is concerned that the barge used during construction may cause erosion of her property. A member summarized her concerns as primarily related to the navigation of the barge. Staff noted that the Board has conditioned other permits for certain construction vehicle travel routes, so potentially the board could similarly impose conditions related to the barge. Staff also noted though that the applicant planned to use a smaller barge that would remain in place for the duration of the project, so there would not be significant navigation to address.

The Board reviewed the special permit approval criteria. J. Freeman then made a motion, seconded by M. Romania, to grant the requested Special Permit A1 under § III-C, 4.a. of the By-Law to install a 150' pile supported dock/float at 5 Bare Cove Lane in Residence District A and the Floodplain Protection Overlay District, subject to the following conditions:

1. The project shall be completed in a manner consistent with the referenced plans and representations made by the Applicant.
2. Prior to application for a building permit, the Applicant shall submit plans that includes the lighting locations and specifications that reflects the conditions already described in the application.
3. The float and anchors shall bear the identification of the owner or address of the property, such that if they break loose or float away the owner can be identified.
4. No ornamentation (flags, lights, windsocks, etc.) shall be erected or placed on the pier, dock, ramp, or float, other than the downward directed lighting proposed on the dock as described in the application.
5. The Applicant shall file an as-built plan with the Zoning Administrator following project completion.
6. Floats and gangway shall be removed and stored off site during the winter season.
7. The Applicant shall coordinate with the Harbor Master to ensure that seasonal moorings do not impede navigation for the construction barge.

All in favor.

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department comments, peer review report(s), and other related documents, all as filed with the zoning department as part of this application and all of which are available in the zoning department, were considered.*

**8:30 pm**

**Cont. of Hearing: 11 Bank Ave**

The Chair reopened a hearing on an application from REB, LLC for a Special Permit A2 under §§ I-F, III-A, 4.22, and III-G of the Zoning By-Law and such other relief as necessary to construct a Commercial/Residential Building, including 2,000 SF retail and (20) 1-bedroom dwelling units at 11 Bank Ave, 103 & 105 North Street in Business District A and the Downtown Hingham Overlay District. He noted that the Applicant had requested a continuance of the hearing. J. Freeman made a motion, seconded by M. Romania, to continue the hearing to 1/28/19 and accept the extension of the decision deadline. All in favor

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department comments, peer review report(s), and other related documents, all as filed with the zoning department as part of this application and all of which are available in the zoning department, were considered.*

**Other Business:**

In preparation for the Planning Board's scheduled public hearing on 1/28/19, members discussed with staff the following zoning amendments that the Board submitted to the Selectmen in December for consideration at the upcoming Town Meeting:

- Timeframe to Commence Permitted Use or Construction that Becomes Nonconforming
- Timeframe to Commence Use or Construction under a Special Permit
- Abandonment or Discontinuance of Nonconforming Single-Family and Two-Family Dwellings
- Section III-G Downtown Hingham Overlay District

The meeting adjourned at 9:00 pm.

Respectfully submitted,

Emily Wentworth