



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

ZONING BOARD OF APPEALS

Meeting Minutes

7:00 P.M., December 13, 2018

Kyrouz Auditorium, City Hall

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

Alternates: 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.

**Minutes:**

Previous meeting minutes for September 13<sup>th</sup> and September 27<sup>th</sup>, 2018 were submitted for review, motioned by Mr. Parisi and seconded to accept as written by Mr. Nimon.

**Continued Business:**

**Ipswich Bay Realty Trust, 6 Langsford St.** Seeking a Special Permit to convert from a two family dwelling to a 3 family dwelling.

Atty. Meredith Fine 46 Middle St. Gloucester, MA, is representing Ipswich Bay Realty Trust and discusses the information supplemented to the packet since the last meeting.

Atty. Fine reminds the board of the applicants desire to turn a room currently used for storage into a studio apartment which would change the current 2 family into a 3 family.

Atty. Fine reads the policy of an R-20 Zone to the board, stating that it is intended to be a transitional zone between the rural part of the city and the more dense parts. She states that this zone is intended for single family, two family and multi-family dwellings and that this neighborhood has this transitional nature.

Atty. Fine states that they are asking a Variance for lot size due to the following 2 hardships.

1. Shape of lot due to easement in back.
2. The shape of the building which is a permitted hardship under the statute.

She states that they do not need a Special Permit for parking as there are 2 spaces for parking in the back yard as shown in the submitted parking plans.

Atty. Fine discusses the placement of the entry way to the studio being carefully planned so it does not encroach on anyone else's property.

Atty. Fine discusses the language in the deed to the applicant's property, showing that her renters have the right to pass and repass at all times by foot and by vehicle to and from every part of the property.

The Applicant needs a Special Permits for change of dwelling and change of use. Atty. Fine feels that the application meets all the requirements of a Special Permit as it has no impact on traffic, utilities, the natural environment or neighborhood character and that the proposal is essentially invisible.

They are taking an existing space and making it productive. This is not a substantial detriment to the public good. She is adding affordable housing and does not derogate from the intent of the zoning but promotes the goal of a medium density R-20 zone.

Mr. Sanborn asks if the applicant also need a Variance for lot area per dwelling. Atty. Fine responds that per foot note A section 3.2.3, the applicant only needs a Special Permit for lot area per dwelling. The board asks questions to define exactly what Atty. Fine feels is needed.

Ms. Harrison asks how the parking will be accessed and if it will eliminate the parking in the front of the dwelling. Atty. Fine answers that it will and that it will also make it more conforming.

Ms. Harrison is concerned with the stone wall there. Atty. Fine states that the applicant will have to remove the stone wall that is on her property and have the property graded for access.

Mr. Gardner asks Mr. Sanborn the dimensions of the parking spaces needed which is 9x18.

**Speaking in Favor:** None

**Speaking in Opposition:**

**Edward King, 8 Langsford St.,** hands out documents on his speaking points which are all related to parking. He does not feel that the turning radius allotted is not large enough. He feels that the egress shows access to people through the new driveway into the back of the property but does not allow room for the safety of pedestrians. Mr. King is concerned that runoff was not addressed and that the grade of the surface was not addressed.

He and neighbor Mark Anderson, who also submitted a letter to the Board, are concerned with the retaining wall that the parking spaces are close to. This retaining wall is part of an easement with Mr. Anderson's property and Mr. Anderson is responsible for this wall. They are concerned about the effects of the weight of vehicles parking and of the traffic driving near it. Mr. King continues to discuss the lack of parking and that the Applicant's representation has not answered any questions that were brought up at previous meetings.

**Morris Hawkings, 4 Langsford St.,** feels that the parking space is too small of an area and there will be too much noise. He also feels that there is a history of disturbances in this area and that the landlord has not been cooperative during these incidents.

**Deborah King, 8 Langsford St.** rebuts points brought up by Atty. Fine referring to paperwork she submitted to the board before speaking. Mrs. King asks for the Board to deny this request as all of the abutters are in opposition.

**David Millhouser, 7 Langsford St.,** feels that many points brought up by Atty. Fine were inaccurate and stats that he is afraid of adding more egresses and entrances to the area due to the amount on accidents and near misses they are already dealing with.

**Rebuttal:**

Atty. Fine speaks on the points discussed by the opposition and feels that much of what was brought has been speculative or not up to this Board discretion. She also discusses the case in Salem, MA that Mrs. King brought up that she had originally referred to in an earlier meeting.

**Discussion:**

Mr. Howard states that he was originally in support of this project, but doesn't feel that a car can get in and out of this driveway and was hoping for more information to be submitted to the Board before this meeting. He is not comfortable with the parking plan.

