



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

**ZONING BOARD OF APPEALS
Meeting Minutes**

7:00 P.M., June 27, 2019
Kyrouz Auditorium, City Hall

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

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.

Nicola Bach, 29 Woodbury St. is representing Henry and Vincenza Pascale seeking a Special Permit 1.9 to alter/expand a non-conforming structure, right side, left side, lot width 2.3.1 # 3 to convert a one family to a two family with changes to the exterior dimensions of the building. To allow construction of an attached second dwelling, pergola and car port.

Ms. Bach is present and requests a continuance as there was an error with the requested relief and the application needs to be revised and re-advertised.

Mr. Sanborn confirms this.

The Chair asks if there is anyone present to hear this application and there is none.

Ms. Harrison moves to continue this application to 7/11/19

Mr. Nimon seconds

All in favor, 5-0

Minutes:

Ms. Schlichte moves to accept the minutes of 6/13/2019 as they are written.

Ms. Harrison seconds

All in favor, 5-0

Seconds

All in favor:

Old Business:

14 Dodge St.

Atty. Sal Frontiero of Frontiero Law Office, P.C. 46 Middle St. Gloucester, MA, is representing Amanda Unis, who is seeking a Special Permit to convert to a 3 family section 2.3.1 # 6 and a Variance to allow parking within the front yard setback sec. 1.7 section 4.1.4 (a) (2) to allow the conversion to a 3 family dwelling.

The Chair and Ms. Pratt recuse themselves.

Atty. Frontiero gives a brief summary of the project using a large version of the plans as a visual aide. He discusses the requested relief, along with the need for affordable housing in Gloucester and the possible reasons for needing a curb cut.

Speaking in Favor: None

Speaking in Opposition: None

Mrs. Harrison moves to accept both the Special Permit and Variance and explains the reasons why.

Ms. Schlichte Seconds

Mr. Nimon asks if he is asking for alter/expand as it was not advertised. Atty. Frontiero explains that he doesn't believe that it is needed, but had added it in case the Board felt it was.

All in favor, 4-0

Elizabeth A. McLindon 53 East Main St., seeking a Special Permit 2.3.1 #6 conversion to 3 dwelling units and a Special Permit 4.1.3 location of parking facilities to allow conversion from 2 to 3 dwellings with off-site parking. Ms. McLindon is present do answers questions from the Board. This is a continued application. Ms. McLindon had been before the Board requesting a 2 family with a home occupation. She is now asking to convert the dwelling into a 3 family and keep the home occupation.

The Chair asks Mr. Sanborn if a home occupation can go into a 3 family and what is considered a residence as the Building Commissioner was not present at the last meeting. Mr. Sanborn explains that past practices only allowed Home Occupancies in 1 and 2 family dwellings. He further discusses the recent changes to the Zoning Ordinance for 3 family dwellings, where the Planning Board proposed that the City Council treat a 3 family similar to a 2 family. Mr. Sanborn doesn't see that a Home Occupation has been discussed in respect to a 3 family dwelling and feels that this is up to the Board.

The Applicant was asked to submit a photo of the parking area at the last meeting and the photo is discussed.

The Chair asks the Board if any of the members have been inside of the building, as he would like to see a layout of the premises and is concerned with a third unit being added due to parking and the street size. This is a private street that is very narrow and small.

The Board asks Ms. McLindon questions on where the Home Occupation will be and the size of the rooms and overall area.

Mr. Nimon is concerned with the loss of 25% of floor space for the home occupation as this is the first case like this before the Board.

The possible need for the Applicant to come back with a new application for a Home Occupation is discussed.

Speaking in Favor: None

Speaking in Opposition: None

The Chair asks Ms. McLindon to bring a plan to the next meeting and for the Board to be allowed to view the unit if they desire.

Mr. Nimon moves to continue this application to the 7/11/19 meeting.

Mr. Parisi Seconds

All in favor, 5-0

New Business:

9 Overlook Ave.

Atty. Sal Frontiero of Frontiero Law Office, P.C. 46 Middle St. Gloucester, MA, is representing Robert and Theresa Buchanan, Trustees of the Buchanan Family Revocable Trust, who are seeking a Special Permit 1.9 to alter/expand a non-conforming structure or use to exceed maximum allowable

building height for an accessory structure. Variance for side yard and rear yard setbacks to allow construction of a new detached garage.

