



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

**ZONING BOARD OF APPEALS  
Meeting Minutes  
7:00 P.M., January 10, 2019  
Kyrouz Auditorium, City Hall**

**Board Members Present:** David B. Gardner, Chairman  
Joseph Parisi, III, Vice Chairman  
Michael C. Nimon  
Sage Walcott  
Kris Howard

**Alternate:** Adria Pratt  
Michele Harrison

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.

**Continued Business:**

**677 Western Ave.**

Tony Capachietti, Hayes Engineering is representing Steve Calas who is seeking a Variance to access the property at 677 Western Ave. other than through its frontage to enable petitioner to construct a new house.

Mr. Nimon recuses himself.

Mr. Capachietti gives a brief summary of the relief he is requesting. At the 11/15/18 ZBA meeting, the board directed the representation for Hayes Engineering to the Planning Director, Gregg Cadematori, to ask his opinion on getting relief on the original subdivision plans to approve a road.

Mr. Gardner questions why it has been almost 2 months from the 11/15/18 meeting and nothing was submitted by Hayes Engineering for the board to review, except for a letter from the Planning Director that was submitted directly by him on 1/8/19.

Mr. Parisi also expresses his concern that Hayes Engineering met with the board on 11/8/18 and waited until 1/3/19 to contact the Planning Director and asks Mr. Capachietti why they waited so long. He feels that they should have acted much sooner. Mr. Capachietti explains that due to the holiday's it was difficult to get in touch with the Planning Department.

Mr. Gardner suggests that it may be in their interest to ask for another continuance, though he is not sure that the board will allow it. He is not prepared to grant another access due to the amount of opposition by the neighborhood.

Speaking In Favor: None

Speaking in Opposition:

Lisa Liacono, 14 Mondale Circle requests that the board deny this request by Mr. Calas and Hayes Engineering.

After a discussion of the board, Mr. Gardner gives Mr. Capachietti the option of withdrawing and bringing this matter directly to the Planning Board.

Mr. Capachietti states the he does not wish to withdraw, and requests that the board vote. He feels that it will be more cost efficient to go to the Conservation Commission and fill in the wetlands to put in an access road than it will be to put in the road discussed. This is his best and final offer to the neighbors and would like a vote of the board now to move the project along.

Mr. Parisi moves to approve a variance to access property other than through its frontage to enable petitioner to construct a new house at 677 western Ave.

Mr. Howard seconds

**Application denied, 5-0**

**29 High Popples Rd.**

Vincenzo DiMaio seeking a special permit to exceed the maximum building height to allow petitioner to construct a new 2 family dwelling.

The Chair reads a letter submitted by the Applicant requesting to withdraw his application without prejudice as he has made some changes to his design and can now make the 30' height requirement.

Mr. Parisi moves to accept the motion to withdraw without prejudice.

Mr. Howard seconds

All in favor, 5-0

**NEW BUSINESS:**

**8 B Kondelin Rd. and 10 Kondelin Rd.**

Petition of Jeffrey & Nadina Wilk, 5 Brier Wood St. seeking Special Permits for storage of automobiles at their properties.

Mrs. Wilk discusses the proposed use to expand the use of their properties as their current business is a Glass Tech boat service, which is only busy from spring to fall. They would like to use their properties on 8B and 10 Kondelin Rd. as a satellite storage facility for an auto dealership in Peabody MA. This would be storage for new vehicles only. No service to any vehicles would be done at these sites, so there will be no environmental impact. These vehicles would be stored for extended periods of time and occasionally swapped out. They will not produce any additional traffic.

Atty. Gardner complements the Wilks on the maintenance and landscape of their property compared to other properties in this area. He asks if there is access to and around the buildings for fire trucks in an emergencies. Mrs. Wilks answers that you can get in-between the buildings.

