



Commonwealth of Massachusetts  
Town of Acushnet  
Zoning Board of Appeals

**MEETING MINUTES - April 4, 2017**

Present were: Mr. Paul Hipolito, Chairman  
Mr. Robert Brown  
Mr. Marc Cenerizio  
Mr. David Costa  
Mr. Rick Lally  
Ms. Carol Westgate

**I. Meeting called to order at 6:30 P.M. by Chairman, Paul Hipolito**

**II. Minutes to be approved – March 7, 2017**

Minutes of March 7, 2017 meeting approved as written – Carol Westgate made motion, Rick Lally 2<sup>nd</sup> – All were in favor.

**III. Meeting Mail: (none)**

**IV. Appointments: (none)**

**V. Old Business: (none)**

**VI. New Business:**

- a. **Case #2017.03.07A** – Seth DesRoches of 80 Mill Road – Requesting a variance from 3.3.4 “E” (5) requesting to add an additional 302 sq. ft. to the maximum allowed for dwelling at 44 Hope Street.

Mr. Seth DesRoches approached the podium and stated that he would like to propose a two-story addition. I could build up to 274 sq. ft. now, and is looking to add an additional 302 sq. ft. Currently, he could probably get away with something close to 11½ x 12 sq. ft. two-story, looking to make it 16 x 18 sq. ft.

Mr. Hipolito asked Mr. DesRoches if he has read the building inspector’s letter. Mr. DesRoches response was “he had not”. Mr. Hipolito stated the letter was written on March 20<sup>th</sup>. According to this board, there is a certain 3 prong-test that basically you would have to pass to get that variance. The first one would be to show a hardship. And the hardship that you show cannot be introduced to something that you are trying to do. Mr. DesRoches asked the date of that letter from Mr. Marot.

Mr. Hipolito stated letter was March 20<sup>th</sup> and read the letter as follows:

“Before issuing a permit for the proposed addition of space to the current structure on 44 Hope Street you will be required to apply to the Zoning Board of Appeals for a variance as stated below:

Lot size is 80x95 – 7,600 sq. ft. of land area

Current dwelling contains 1,140 sq. ft. of finished area

Floor Ration which is 20%, so maximum allowed finish area of dwelling can be 1,250 sq. ft. Meaning that a variance will be required for the renovation addition of 302 sq. ft. as proposed.

The problem with this is; the Board is not allowed to just donate variances unless you meet the conditions. The conditions of a substantial hardship must be demonstrated and that the hardship must owe to either:

- 1) Soil conditions, shape, or topography of the last. If this test is met there are more subjective findings.

Basically you would need to show this board that there is hardship involved with this. I'm looking at your plans that you are proposing and it is way out of proportion to the allowed use.

Mr. DesRoches stated that technically he can get away with 1,500 sq. ft. now. Mr. Hipolito said that he is allowed 1,520 sq. ft. you are allowed; and, you are proposing to build something that is 1,800 sq. ft. and this has a second floor to it. Mr. Hipolito asked if he needed that 2<sup>nd</sup> floor, he replied “yes, that's what I'm requesting for”.

Mr. Hipolito stated that Mr. DesRoches needed to show a hardship. Mr. DesRoches asked what hardship that would pertain to? Mr. Hipolito stated, “Soil conditions, shape or topography of the land. Mr. DesRoches stated that the land contains a lot of ledge. The ledge would have to be blasted out, and potentially damage some neighbors home.

Mr. Hipolito's reply to Mr. DesRoches was that the special permit he's requesting would not allow him to increase the floor plan ratio. He would need to show hardship.

Mr. Robert Brown asked the Chairman, “What is the intent of the By-Law? Mr. Hipolito said, “The By-Law itself to not allow people to build more than the floor ratio is, unless there is hardship.

Mr. Brown: asks that because generally every Town has this By-Law about area,

and it's always about ground coverage. You don't want more than 20% of the area in ground coverage because you want your own rainwater and your own stuff to go through your own ground you don't want to create an area of surface that you can't deal with your own runoff and things like that. So that 20% is in a lot of towns, but it's always about ground coverage, the best you can ask for is a two story

Mr. Hipolito told Mr. Brown that the By-law is written for area ratio, which includes 1<sup>st</sup> and 2<sup>nd</sup> floor. If this was a ranch this would not be a problem.

Mr. DesRoches again, asked the board what constitute a hardship. Mr. Hipolito again stated that he cannot build a two story because the way the By-Law is written regarding 20% area ratio.

Mr. DesRoches requested a continuance so that he can get an engineer involved. Mr. Hipolito agreed to extend this case to June 6, 2017.

**Case #2017.04.04A** – Linda M. Norcross of 264 Reed Road – Westport, MA. Is petitioning a Special Permit under Section 3.3.1RA & “B” 14 for 690 Main Street- no change to present building which is currently being used for light manufacturing (sprinkler parts) – requesting using the existing commercial building for storage of mason tools, equipment and supplies.