Atty. Frontiero give a brief summary of the project and the requested relief using a large version of the plans as a visual aide. He also distributes a signed petition to the Board members.

Mr. Nimon asks why the structure needs to be in the proposed place and not moved over. Atty. Frontiero answers that if they moved it, it would encroach into the right yard setback and they would then need to blast. The neighbor being encroached upon signed the petition and is in favor of the project.

The Board discusses why he would need a Special Permit to alter/expand on new construction. The Board discusses the need for this Special Permit. Mr. Sanborn confirms that the Special Permit is not needed.

Atty. Frontiero states that the deed has already been filed to change the lots into 1 lot.

Speaking in Favor: None

Speaking in Opposition: None

Atty. Frontiero requests to withdraw the Special Permit to alter/expand

Mr. Nimon moves to grant the Special Permit for height exception and Variance.

Ms. Harrison seconds with the condition that there be no plumbing or electricity added, and that it not be used as a living space.

All in favor, 5-0

35 Fuller St.

Atty. Mark Nestor of the Law Offices of Mark L. Nestor, 45 Middle St. Gloucester, MA is representing Beauport Shores LLC, seeking a Special Permit to alter/expand a non-conforming structure/use, lesser number of off street parking spaces, increase residential units from 2 to 6, and reduce commercial units from 3 to 1. Section 2.3.4 (9) takeout restaurant more than 20%. Variances for front yard, side yard, lot width, lot area, lot frontage, lot coverage and percent of vegetative cover to allow to rebuild building destroyed by fire on 10/26/14.

Atty. Nestor give the Board a Brief Summary of the project using a slide show of photos. He was granted Variances for this project in 2016 and then renewed them in 2018. He is now before the Board asking for a Special Permit to alter/expand. Atty. Nestor explains the changes that the Applicant has made to the plans. He states that they are making the structure smaller and adding more parking.

Atty. Nester discusses the differences from the existing building that burned down vs. the 2016 proposal and this evening's proposal.

Speaking in Favor:

Noreen Gillis, 28 Lake Rd.

Joanne Curcuru, 23 Englewood Rd.

Speaking in Opposition:

Atty. Meredith Fine, 46 Middle, St. Gloucester, MA, is representing Jerry McCarthy, 31 & 33 Fuller St. who is a direct abutter of the proposed project.

Atty. Fine presents to the Board the reasons as to why her client is opposed to this project. Mr. McCarthy feels that the project is too large for this property, that there aren't many changes made from the 2018 plans, but is just configured differently. She also states that the Applicant is not requesting the correct relief and that if they did, they would have been before the City Council before coming to the ZBA. Atty. Fine does not feel that the Applicant is showing a hardship.

Atty. Fine submits a petition with 159 signatures.

Mary Lou Tierney, 5 Hesperus Circle submits a packet and presents it to the Board.

Sandy Ronan, 5 Magnolia Ave.

Keith Zolman, 3 Norman Ave.

John O'Hara, 55 Norwood Ave.

Emily Smith reads a letter for Dr. Robert Lipkowitz, 2 Magnolia Ave. who is unable to attend tonight's meeting.

Carol Dirga, 7 Norman Ave.

Brian Scarlet, 19 Englewood Ave.

Mark Allain, 33 Fuller St.

Judy Gillis, 23 Desmond Ave, Manchester, MA

The Chair counts 9 in favor and 27 in opposition that are present for this evenings meeting.

Atty. Nestor rebuts the opposition and states that if he had seen these submissions prior to this evening he could have brought in the engineer and architect to answer question to rebut the opposition.

The reasons for the building to be the proposed height are discussed.

Ms. Schlichte asks about the parking. He needs 12 spaces for the residents, 9 for residential and 3 for the restaurant employees. Customers will be parking on the street as they did prior to the restaurant burning down.

Ms. Harrison and Mr. Parisi asks Atty. Nestor to answer questions brought up by Atty. Fine regarding defending the hardship for the Variances and how the applicant justifies being closer to the lot lines.

Ms. Harrison asks about the 2 front yards.

Ms. Harrison asks how large some of the houses are in the area and how many units they are.

Atty. Nestor request a moment to speak with his clients.

Atty. Nestor request a continuance to speak with his experts to look at the material submitted this evening and to look into reducing the height of the building.

The Chair asks Atty. Nestor to speak with the neighbors and Atty. Fine instead of working it out in front of the Board.

