



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

**ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., January 9, 2020
Kyrouz Auditorium, City Hall**

Board Members Present:

Joseph Parisi III, Chairman
Catherine A. Schlichte, Esquire, Vice Chair
Adria Pratt, Esquire, Secretary
Michael C. Nimon
David B. Gardner, Esquire

Alternate:

Peter Cannavo

Also in Attendance:

Bill Sanborn, Building Commissioner
Alison Battle, Clerk

The Chair, David Gardner, gives the public a brief overview of the proceedings.

Election of Officers

Mr. Gardner is leaving the Board

Mr. Nimon moves to elect Joseph Parisi, III as the Chairman for 2020
Ms. Schlichte seconds
All in favor, 5-0

Mr. Nimon moves to elect Catherine A. Schlichte as the Vice- Chair for 2020.
Mr. Parisi seconds
All in favor, 5-0

Mr. Nimon moves to elect Adria Pratt as Secretary for 2020.
Mr. Parisi seconds
All in favor, 5-0

Mr. Gardner welcomes Mr. Cannavo to the Board as an alternate and states for the record that Ms. Schlichte is now a regular member of the Board.

Mr. Gardner passes the torch to Mr. Parisi

Old Business:

New Business:

Continued Hearings:

39 Western Ave.

Meredith Fine, Esquire, 46 Middle St. is representing, FUD, LLC seeking Special Permit to convert to a 3 family, Special Permit for lessor number of off street parking and Variances for front yard setback, side yard setback, lot width, lot area, lot area per dwelling unit, lot frontage to enable petitioner to convert a 2 family dwelling to a 3 family dwelling.

Atty. Fine asks the Board if the meeting was opened or closed during the last meeting. This is discussed by the Board and it is decided that by following the procedure put in place by the Board, the meeting was closed.

Michael Faherty, Esquire, 123 Main St. Gloucester is present this evening to represent Patricia Ivas, 8 Lewis Ct., who is an abutter and spoke in opposition at the last meeting.

After much discussion, it is decided by the Board that the hearing was closed at the last meeting and that all that was requested from Attorney Fine was for her to prepare a plan showing the stairway access closer to where the parking will be.

Atty. Fine continues to discuss the parking and using photos passed out to the Board during the meeting, explains that the tenant will use the walkway to get to the stairway and to their door from the parking area.

Board Discussion:

The Board discusses the newly submitted plans.

Ms. Pratt asks if the walkway will remain grass or will they pave it. The owner states that he has plans to make it into a real walkway.

Ms. Schlichte moves to grant a Special Permit to convert from a two-family to a three-family dwelling and for a lesser number of off street parking and Variances for lot width, lot frontage, front yard and left side yard setbacks, minimum lot area and minimum lot area per dwelling unit on the condition that one parking space be designated at 4 Dexter Place, for the use of the third floor apartment and that deeded access be granted for pedestrian travel from the parking area at 4 Dexter Place to 39 Western Avenue to allow for easy access from the parking area to the premises.

Mr. Nimon seconds noting that off-street parking will not be impacted since there is currently no off street parking on the premises for the existing two-units.

All in favor, 5-0

Mr. Nimon seconds noting that no parking has been added at this premise.

All in favor, 5-0

Atty. Faherty requests a notation of his objection and of the vote to close the meeting in the decision. The Chair answers that it will be on the recording and in the minutes.

24 Kondelin Rd.

Joel Favazza, Esquire, 123 Main St. Gloucester is representing, DLM Properties, LLC, appealing the Building Commissioners decision that metal dumpsters are a structure and need to meet front yard setback requirements. If unsuccessful in the appeal the Applicant seeks Variances for front yard and side yard setbacks and Variances from Section 4.1.4 (A) (7, 8, 9) to allow a parking area within one foot of the external property line and Section 4.5.1 to allow an existing parking area and industrial uses to remain unscreened.

Ms. Pratt Recuses herself

Atty. Favazza requests to continue the hearing until January 30, 2019, as he and the Building Commissioner have not had a chance to meet and discuss the issue.

The Board agrees to continue the hearing to January 30, 2019.

New Hearings:

80 Commercial St.

Mark Nestor, Esquire is representing Grace Curcuru Family Trust seeking Notice of Appeal to sec. 1.6 GZO; appeals from a decision of the Inspector of Buildings for insufficient notice, failure to provide documents, failure to substantiate building unsafe and dangerous.

Ms. Pratt recuses herself

Atty. Nestor requests to continue to January 30, 2019.

The Board agrees to continue the hearing to January 30, 2019.

1 Wheelers Pt. Rd.

Kate Glidden & Jesse Dole seeking Notice of Appeal to sec. 1.6 GZO appeals a decision of the Inspector of Buildings 3.2 dimensional table maximum building height.

Adria recuses herself

Mr. Dole of 5 Wheeler's Point Rd. is present to represent himself and gives the Board background as to why he is before the Board this evening.

Mr. Noonan, owner of 1 Wheeler's Point Rd. requested relief in 11/17 for a Variance to add a second story and again on 1/2018 to demolish the home and replace it with a new structure however, there was no request for a height Variance at this time. The house was demolished in the fall of 2018 and a Building Permit was issued in May of 2019. A house was delivered and erected in August of 2019 and Mr. Dole feels that it is higher than the 30' height allowance in this area. Mr. Dole received a letter from Mill River Associates, engineer for Mr. Noonan, sent by Greg Cefalo in answer to his complaint with the Building Department in November 2019. This letter explained how the height was determined. The elevations and how they were taken is discussed in detail by the Board.