Mr. Parisi discusses the parking and feels that they are meeting the requirements and cannot ask them to have a larger parking spot than everyone else in the City He states that he is not concerned about cars pulling out onto Langsford St. and while he was hoping for more information on grading, as long as they can drive over the step, he could agree with the plan

Atty. Gardner states that he feels that this is the wrong place to add to. It's a small lot, it's non-conforming and already a two family. Mr. Gardner feels that the point of the ZBA is to lessen congestion and they are not doing this in this area if this is granted. He also has concerns with the safety of adding this parking area.

He also notes that there is a very large outpouring of opposition and it proves that it not going to better this neighborhood.

Ms. Harrison notes how well the opposition was prepared for this hearing.

She feels that adding a 3 family and parking is an overuse of the lot.

Mr. Parisi moves grant the Special Permit and Variances.

Ms. Harrison seconds.

Mr. Nimon asks for clarification on what is being voted on.

The Board determines what they will need to vote on. It is decided that a Special Permit to convert and 2 variances are being voted on. Mr. Parisi states for the record that the footnote that Atty. Fine referenced was for the City Council when they were dealing with 3 families, but the ZBA purview goes to the footnote 2.1.1.

Mr. Sanborn states that the applicant does not meet the parking requirement for a 3 family if she's taking away the one in the front and only adding one in the back.

He states that she needs to add 1 ½ and only shows 1 space added.

Ms. Harrison asks why they can't keep the one space in the front and Mr. Parisi informs her that a 3 family must have parking in the rear. They can't park in the front.

Ms. Harrison suggests to the board that maybe they should withdraw the application and resubmit a more complete one.

Atty. Gardner asks Atty. Fine to clarify what she is looking for and Atty. Fine states that if she is allowed to withdraw the application she would do so.

Mr. Parisi does not agree with the withdrawal.

Atty. Gardner feels that the application should be voted on.

**Vote:**

The Application is denied 1-4

**New Business:**

Attorney John Smolak representing **North Shore CDC** has asked to come before the Gloucester Zoning Board of Appeals on a proposed minor modification to their project and an extension of their existing permit at the former Cameron's Restaurant located at **206 Main St.**

Mr. Howard recuses himself and Atty. Gardner appoints Adria Pratt as an alternate hearing this case.

Eileen Vogel, 35 Farrington Rd. Swampscott MA, is in attendance to walk the Board through the changes that are being requested and discusses the affordable housing funding rounds in February 2019, where 100 projects are looked at and only approx. 20 get funding.

They got funding last round but were told that they will not get funding in the next round. They are making these changes so that they can be as competitive as possible in this round. As North Shore CDC will not be breaking ground until 2020 they need to look at increasing construction costs and had their architecture look at the plans to reduce the cost of the project.

She discusses the deck that they would like to remove which is a steel structure over the parking area. Removing this would be an estimated \$200,000 savings.

Mr. Parisi does not agree with the Ms. Vogel stating that the deck is frivolous. The deck was a significant part of the approval of this building, as many felt that Main St. is not an appropriated place for housing. Mr. Parisi questions the statement made by Ms. Vogel about value engineering which was also a large concern originally. Mr. Parisi informs the Board that removing the deck and making a determination of unsubstantial or substantial is important. If they vote it unsubstantial, than it can just be done and if it is decided substantial then they need a public hearing. Mr. Parisi states that they should have thought of this during the original meetings with the Planning Board and they should not be putting the loss of housing on this Board.

Ms. Vogel discusses that they are not looking to take away the deck, however, they are asking that if it is not financially viable to build it due to the cost of the project, they would like to have the option to not build it. They are concerned that the cost of the deck may bring them over the cost of the funding for the housing project itself, and they would like to insure that it will not affect the housing being completed.

Atty. Gardner sees the deck as more of an amenity than part of the structure, but is concerned about the financing. If it doesn't happen in the next year, they will be back to this Board asking to make more changes.

Mr. Nimon doesn't like the fact that they may take the deck away and is concerned about the children living in the building. He also notes that the YMCA will not be there in 2020.

The Chair discusses that if the Board denies this request, the City could lose a great deal of affordable housing and that the Board and City would like to see this project happen. Removing the deck once they get into financing will not be the determining factor. Atty. Gardner doesn't feel that the deck is substantial change.

Ms. Vogel states that \$200,000.00 is a lot of money in affordable housing and the State does a detailed review of their plans and they feel that the deck is an amenity and that this is a good place to start.

Mr. Parisi questions if the deck was removed how would they ever get the \$200,000 to build it again.

Ms. Vogel answers this question. Stating that they have contingency money and if nothing else goes over, they can add the deck back. It would be the first thing added and they wouldn't have to go back to the State and ask for more money.

