

HAMPTON ZONING BOARD of ADJUSTMENT

Minutes--Draft

September 17, 2026

Members present:

Bill O'Brien, Chair

Matt Saunders, Vice Chair

Erica de Vries

Tom McGuirk

Bryan Provencal, Alternate

Not present: Member Ken Sheffert,

Gregg Arvanitis, Building Inspector

CALL TO ORDER:

Chair O'Brien called the meeting to order at 7 p.m. and led the Pledge of Allegiance.

Chair O'Brien welcomed the audience and introduced the Board.

He asked audience members to silence their cell phones and to take any side conversations outside the room.

PETITION SESSION

25-26 The petition for relief of Arlene H Stammer Rev Trust for the property located at 823 Ocean Blvd. Applicant is petitioning for a Variance from Article II, Section 2.2.5.2 for dimensional requirements. The property is located on Map 197, Lot 23-1 in the RA zone.

Henry Boyd of Millennium Engineering came to the podium.

Chair O'Brien pointed out that while the Board can proceed with only three members present, with four members, were a vote to result in a 2-2 split, the applicant would have to return as this would be considered "no decision." He said that it was a courtesy to make applicants aware of this to give them the right to return to next month's meeting. The Chair also asked that if an alternate were listening and would like to come down, that would be an option, but he reminded the applicant that it could take a while for that person to get to the meeting.

Mr. Boyd said that they would proceed. He introduced Don Carrier, builder, who was at the table, both of them representing the Stammers.

Mr. Boyd presented plans that included both the existing structure and proposed changes that included an elevator and a set of exterior stairs. He said that existing stairs on the north side would

be removed, but they were seeking relief for new stairs on the south that would be at 3 feet where 10 feet is required.

He pointed out that the entire lot is within the shoreland zone, which requires that there be no net increase in impervious coverage and that the project would use through-flow decking to comply.

Mr. Carrier said that he has a building permit for the elevator. He said that the residence is a three-story home with access via an internal spiral staircase to the primary bedroom on the third floor. He said that while there is a small deck off the bedroom that the homeowners could access in case of a fire, they've asked the builder to construct stairs to get from that deck to a second-floor deck and from there to the ground. He said that this would not be a main stairway for them, but that it was a "life safety" issue for the owners.

Mr. Boyd read the five criteria.

Mr. McGuirk asked if the new stairs could be reconfigured to avoid the need for as much relief. Mr. Carrier said such a redesign would cross over doors and windows.

Mr. Saunders asked for clarification on the location of the egresses now. Mr. Carrier pointed to the front door on Ocean Boulevard. He said, however, that the homeowners, who would not be able to use the elevator in the case of the fire, wanted to be able to get quickly from the primary bedroom to the ground in an emergency.

Mr. McGuirk asked if it were possible to replace the spiral stairs inside the house and Mr. Carrier said that adding a stairwell would encroach on the living room.

(Chair O'Brien indicated that he was stepping away to contact an alternate to come to the meeting.)

Ms. de Vries said that she would want to see the current design of the inside of the home to compare a possible redesign inside with the proposed external staircase. She also pointed out that Mr. Stammer is not listed as an owner of record on the deed but has sent an email saying that he speaks for Mrs. Stammer who is listed. Last, she said, the restrictions on the deed already put the second-floor deck in violation. Mr. Boyd said they would get the ZBA's approval for this project and then go to the Select Board to deal with that.

The ZBA had also received a letter that Chair O'Brien said expressed concerns that were outside the purview of the Board and likely should be taken up with the applicant. Mr. Boyd asked for and was given a copy of the letter.

Chair O'Brien called for a motion to continue this petition.

Moved by Ms. de Vries to continue to the next meeting. Seconded by Mr. McGuirk.

Vote: 4 yes, 0 no. Motion approved.

Chair O'Brien said that Alternate Bryan Provencal was on his way in.

Moved by Chair O'Brien to take a two-minute break. Seconded by Ms. de Vries.

Vote: 4 yes, 0 no.