Mr. Parisi is happy to see that they are only storing new cars and would like to see language in the written decision showing a limit to anyone storing cars older than 5 years old. He doesn't want to make it an open ended Variance that will allow a junk lot there in the future.

Atty. Gardner asks if she would be willing to have the decision written to allow only new cars. Mrs. Wilks is in agreement with this. The Mayor expressed her disagreement with the Chairs statement and advised Mrs. Wilks to request the allowance to store used cars no older than 5 years old and Mrs. Wilks does so.

Ms. Harrison requests that the dimensions be added to the site plan to show how much of the lot is available for car storage and Mrs. Wilks agrees to amend the site plans to show this.

Speaking in Favor: None

Speaking in Opposition: None

Mr. Parisi moves to accept both applications for Special Permits.

Mr. Walcott seconds

All in favor, 5-0

### **268 Magnolia Ave.**

**Robert J. Reidman**, seeking a Variance from section 3.2.1 footnote c, accessory building closer to street than principle structure to enable petitioner to construct a shed in the front yard. Mr. Reidman is present and gives a brief summary of his project to build a shed. He has chosen this part of his property because it is the only part of his land that is level and doesn't require taking down trees and leveling of the land. It is not visible to the road and the 1 neighbor who can see it is in favor.

Speaking in Favor: None

Speaking in Opposition: None

Mr. Parisi clarifies for the record that he needs a Variance not a Special Permit.

Mr. Howard moves to grant the Variance for this project.

Mr. Parisi seconds.

All in favor, 5-0

### **181 Western Ave.**

**Kimberly Voltero & Bart Troch** seeking a Special Permit to convert from a single family to a two-family dwelling without exterior changes. Mr. Troch is present and gives a brief summary of the proposed work to relocate his mother in law to a first floor unit. The Structure used to be a two family and was changed to a 1 family.

Mr. Howard recuses himself and the Chair asks Ms. Pratt to vote on this application.

Ms. Harrison asks where the exterior changes are. Mr. Troch states that there is no exterior changes as the application states.

Mr. Sanborn asks Mr. Troch to step forward and answer some questions while reviewing the plans.

The Chair informs Mr. Troch that there is an encroachment on his property that Mr. Troch was unaware of.

The Board discusses the relief that is needed. Mr. Sanborn feels that he only needs a Variance and the dimensions needed.

The Chair asks the Board if there are any objections to changing the vote to add a Variance of lot area per dwelling Unit along with the Special Permit that the Applicant originally applied for.

Speaking in Favor: None

Speaking in Opposition: None

Ms. Harrison moves to grant both the Special Permit and Variance.

Mr. Parisi seconds

All in favor, 5-0

### **2 Trenel Way**

Atty. Joel Favazza of Seaside Legal Solutions, 123 Main St. Gloucester, is representing Christopher Murphy & Michelle Murphy seeking a special permit to convert from a single family to a two-family dwelling. Atty. Favazza discusses the project of a room above the garage for a "man cave" with a bathroom and kitchen separate from the main house. The structure has been built, but was stopped by the Building Inspector because they had not received a permit from the Building Department to build the area above the garage.

Atty. Favazza informs the Board that the Conservation Commission has approved this project.

The Building Inspector informed the Applicant that the area is now considered a dwelling unit not a man cave and that he must attach the two structures with a breeze way to make the structure legal. Mr. Murphy answers questions by the Board on receiving a Betterment for the sewer.

Speaking in Favor: None

Speaking in Opposition:

Mike Connors, 31 Wolf Hill Rd. is a direct abutter and rebuts some of the comments made by Applicant's council and informs the Board that people were staying in this space during the summer of 2018 and there was a bed in the unit. He is opposed to someone building a structure and ignoring the legal process.

Atty. Favazza rebuts the comments made by the opposition.

The Chair asks if the Applicant will agree to put into writing that it is not a two family, it will be accessed as a two family, so he should have the rights of an owner of a two family.

