



CITY OF GLOUCESTER
ZONING BOARD OF APPEALS
3 POND ROAD, GLOUCESTER MA 01930

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., April 25, 2019
Kyrouz Auditorium, City Hall

Board Members Present: David B. Gardner, Chairman
Joseph Parisi, III, Vice Chairman
Michael C. Nimon
Adria Pratt
Michele Harrison - absent

Alternate: Catherine A. Schlichte

Also in Attendance: Bill Sanborn, Building Commissioner for the City of Gloucester
Alison Battle, Clerk of the Zoning Board of Appeals

The Chairman called the meeting to order at 7:00 p.m.

The Chair introduces the 2 new permanent members Adria Pratt and Michele Harrison and new alternate member Catherine A. Schlichte

Continued Hearings:

13 Sleepy Hollow Rd

Atty. Donald Borenstein of Johnson & Borenstein, LLC 12 Chestnut St. Andover MA 01810 is representing Ozone Realty Trust seeking to appeal the decision of the Building Commissioner concerning the lots buildable status.

Atty. Deborah Eliason of Eliason Law Office, LLC 63 Middle St is representing the appellant Joseph & Gloria Distefano. They are the current owners of 13 Sleepy Hollow Rd. and planning to build a home on this lot.

The Chair informs both attorneys that the board will not be listening to anymore testimony but just voting on a decision. All board members are in agreement.

Discussion: The board members state that they are in support of the decision made by the Building Commissioner and that this is a very complex case with a great deal of issues that are above this board's purview. The City Solicitor Chip Payson also looked into this issue and per the Chair feels that the Building Commissioner made the correct decision.

Mr. Parisi moves to uphold the decision of the Building Commissioner
Mr. Nimon seconds

All in Favor 4-0

1-3 Essex Ave.

Atty. Deborah Eliason of Eliason Law Office, LLC 63 Middle St is representing Dr. Jeffery Ahlin. Atty. Eliason asks the board for a continuance to May 30, 2019. Dr. Ahlin is working on revisions to his plan in hopes that they will address some of the concerns raised by the neighbors and requires more time to do so.

Mr. Nimon moves to continue this case to June 13, 2019

Mr. Parisi seconds

All in Favor: 4-0

26 Wonson St.

Atty. Joel Favazza of Seaside Legal Solutions, P.C. 123 Main St. #301 is representing Peter M. Lafata who are seeking a Special Permit to increase maximum building height to enable the petitioner to increase the ceiling height and add a roof over a cupola floor. A site visit was conducted on 4/20/2019 to view the concerns addressed by the abutters at the last meeting.

Atty. Favazza requests for a continuance as there are only 4 member present to vote this evening. The request is denied as there were only 4 members listening to the case at the originally meeting.

Atty. Favazza reviews his client's request and submits a petition with 31 signatures in favor of the applicant's plans of the cupola. He feels that the writers of the letters that were submitted to the board in opposition over the past week do not truly know what the main objective of the hearing is as many wrote in objection of the size of the building not the cupola.

Speaking in Favor:

Cathy McCarthy, 40 Rocky Neck Ave. states that she feels that the project was misrepresented on social media and that they are fully in favor of the applicants adding the cupola.

Speaking in Opposition:

Atty. Meredith Fine, of the Law Office of Meredith A. Fine 46 Middle St. is in attendance representing direct abutters Tory and Greta Bagshaw of 2 Clarendon St.

Atty. Fine submits photos to the board from the site visit and discusses the loss of view that her clients will endure due to this addition of an already huge building. She submits letters in opposition from 19 neighbors.

Ann Rosefeld 14R and 20 Wonson St. is a direct abutters. She is concerned that the neighborhood and Rocky Neck, which is a focal point from all directions of the neighborhood and from the water, will change and affect the entire city.

She feels it will set a bad precedent for the area if this is project is allowed. She also feels that tourism is going to become a large part of Gloucester in the coming years, and that allowing these large homes to be built will changes the scenery of Rocky Neck. She states that people come from far and wide to view the area where famous paintings have been painted and that view that the artist had will be gone.

Reverend Richard Emanuel 153-149 East Main St. discusses the issues that East Gloucester has recently had with new people coming into the City and building large structures that are changing the design of the City.

He states that this board sets the precedents and a tone on what people can get away with. The board is the first line of defense on what happens to the City.

Atty. Favazza rebuts the topics brought up by the opposition.

The board discusses that you can't just take the cupola by itself, but you need look at the entire structure being built as a whole. Mr. Parisi and the Chair discuss their dislike of projects being brought back to the board to add on as a second thought.