26-26 *The petition for relief of Robert & Michele Tarpys for the property located at 21 Dover Ave #1. Applicant is petitioning for a Variance from Article II, Section 2.2.5.1 for dimensional requirements. The property is located on Map 296, Lot 141-1 in the RB zone.*

(Alternate Bryan Provencal joined the meeting.)

Mr. Boyd of Millennium Engineering came to the podium. He introduced Robert and Michele Tarpys at the table. They were joined by builder Tim Lutrell.

Mr. Boyd said that this is a condominium site with the Tarpys' unit at the front and a second unit at the back. The decks of the Tarpys' home are 1.3 feet off the property line, Mr. Boyd said, and the building violates the setback on the left as well, making it non-compliant "as are most of the structures in the area." Their unit has two parking spaces on the property.

He said that the Tarpys plan to construct a 3-story home that improves the setback at the front, while stairs on the left will be constructed of masonry and stone—considered landscaping--so they don't have to meet the setback, he said. One of the parking spaces will move to the front of the building, parallel to the street, and on pervious pavers, while the second will remain at the back of the home.

Ms. de Vries asked if the applicants have written consent of the owners of the second home on the property. The response was that those owners were present. Mr. McGuirk said the application should include both units on the property.

Chair O'Brien pointed out that the two sets of drawings in the Board members' packets did not match. Mr. Boyd agreed that they should and that the plans he was presenting were correct for what the Tarpys were seeking.

Chair O'Brien questioned the contention that side setback relief was not sought because the proposed steps would not be attached to the house and would be constructed of material that makes them landscape elements rather than part of the building. He read a passage from the Zoning Ordinance that he said spelled out that the steps on the left side of proposed building would require setback relief.

Mr. Provencal said that it is the Building Code that outlines what constitutes structure versus landscaping.

Mr. McGuirk said that he was concerned about the front staircase as designed coming down into a driveway. He suggested flipping the design to have the stairs go away from the driveway toward the left side of the house and then the owners could do away with the second egress.

Mr. Boyd said that he recognized that per the language in the Zoning Ordinance, they would have to seek relief for the side setback so they would remove a side staircase from the drawings.

He read the five criteria.

Public comment

Jeffrey Carreau, 21 Dover Ave., Unit 2, came to the podium. He said that he and his wife, who own the second unit on the property, support the 'Tarpys' project "as long as there is no encroachment on the parking and driveway areas."

Ms. de Vries asked if Mr. Carreau, as an owner on the property, would be providing written consent to the application. Mr. Boyd asked if the Carreaus could simply sign the application and was told that they could and they did so.

Public comment—closed

No further discussion by the Board.

Moved by Ms. de Vries to approve relief from 2.2.5.1, the front setback, with the note that side setback relief is neither sought nor granted and that further, new drawings that match the plot plan be submitted that show the repositioning of the front stairs and removal of a second set of stairs on the west side. Seconded by Mr. McGuirk.

Board members agreed the five criteria had been met.

Vote: 5 yes, 0 no. Motion approved unanimously.

27-26 *The petition for relief of Kovacev Family Trust for the property located at 502 Winnacunnet Rd. Applicant is petitioning for Variances from Article II, Sections 2.2.5.1 and 2.2.5.2 for dimensional requirements. The property is located on Map 222, Lot 95 in the RB Zone.*

Mr. Boyd came to the podium with the Kovacevs at the table.

Mr. Boyd explained that the lot is small, with frontage of 40.7 feet in width. The current structure invades the front, left and right side setbacks, he said. The proposed structure would be in the same footprint but would have a 61-square foot reduction in impervious area owing to having smaller roof overhangs. They need relief, he said, because they will be increasing volume and still be in the front setback, with a slight increase in distance from the property lines.

Bob and Diane Kovacev introduced themselves. Mr. Kovacev said they bought the property in 2019 as a retirement home. They will be retiring this year, he said, and are looking to make the dwelling a little bigger to enjoy with family.

Mr. Boyd read the five criteria.

Ms. de Vries read from the Zoning Ordinance and pointed out that according to it, the homeowners, while still needing relief, did not need as much in the side setback as requested in the application.