Mr. Parisi moves to continue this application to the 8/8/19

Mr. Nimon Seconds

All in favor, 5-0

4 Pebble Path

Atty. Sal Frontiero of Frontiero Law Office, P.C. 46 Middle St. Gloucester, MA, is representing Melissa Sallah, who is seeking a Special Permit 1.9 to alter/expand a non-conforming structure or use. To allow to construct addition to existing shed, to construct roof over existing front entry.

The applicant is withdrawing the request for the roof over the porch.

Atty. Frontiero give a brief summary of the project and the requested relief using an enlarged version of the plans as a visual aide

The Chair asks what the shed is used for. Atty. Frontiero explains that it is a cabana for the beach with a shower, toilet and sink.

Mr. Nimon questions if it was permitted when it was put in and the applicant states that it was.

The Chair states that he would like to see the permits.

Mr. Sanborn states that they are finding that plumbing and electrical do not look at usage and that there were permits for a bathroom addition for electrical and plumbing in 2016 but no building permit.

Ms. Harrison asks why a Variance is not needed for side yard because the frontage is on Pebble path.

The Chair confirms that it is an existing non-conformity, so it can extend with a Special Permit and they do not need a Variance.

Speaking in Favor: None

Speaking in Opposition: None

Mr. Parisi moves to grant both the Special Permit and Variance with conditions that there will be no sleeping quarters. No beds, no additional plumbing, stove, kitchen, no wood stove.

Mr. Nimon Seconds

All in favor, 5-0

42 Hartz St.

John Wheeler seeking a Special Permit 2.3.7 # 21 customary accessory use to allow bathroom in new garage. Mr. Wheeler is present and answers the question by the Board.

Mr. Wheeler is requesting a shower in his garage and Mr. Nimon explains that the concern with this is that with a full bath it creates the ability to add a second primary structure, which the Board does not like to grant.

Speaking in Favor: None

Speaking in Opposition: None

Ms. Harrison moves to grant the Special Permit with the modification that it be a half bathroom without a shower instead of a full bathroom

Mr. Parisi Seconds

All in favor, 5-0

660 Essex Ave.

Joseph Cellucci seeking Variance for use 2.3 to allow continued use as restaurant.

Mr. Cellucci 270 Concord St. presents his application to the Board. He is before the Board to see what can be done with this property that he has purchased as the zoning has been changed.

The property was surveyed in 2010, and was found to be in Gloucester, with only the Chimney being in Essex, MA. Around this time the property was changed from commercial to residential.

Mr. Cellucci explains his discussions with the Town of Essex. This property has been a commercial lot for 70 years and has been an empty property for 10 years. He would like to convert this property back into a pub.

The Board discusses the property and the Chair confirms that water and sewer is in Essex, however all licenses would be under Gloucester's jurisdiction.

Speaking in Favor:

Judy Gillis. 23 F. Desmond Ave, Manchester, MA. Knows the property well and the Applicants well and is in favor of what the Cellucci's putting a commercial establishment on the property.

Speaking in Opposition: None

The Chair discusses the Change of Use that is being requested.

Mr. Sanborn states that what the Board is being asked to do is to grant a use of a property that was established over 50 years ago.

Both Gloucester and Essex agree that the property is in Gloucester, however the Mass Highway Department placed the Welcome to Essex sign in the wrong place.

Mr. Parisi informs the Applicant that the Board cannot change an R-10 lot to a Commercial lot, but they can grant them a Use Variance. The Board will need to know exactly what type of business will be going on the property to do so.

Mr. Sanborn adds that if they grant a Use Variance for a restaurant, they can open whatever type of restaurant they want to, but if they want to have take-out and it's going to be more than 20% lot coverage, there are other conditions that will need to be considered.

Ms. Harrison discusses the difficulty of getting a Use Variance and suggests that the Applicant read the Zoning Ordinance.

The Chair suggest that the Applicant withdraw without prejudice until they decide what type of commercial establishment they would like to put there.

Mr. Parisi suggest that they look into grandfathered use.

The applicant requests that he be permitted to withdraw without prejudice.

Mr. Nimon moves to permit the applicants request to withdraw without prejudice.

Ms. Schlichte Seconds

All in favor, 5-0

Discussion by Board:

1-3 Essex Ave. is discussed

Motion to adjourn was made at: 10:41 PM

Motion by: Mr. Nimon

Second by: Mr. Gardner

All in favor, 5-0