Mr. Nimon moves to accept the application to allow the cupola

Mr. Parisi seconds

Vote: Denied 3-1

95 Riverview Rd.

Atty. Deborah Eliason of Eliason Law Office, LLC 63 Middle St is representing Lilli Ann Gordon Trustee of 95 River Road Realty Trust. A site visit was conducted on 4/20/2019 to view the concerns addressed by the abutters and Atty. Eliason submitted revised plans to the board prior to the site visit.

Atty. Eliason submits paperwork to the board.

Before the site visit revised plans were submitted to the board and Atty. Eliason discusses the changes that have been made to make it more conforming. She discusses the applicants and her architects multiple tries to speak to her neighbors and the lack of response that they have received.

Ms. Gordon would be willing to add the following conditions to the decision if the project is accepted by the board. The applicant will put up a one way sign so that contractors will not pull out of the driveway and drive the wrong way on Riverview Rd, which is a one way street.

Ms. Gordon will also agree not to begin construction until after Labor Day, to re-pave parts of the road around her home and where the building will take place, as well as, pay \$5000.00 to any repairs at other parts of Riverview Rd. that may take place related to her construction. She will also ensure that a sign is posted with the contractors on site contact information to address issues that may come up during the construction. Atty. Eliason ends with stating that the building is already over height and that taking away the cupola will reduce the height and making the structure more non-conforming.

The Chair asks Atty. Eliason to confirm what the applicant is asking for. Her response is a Special Permit for alter and expansion of a non-conforming structure for the front porch.

Speaking in Favor: None

Speaking in Opposition:

Kenneth "Buck" Harris, 72 & 74 Riverview Rd. reads a letter that he sent to his neighbors after the site visit. He discusses that many who were originally in favor of the proposed project changed their mind once they read his letter and how it will affect his view.

He discusses his aspirations of this property in the future and his feelings of the neighborhood.

Cathy Palmisano 72 & 74 Riverview Rd. states her concerns with this construction after the recent construction in the neighborhood once they were connected to City sewerage. She is concern about traffic safety and the storage of trucks, dumpsters and machinery during the construction.

The Chair asks Atty. Eliason how the issues of traffic can be resolved in the best interest of the neighborhood. Atty. Eliason invites architect Jonathan Poore, 315 Washington St. to explain the plans for the "staging" of the construction. He states that waiting to start until after Labor Day will allow the contractor extra time to ensure that all conditions will be met.

Mr. Poore also answers that by spring 2020, the builders will be working on the inside of the house and this will not disrupt the neighbors.

Discussion by the Board:

The board is impressed with the applicant's immediate changes to the original plans in response to the neighbor's complaints. They are also happy with the voluntary proposed conditions that they have offered.

Mr. Parisi moves to approve the Special Permit for the alteration, demolition and reconstruction of a pre-existing non-conforming structure with the conditions stated above while adding that construction outdoors will end by Memorial Day 2020.

Mr. Nimon seconds

Mr. Parisi moves to approve a second Special Permit for the moving of the pool in the back yard.

Mr. Nimon seconds

All in Favor 4-0 for both Special Permits.

New Business:

12 Laurel St.

Atty. Sal Frontiero of Frontiero Law Office, P.C. 46 Middle St. Gloucester is representing Keri L. Eynon and Thomas S. Waldon. Atty. Frontiero discusses that the Applicant is seeking to purchase a portion of 14 Laurel St. and combine it with the 12 Laurel St. property. This will enable them to have frontage on 12 Laurel St. The applicant plans to tear down the existing building on #12 and construct a single family residence on the site. This site is currently R-10 but will become R-30 once they are adjoining it to a portion of 14 Laurel St. which is in an R-30 Zoning District.

Atty. Frontiero is also asking for the original application on 14 Laurel St. to be withdrawn.

Ms. Schlichte states that she previously lived a few doors down from this property and she feels that this is a nice improvement to the area. The board agrees that this is a nice improvement to the neighborhood.

Speaking in Favor: None

Speaking in Opposition: None

Ms. Pratt moves to accept the withdrawal of the original application of 14 Laurel St.

Mr. Nimon Seconds

All in Favor: 5-0

Ms. Pratt moves to accept the request for a Variance for the reasons stated to enable the petitioner to go to the Planning Board for an A&R and that a Variance be allowed for the use of the R-10 dimensional requirements for the lot, which she feels that the Zoning Ordinance intended.