Mr. Gardner asks if they would agree to submit a letter to the Board stating that if the Board did decide to let them remove the deck, they would put the deck back if the can find the financing to do so. Atty. Smolak states that this language could be done.

Mr. Nimon moves that the deck is unsubstantial to the building at 206 Main St.

Ms. Pratt seconds

Mr. Parisi states that this will be the last change.

Mr. Gardner requests that the attorney add in the proper wording that they will look for other funding before taking the deck off the plans.

All in Favor 5-0

The second ruling is on an extension of their existing permit. Mr. Gardner feels that 3 years is too long to extend it to, but asks for an update in 1 year, as there is a concern of the building being safe and City Officials are concerned with this building actually getting built.

All in favor

5-0

### **I. New Hearings:**

**Ralph Hobbs Jr. Main Deck Properties Inc. 27 Kondelin Rd.**, seeking a Variance for a rear yard setback to enable petitioner to construct 15 self-storage units on the back of the property near the railroad tracks.

This property is an industrial park and the only public utility needed is electricity. Mr. Hobbs states that the self-storage units are a low traffic facility and that he has received permission from the MBTA to build in the requested area.

Mr. Hobbs informs the Board that they plan to alter and reduce the number of units than was submitted for the application.

Mr. Nimon asks about the permission and if he received a letter from the MBTA as the building code requires the authorization of the MBTA. Mr. Hobbs has already gotten the approval and will submit the letter to the Clerk.

Mr. Gardner discusses that the property being discussed is the neatest, cleanest and well signed property in the park and feels that the rest of the area needs to be cleaned up to attract other business looking to come to the area.

Speaking in favor: None

Speaking in Opposition: None

Mr. Howard moves to approve

Mr. Gardner seconds

All in favor 5-0

**Vincenzo DiMaio 29 High Popples Rd.** seeking a Special Permit to exceed the maximum building height to allow petitioner to construct a new 2 family dwelling seeking a relief of 4ft. height requirement.

Mr. DiMaio is present and gives the Board a brief summary of the proposed work.

Ms. Harrison asks if he has spoken to the neighbors and Mr. DiMaio states that he spoke to Mike Luster and another neighbor and that the other abutters are his mother-in-law and sister-in-law.

Mr. Napolitano wrote a letter submitted to the board in opposition to the board as he could not be in attendance tonight. Atty. Gardner reads this letter. Mr. Napolitano is on Harriet Road which runs parallel to High Popples and cannot view his. Ms. Harrison states that he is an abutter in the rear. Mr. Parisi brings up that the house 38' deep which drives the pitch of the house and states that he needs to have a reason as to why the Special Permit is needed, not just because he wants it.

Mr. DiMaio states that they looked at reducing the size of the house and it didn't change the pitch. Mr DiMaio wants to add a 4<sup>th</sup> bedroom upstairs for another child on the way and does not want a bedroom on the first floor. He discusses the difficulty of raising 3 children in their current home. Ms. Harrison feels that there are no other home of this size in this area and feels that it is inconsistent to the neighborhood.

Mr. Nimon was concerned with overshadowing.

Speaking in favor: None

Speaking in Opposition:

Joe Langan,

Is in attendance for his Fiancé who lives behind the proposed project and was unable to be at the meeting. He is here to help her understand the proposed project as they didn't know how to do so.

Mr. Gardner suggests that the board continue this application and that the applicant put together a petition for the neighborhood to sign if they are in favor of the project and possible revisit the size of the home with his architect.

Mr. Nimon motions to continue this decision to the January 10, 2019 meeting, so the applicant can revisit his plans and get his neighbors support.

**Christine Kecyk 4A Lendall St.** Mr. William Nolan with Savoie Nolan Architects, 4S. Main St. Ipswich MA 01938 is representing Mr. and Mrs. Kecyk who are present with their architect Kyle White. They are seeking a Special Permit to alter/expand a non-conforming structure for a side yard setback to enable petitioner to add an addition with an open deck and stairs to the existing building.

Mr. Nolan discusses the property and states that the existing house was built very close to the front setback. They Kecyk's are asking for a Special Permit for relief on the front setback. They are looking to do a 1 story addition off the side of the house 14' to the closest point. Mr. Nolan references photos from the packet. The existing house bump-out is roughly 1'5'' off of the property line with an additional 4' to the street due to the sidewalk that is there. The main length of the house from the property setback is 3' 8'' and they are going to maintain this line. This will make the non-conformity better, not worse.

Mr. Nolan references the elevation page of the package to discuss the dormer buildout to the end wall, but is informed by the Kecyk's that they are no longer going to do this.

**Speaking in favor:** None

**Speaking in opposition:** None

Mr. Parisi motions to approve a Special Permit for the alteration and expansion of a non-conforming structure by adding an addition with an open deck and stairs as it is not more detrimental to the neighborhood than that which presently exists.