Ms. Linda Norcross and Frederick VonJess who resides at 15 Cushing Lane approached the podium, stating that they are looking to purchase the existing building and land at 690 Main to use for mason tools and equipment.

Mr. Hipolito stated that approximately 6 mos. prior, the Board issued a Special Permit for Jason Trucking. Mr. VonJess said he believed that it was never approved, but a member of the audience stated that the owner of Jason Trucking never purchased the building or opened the business. Mr. Hipolito stated that this application is still under the Special Permit of the old Sprinkler Manufacturing, and that they would like to purchase this building and use it for storage of Masonry equipment.

Mr. Cenerizio asked who's been there all along.

Mr. VonJess stated that D'Augustino had occupied the building for at least 10 years, prior to the Sprinkler System business.

Mr. VonJess stated that they would like to purchase the building and use it only for masonry yard. No manufacturing would be done at the site.

Mr. Hipolito read the letter from the Building Dept. dated February 21, 2017:

The Special Permit granted the Mills back in 1987 is what currently rules, in this matter. Any change in use of the property from this Special Permit requires, by State Law, a new or modified Permit. The original permit was for mechanical contracting / manufacturing and assembling of sprinkler components. This use is the only use still allowed without the Zoning Board's grant of a new Special Permit. I encourage you to seek the Board's approval and complete the process for three reasons:

1. No use of the property will be allowed without the Special Permit, except for the assembly of sprinkler components or the construction of a single family dwelling (an allowed use in the residential zone).
2. The Board of Selectmen has approved the use, but in this case just does not have the authority to legally allow it.
3. The Zoning Board of Appeals, who rules in this matter have been favorable to the establishment of new business in the community. This use is similar to the previous use.

Mr. VonJess stated that he visited neighbors regarding disturbances and noises come from his business. Mr. Midurski of 700 Main Street - stated that he works every day and Saturdays are his days off. He stated to Mr. VonJess on Saturdays there is noise coming from the business, starting at 5:30 A.M., grinding and trucks running. He does not want them to not have a business, but would like them to start later in the morning. Mr. VonJess stated that he will have his employees load the trucks the day before, so they can just leave early the next day.

Ms. Andriana Geggatt of 680 Main Street – She has no objections of them doing business, but she has problem with employees coming early in the morning, swearing and yelling. Mr. VonJess said he will speak to his employees regarding same.

Mr. VonJess addressed the audience and stated that if anyone has a problem with noise and any employee they can call him on his cell or Linda on her cell, as well and will address the complaint.

Mr. Hipolito asked if there was any manufacturing going on at the site. Mr.

VonJess stated they do not do any manufacturing on site, only at working site. They may occasionally work on trucks, or small mason job, but nothing big.

Mr. Hipolito suggested hours of operations, Mr. VonJess would like it to be in 2-fold:

1. Trucks need to pull in early and leave early because their work is most out of state. Will have trucks loaded day before and ready to go around 6:30 A.M. during this time of day there will be no manufacturing being done.
2. Hours of Operation would be:  
Monday – Saturday from 8:00 A.M. – 6:00 P.M. No Sundays

Mr. Hipolito stated that there is another issued that has not been address and that a special permit is needed because you are not allowed to have more than 1 commercial vehicle on the property. By law you are only allowed one commercial vehicle.

We could vote tonight on this special permit for the initial application or wait until you apply for the second permit and do them both at the same time. You will still have to apply for a special permit for the vehicles, and you can come back at our next meeting which will be Tuesday, June 6, with the special permit for the 6 vehicles. Mr. VonJess said they will apply for the special permit and come back in June.

Mr. Hipolito asked if there is a motion to approve the special permit, with stipulations on the hours of operation: Monday – Saturday 8:00 A.M. -6:00 P.M. (with light manufacturing). Also includes in this motion is the stipulations that it would be no earlier than 6:30 trucks will be leaving the property.

Carol Westgate made motion to approve the special permit with stipulations— Mr. Hipolito asked all in favor for the special permit with stipulations to be approved, please signify by raising your right hand. All in favor - motion approved.

2. Future Business: (none)
3. Schedule next Zoning Board of Appeals Meeting: June 6, 2017

Mr. Hipolito motioned meeting to be adjourned - All in favor – “Meeting Adjourned”



Commonwealth of Massachusetts  
Town of Acushnet  
Zoning Board of Appeals

Acushnet Zoning Board of Appeals Meeting – Tuesday, April 4, 2017

Respectfully submitted:  
Rachel Charbonneau

Minutes Approved:

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*Paul Hignite*  
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*Tom Brown*  
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*Richard Lally*  
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*Paul Arestogite*  
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Date: *June 6, 2017*