Atty. Favazza discusses that this is now a 2 family and shouldn't need to do this and would like to continue with what he is asking for.

Mr. Sanborn explains that the project was approved as a garage with storage above. Building Inspector, Jim Butler did a rough inspection and the build looked like it was to plan, however, when Mr. Butler went out to do a final inspection, the storage area was completely finished into what it is today, which is not what it was permitted for. Mr. Sanborn is concerned that there was nothing inspected before the walls were sealed.

Atty. Favazza states that it doesn't make any sense to call for a final inspection if they were trying to avoid the appropriate rules and that the owner is here trying to make this right.

Mr. Nimon asks the Building Commissioner what requirements need to be met to make this not a 2 family or an in-law.

The Board members give their opinion on what should be done to make this right.

Mr. Parisi moves to grant the Special Permit

Mr. Howard seconds

All in favor, 5-0

### **19R South Kilby St**

Keith & Dianne Hamel seeking a Special Permit to alter/expand a non-conforming structure and a Special Permit for height exception to enable petitioner to demolish existing structure and rebuild.

Mr. Hamel and present along with his wife and Jason Gove, their architect and presents his project to build a retirement home. Mr. Hamel notes that 2 letters in favor were sent to the Board prior to the meeting.

The Board discusses the Application and what is really needed for relief.

Speaking in Favor: None

Speaking in Opposition: None

Mr. Nimon moves to grant both Special Permits requested and a rear yard Variance that was not on the application.

Mr. Parisi seconds

All in favor, 5-0

### **22 Leonard St.**

Atty. Mark Glovsky, 8 Washington St. Beverly, MA. 01915 is present to represent the prospective owners of the property The Dustin's. Atty. Sal Frontiero, Frontiero Law Office, 46 Middle St., is present to represent the current owners of the property **Ann E. Lane, Trustee of R.F. Lane Trust** who are

seeking Variances for front yard setback, side yard setback, lot width, lot area and lot frontage to enable petitioner to create a buildable lot.

Horace Turner is also present as he is the designer on the proposed project.

Atty. Glovsky gives the Board a brief summary of the proposed project going back to the 1940's and shows the Board a Google view of the site that was recently taken. Atty. Glovsky discusses the previous business that were on the property and the need for soil to be cleaned up and submits to the Board a copy of the remediation report and discusses that there may be limitations to the property in the future.

Speaking in Favor:

Atty. Frontiero gives some history on the property and background on Mrs. Lane's situation.

Judd Johnson 2 Arlington St. This property is their view and it is an eyesore. He and his wife are very excited about this project.

Holly Deblois 14 Adams Hill Rd. feels this is an excellent change to this area.

Mary Flaherty, 20 Leonard St. is present and lives in a condo complex in the area. She and her neighbors are very happy with this project.

Robert Stewart, 20 Leonard St. Trustee of his condo association thinks that this is a great project and asks the Board to approve it.

Speaking in Opposition: None

Mr. Sanborn informs the Board that on March 5, 2015 the structure on this property was deemed unsafe and they were ordered to take it down.

Mr. Parisi asks about the owner of 24 Leonard St. as he is the only abutter that the Board has not heard from.

Ms. Harrison moves to approve Variances for Lot Area, Lot Width, Lot Frontage, Front Yard, Left Side Yard and Right Side Yard, as it is cleaning up the area, many conditions that create a hardship and the neighbors are all in favor.

Mr. Parisi seconds  
All in favor, 5-0

**Board Discussion:**

Election of the Board: Mr. Parisi moves to re-elect the existing Chairman, Vice-Chairman and Secretary. Mr. Nimon seconds  
All in favor, 5-0

The Chair discusses a phone conversation that he had with Jim Destino about the Retail Marijuana and how it may pertain to the ZBA.

Motion to adjourn was made at: 9:40 PM

Motion by: Mr. Nimon

Second by: Mr. Parisi

All in favor, 5-0