Mr. Nimon seconds

**All in favor:** 5-0

**Paul & Elizabeth Donovan 185 Atlantic Rd.,** seeking Variances for a rear and side yard setback to enable petitioner to install a shed on their property.

The Donovan's are downsizing and moving from their home in NH. Their hardship is the topography of the property. The placement of the shed removes the view of the shed from the view of the neighbors. Mr. Visnick submits a photo from Google Maps.

The height of the shed is 11.9. The pitch of the shed is 10' to the peak, which is less than listed in the application. The purpose of the shed is to store garden materials.

Ms. Harrison motions to approve the application it meets the 3 criteria that is needed and feels that they were very considerate to the neighbors ensuring that the shed is invisible to the neighborhood.

Mr. Nimon seconds

All in favor 5-0

Adria Pratt recuses herself

**Katherine Mullen , 5 Cedar St.** Mr. Horrace Turner, 523 Essex Ave is representing Ms. Mullen who is seeking a Special Permit to alter/expand a non-conforming structure and variances for front and rear yard setbacks, to enable petitioner to replace front stairs and the landing and to add an addition to the rear of the building.

Ms. Mullen is a local artist who is looking to add a studio onto her house while making some improvements to the house's front stoop and above roof which is currently being supported by cables, which she plans to make a more sound structure.

They are keeping the stairs in the same footprint, but the roof may be bigger though still a part of the house. The stairs and the front portion of the house is already non-conforming. This is a small undersized lot.

In the rear she is planning to extend her studio to increase it out to the rear part of the existing deck, which will encroach into the setback by about 5'. It is not detrimental because her neighbor is already at this distance. Mr. Turner references the site plan submitted with the application. Mr. Mullen will remove the side stairs and place them in the rear to the deck to give her more parking area and remove the current on street parking.

**Speaking in Favor:** None

**Speaking in opposition:** None

Mr. Gardner states that he is happy that she is looking to improve her property and reads a letter submitted in favor of the application by Daniel Okenheimer.

Mr. Sanborn asks if the stairs are being moved.

Mr. Nimon moves to approve a Special Permit to alter/expand a non-conforming structure and Variances for front and rear yard setbacks, to enable the petitioner to replace the front stairs and the landing, and to add an addition to the rear of the building as the Special Permit makes it more non-

conforming and not more detrimental to the neighborhood. Mr. Nimon states that the Variances can easily be supported due to it being a narrow under sized lot shape and typography.

Mr. Wallcott seconds

All in favor 5-0

## **II. Discussion:**

Appointment of Zoning Administrator is discussed.

Mr. Gardner discusses his discussion with Mr. Lumburg, Chairman of the City Council about the issue that was raised before the City Council of the possible need for a Zoning Administrator to be appointed to the board. The City Council had adopted the ordinance dealing with permitting of certain pre-existing multifamily uses under 5.30.1. The ZBA dealt with this subject approximately a year and a half ago and it went back to the City Council who passed it. It deals with 2-3-4 families that are not permitted for this use and illegal. Not app permitted

At the time, there was a big drive by Councilor Orlando and Atty. Joel Favazza who were pushing to have this ordinance passed. It was passed and adopted by the City Council and it came back to the ZBA. The general consensus of the Zoning Board at that time, as well as Mr. Sanborn, was that it wasn't necessary to appoint a Zoning Administrator.

Mr. Lumburg asked Mr. Gardner to revisit it with the ZBA because Mr. Orlando is now pushing to have a Zoning Administrator appointed and the natural person to take on the position is Mr. Sanborn.

This ordinance is only for 3 years and it passed 1 ½ years ago.

Mr. Gardner asks if the Board would like to comply with the Ordinance and appoint a Zoning administrator, though he feels like it is out of the ZBA's jurisdiction even though it is up to them to appoint one. He feels that it is up to the City Council or Mayor to appoint a Zoning Administrator if they want one for another 1 ½ years.

Ms. Parisi asks what the Zoning Administrators job entailed.

Mr. Sanborn explains that someone who has an apartment that wasn't legally documented and wants to make it legal, would bring it to the Zoning Administrator and that the appeal of the Zoning Administrator would go to the Zoning Board. The Zoning Board would then hear it as a whole. This gives the Zoning Administrator a lot of power. Mr. Sanborn states that he hasn't had a lot of people interested in this position, because if a landlord changes to low income housing, then they'll be low income for 30 years if not more. They would have a 30 + year easement on their house and no one wants to do this.

Mr. Parisi asks if there is any funding for the position. Mr. Sanborn states that it there is not.

Motion to adjourn was made at: 10:15 PM

Motion by: Mr. Parisi

Second by: Mr. Nimon