Mr. Nimon seconds stating that this is improving the lot and making the property more conforming.

All in Favor: 5-0

488 Essex Ave.

Atty. Deborah Eliason of Eliason Law Office, LLC 63 Middle St is representing the West Gloucester Trinitarian Congressional Church.

Due to the reduction in membership of the Church they are looking for a change in use in order to rent an area of unused space in the Church to a retail yarn shop, **Coveted Yarn**. This will bring in income for the Church's upkeep and allow the church to keep running.

Reverend Alice Erickson, Deacon and Asst. Treasurer of the Church, 41 Folly Point Rd. is present and discusses the Church's need for income. She has met with the owners of the yarn shop and feels that this will be a great fit as the Church currently has knitting classes/groups.

Rev. Erickson answers question from the board pertaining to the Churches Tax Exemption by renting this space.

Speaking in Favor:

Leslie Roberts Pope, Chair of the Church Council and Moderator, 50 Mt. Pleasant Ave discusses the loss of their preschool and it causing a financial hardship for the church. She states that the addition of a retail yarn shop will bring much needed support to the church.

Speaking in Opposition:

Robin and Sam Scola 480 Essex Ave. (a/k/a 1 Lawrence Rd.) are direct abutters. Ms. Scola asks the board if the Use Variance goes with the property if the Church closes or is sold.

Bill Sanborn answers that it would stay with the property if it was sold unless the board conditions it not to do so.

Mr. Scola requests for it to be conditioned that if Coveted Yarn moves out, no other retail business be able to move in. The board discusses this and the Chair suggests considering the condition be that only a retail yarn shop be allowed in the space.

Atty. Eliason requests that the Church only be restricted to a retail space and not just a yarn shop. They would prefer that it does not pertain to just this one yarn shop and suggests that the Board restrict them to a retail shop of the same type/size of space.

The board is very concerned with allowing a retail business in a residential area.

Mr. Parisi suggests it be restricted to the Church itself and not be allowed to stay with the property if sold. Limiting them to a yarn shop constricts them to being tied to this one yarn shop and hinders them in the rent they charge. He suggests that a condition be put in place stating that if the church is sold the Use Variance lapses. This is discussed.

Mr. Nimon moves to approve the Use Variance with the conditions that it be restricted to the Coveted Yarn entity and to it being under the ownership of the Church. If either changes the Use Variance will lapse.

Mr. Parisi seconds

All in favor: 5-0

5 Stanwood Point Unit A

Atty. Meredith Fine of the Law Office of Meredith A. Fine, 46 Middle St. is representing Michael and Eileen Mills who are seeking a Variance to allow accessory use in front yard to enable them to build a small one-car garage. Atty. Fine submits a map of the wetlands in the area and presents the application. She informs the board that this is a one family dwelling not a two family dwelling as she had stated in the application.

The Board reviews the plans

Speaking in Favor: None

Speaking in Opposition: None

Mr. Parisi moves to approve the Variance

Mr. Nimon seconds

All in favor: 5-0

9 Planters Neck Rd.

David A. Bernard is representing his Spouse of Lida W. Bernard.

He is looking to replace his existing shed with a larger one as he needs more storage space. He discusses some changes to the original submitted plans. The door will change to a barn door, the location of the window and the height will be lower than originally stated.

Mr. Bernard submits letters in favor of 2 abutters and reads them to the board.

Speaking in Favor:

Lynn Fenollosa 3 Planters Neck is in favor of the shed. Annisquam is tight in the summer when all the summer residents come back, but there is nothing that you can do about it. She feels that the addition of a larger shed will not make the area more congested.

Speaking in Opposition:

Jane Holly DeBlois, 15 Planters Neck Rd. reads a letter that she submitted to the board. She discusses that the plans for the shed are much larger then was discussed and that the road is very narrow and space is tight. She shows her survey to the board. She is concerned that a fire truck will not be able to get through with the all of the congestions.

Mr. Bernard rebuts the opposition's remarks.

Mr. Nimon moves to grant the Special Permit

Ms. Pratt seconds

All in favor: 5-0

Discussion of the Board:

The Chair discusses Case Name Henry W. Comstock Jr. Trustee of the 132 ½ Wheeler Street Realty Trust et al vs. Robert Irwin et al

The Chair met this week with Bill Sanborn, the Building Commissioner, Chip Payson, the City Solicitor and his assistant Krisna Basu to discuss if the board's ruling should be appealed.

Motion to adjourn was made at: 10:02 PM

Motion by: Mr. Parisi

Second by: Ms. Schlichte