Chair O'Brien asked about front stairs that do not appear on the drawing of the proposed structure. Mr. Boyd said that they would not be changing but agreed they were not illustrated on the plan. The Chair also asked about the concrete block foundation he was seeing and whether it goes below the freeze line, and whether it was adequate to support the new structure above. Mr. Boyd said that a structural engineer would have to determine that and that the building inspector will require this be done.

Mr. Kovacev said that the foundation under the portion of the house that will support the new structure is actually poured, that the concrete block area will not have more structure above it.

Public comment—none

Back to the Board

Moved by Ms. de Vries to approve the petition. Seconded by Mr. McGuirk

Board members agreed that all five criteria had been met.

Vote: 5 yes, 0 no. Motion passed unanimously.

28-26 The petition for relief of Alex & Celeste Manganiello, Co-T'ees of the Manganiello Family Trust for the property located at 5 Great Boars Head Ave. Applicant is petitioning for Variances from Article II, Sections 2.2.5.1 and 2.2.9, Article IV, Section 4.1.4.2.2 and Article VII, Section 7.5.2 for dimensional requirements, wetland and non-conforming use. The property is located on Map 266, Lot 55 in the RA zone.

Attorney James Scully came to the table with Paige Libbey of Jones and Beach Engineering. In the audience, he said, were Ms. Manganiello and a member of the architectural team.

Mr. Scully said that the applicants are proposing a number of renovations to the home, only some of which require relief. (The application listed a new front egress, a rear main entrance, removal of an existing impervious patio within the wetland buffer, removal of a side porch, and [construction of] a modest front deck. The deck is proposed within the applicable 12-foot dwelling-structure setback from the Wetlands Conservation District and the 50-foot wetland-buffer setback. The requested additional encroachment toward the Atlantic Ocean is limited to approximately six feet.)

Mr. Scully said that although the wetlands issues are there because of the home's proximity to the ocean, it sits several feet above the water.

He read the five criteria.

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Ms. de Vries asked for clarification on the amount of encroachment into the front set back of 20 feet, which Mr. Scully said is 10.8 of encroachment.

Chair O'Brien asked if the abutters' list included the correct number. Mr. Scully said paperwork had the names of five abutters, while the application listed three, the Chair said.

The Chair said that the applicants would have to reapply to include the two abutters at the rear of the property.

Mr. Scully said that he would like a continuance.

Public comment--none

Back to the Board

Moved by Ms. de Vries to continue to the next meeting. Seconded by Mr. Saunders.

Vote: 5 yes, 0 no. Motion passed unanimously.

29-26 *The petition for relief of Charles E.J. Roy II, T'ee of The Charles E.J. Roy II, Trust for the property located at 595 Ocean Blvd. Applicant is petitioning for Variances from Article IV, Sections 4.1.7.C.1 and 4.1.7.C.2 for wetland use. The property is located on Map 235, Lot 21 in the BS zone.*

Mr. Scully remained at the table and was joined by Joe Coronati from Jones and Beach Engineering.

Mr. Scully pointed out that this property, which for years has been a vacant lot, was the home of the former Lupo's Restaurant. He said the applicant is looking to build a structure of two dwelling units and is seeking relief because the property is in the Wetland Conservation District.

Mr. Coronati said that the wetland buffer extends almost halfway across the property. The proposed building is "a 40x30-foot structure with a small jog in it to work with the wetland buffer." The first floor, he said, would be garages and storage, the second floor one unit and the third and fourth floors another unit. He said that they will be seeking permits from the Planning Board and Conservation Commission, as well at the state and DOT.

Mr. Scully read the five criteria.

Ms. de Vries asked about the applicant seeking relief from Article IV, Section 4.1.7.C.1, which she suggested may not be necessary, as it pertains to newly created lots. Mr. Scully agreed, saying, however, that relief from 4.1.7.C.2 was necessary.

Public comment—none

Back to the Board

ZBA Draft Minutes September 17, 2026

Moved by Mr. Provencal to approve relief from Article IV, Section 4.1.7.C.2 Seconded by Mr. Saunders.

Board members agreed that all five criteria had been met.

Vote: 5 yes, 0 no. Motion passed. Motion passed unanimously.

30-26 *The petition for relief of 112 Ashworth Ave Realty LLC for the property located at 112 Ashworth Ave. Applicant is petitioning for Variances from Article II, Sections 2.2.1.1, 2.2.5.2 and 2.2.6, Article VI, Section 6.6.5.2 and Article VII, Section 7.5.2 for dimensional requirements, parking and non-conforming use. The property is located on Map 290, Lot 94 in the BS zone.*

Mr. McGuirk said that he was recusing himself as he is an abutter to this property. He had asked Mr. Provencal to fill in for him on this petition. This once again leaves a four-member Board; Mr. Scully, representing 112 Ashworth Ave. Realty, asked for a minute to speak to his clients to see how they wished to proceed and they agreed that they would.

Mr. Scully came to the table with Paige Libbey from Jones and Beach Engineering. He said that the property is a portion of what has been for decades the Marguerite Motel at Hampton Beach. The Marguerite occupies two lots; what the applicant proposes is to turn its portion into a “condominium-style of ownership.” The intention, he said, is to reconfigure parking to make it more conforming. The applicant also intends to add mini-splits to the proposed condominiums, and they are seeking relief for the mechanicals’ encroachment into the side setback.

Ms. Libbey showed the existing area with parking under the motel building, parking with inadequately sized spaces across from the building, and nine spaces now accessed from Mooring Avenue that, she said, the DPW wants eliminated as they are in a public right of way.

She showed the proposed plan with proper parking spaces, the nine spaces removed, and the addition of a handicap-accessible space. A separate one-story building at the back of the property will be retained and managed by 112 Ashworth Realty, Ms. Libbey added.

Mr. Scully said they were asking “for relief from the minimum lot area per dwelling unit as well as relief from the minimum square feet per dwelling unit; for side setback relief for the addition of the mini-splits; for 6.6.5.2, the accessible disabled parking space requirement; and for expansion, alteration and abandonment of non-conforming use (7.5.2).”

Mr. Scully read the five criteria.

Mr. Saunders asked if there had been consideration given to reducing the number of units and expanding the size of the remainder. Mr. Scully said that the building is in a flood zone and under FEMA regulations, more changes to the building would require raising it.

Chair O’Brien pointed out that with parking under, the living spaces are already above flood elevation. Mr. Scully said this was true for the one building, but not for the back building.

There was a lengthy discussion about minimum size for condominium units that could be permanent residences versus “con-tels,” which are limited to short-term occupancy.

Mr. McGuirk was asked to come to the podium, not as a Board member, but to offer his real estate expertise.

Tom McGuirk, 95 Ocean Blvd., said that condominiums can be financed, whereas it is much more difficult to get financing for con-tels.

Chair O’Brien invited an audience member who also desired to speak to come to the podium.

Anthony Fusco, 106 Ashworth Ave., said he is a direct abutter on the side. He said that he is concerned about these 36 units becoming year-round residences and “the impact on the system” were this to happen. He pointed to another property in the area where the units had a maximum 30-day occupancy.

Ms. de Vries said that she did not believe that that issue was in the purview of the Zoning Board.

Mr. McGuirk, again speaking as an audience member, said that other units in the area such as those at 18 Ocean Blvd. and 6 Ashworth do not allow year-round residency.

Board members asked whether units could be combined, thereby requiring fewer parking spaces and potentially allowing for more ADA spaces.

Moved by Mr. Saunders to allow the applicant to continue to the next meeting. Seconded by Ms. de Vries.

Vote: 4 yes, 0 no. (Mr. Sheffert absent, Mr. Provencal replacing Mr. McGuirk.)

Mr. McGuirk returned to the Board.

BUSINESS SECTION

August minutes were reviewed and amended.

Moved by Mr. Saunders to approve as amended. Seconded by Mr. Provencal

Vote: 3 yes, 0 no, 2 abstentions (Ms. de Vries, Mr. McGuirk, who were excused last month)

Chair O’Brien thanked the TV crew. **Motion to adjourn** by Mr. Provencal, seconded by Mr. McGuirk, approved unanimously at 9:57 p.m.

Respectfully submitted,

Lisa B. McNerney, ZBA Secretary

ZBA Draft Minutes September 17, 2026