Reading from the plans from New England Homes, the manufacturer of the home, Mr. Dole states that there is a total height of 31.4' from the basement floor and does not feel that Mile River's measurements for height match New England Homes' measurements. He believes that the house is higher than the allowed 30' and that Mill River's calculations were taken prior to the demolition to the home and the construction of the new foundation of the home.

Mr. Dole states that all discussed documents and photographs were submitted with his application.

Mr. Parisi informs the Applicant that the Building Department and Mill River Associates took the measurements of 2' below average grade not 2' below grade. Mr. Parisi explains that during his site visit to the property he used his laser measure at the left outside corner of the building which is the lowest corner to the roof and it was below 30'.

Greg Cefalo, Zoning Enforcement Officer for the City of Gloucester, 3 Pond Rd. discusses the Zoning Ordinance's specificity in determining building height and how he determined the average grade and height of this building. Based on the information that he received from Mill River Associates, the engineer on the project, and the Cities GIS mapping which allows you to view the elevation, he is confident in his determination of the height of the building and he stands by his decision.

Dan Otenheimer of Mill River Associates, 6 Sargent St. is present to represent the owner, states that it appears to him that there is a disconnect of information and that the petitioner is missing the Certified As Built Plan, which is a critical piece of information that is used in determining the height of the building.

Mr. Otenheimer states that they went out after the building was constructed and surveyed the peak of the building and compared it to the average grade before construction. The Board asks to see copies of the plans and Mr. Otenheimer hands out copies to the Board members and the Applicant and they are reviewed.

Mr. Dole informs the Board that he did not intentionally leave this piece of information out.

Mr. Gardner asks the Applicant if he has had an expert look at the plans and/or GZO and Mr. Dole answers that he has not, but he still does not see how given what the Chair stated about the calculations and Mill River Associates presentation on the elevation per the As Built Plan vs. what Mill River stated in their letter that he received from Mr. Cefalo do not add up.

Mr. Gardener moves to uphold the opinion of the Building Inspector.

Mr. Nimon seconds based on the expert testimony heard.

All in favor, 5-0

11 Corliss Ave.

Jacob Taylor seeking a Special Permit 1.9 to alter/expand a non-conforming structure to allow removal of existing roof and construct new second floor over existing footprint.

Mr. Taylor is present to represent his application. The house has been in his family for 20 years and he would like to add a second floor for his home as the size of his family has increased. Mr. Taylor submits 9 letters of support from abutters. There will be no change in the footprint of the house. It is noted that there is a non-conforming front yard setback.

Board Discussion:

The members state that his is a great project and has been done to other properties in this area.

Speaking in favor: None

Speaking in opposition: None

The Chair closes the hearing.

Mr. Nimon moves to grant a Special Permit 1.9 to alter/expand a non-conforming structure to allow removal of existing roof and construct a new second floor over existing footprint.

Ms. Schlichte seconds

All in favor, 5-0

22 Souther Rd.

Joel Favazza, Esquire of Seaside Legal Solutions, 123 Main St. is representing, Mary Elizabeth Works Cooke seeking Special Permit 1.9 to alter/expand a non-conforming structure to demolish existing non-conforming structure 2.4.5 to allow demolition of an existing non-conforming single family structure to replace/rebuild a new non-conforming single family structure.

Atty. Favazza requests to withdraw the application without prejudice, as it is going to take more work to get the neighbors on board with this project.

Ms. Schlichte moves to allow the withdrawal without prejudice for this application.

Mr. Nimon seconds.

All in favor, 4-0

26 Brooks Rd.

Deborah Elisason of Eliason Law Office, 63 Middle St. Gloucester, is representing, Richard C. Martelli seeking Special Permit 1.9 to alter/expand a non-conforming structure Variance for side yard setback to allow remodel existing first floor and construction of second story addition.

Architect Jason Gove and the Applicant are present this evening.

It was determined after the application was submitted, that the structure must be torn down and rebuilt and new plans were submitted a week after the original submission. The Applicant is rebuilding the structure on the same footprint with the same modifications as were submitted in the original proposal. The second floor is smaller than what was originally proposed. There will be an additional bathroom on the second floor. He will also be updating the sewerage disposal system which per Atty. Elisason is currently a cesspool.

The home has been in Mr. Martelli's family for over 60 years as a summer home and he plans to update the home so he can live there full time.

Board Discussion:

Mr. Sanborn and Mr. Gardner answer that only a Special Permit is needed because they are only extending the non-conformity.

Mr. Gardner states that the Board received a few letters in favor of this application and he thinks that it is a good project.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to grant Special Permit 1.9 to alter/expand a non-conforming structure and to demolish and rebuild and a Variance for side yard setback to allow remodel existing first floor and construction of second story addition.

Mr. Gardner asks Atty. Eliason to incorporate in her decision all the criteria necessary under 2.4.5.

Mr. Nimon seconds

All in favor, 5-0

38 Great Republic Dr.

Joel Favazza, Esquire, 123 Main St. Gloucester, MA is representing, HVV Gloucester LLC seeking Variance from sign regulations GZO 4.3.2 to allow permitted signs (in violation) to exist.

Atty. Favazza informs the Board that his client applied and received a sign permit to install several signs on the property for his facility at 38 Great Republic Dr. After the work was completed, it was brought to the Owner's attention by the Building Commissioner that the signs were in violation of the GZO 4.3.2 1A and requires a total of 7 Variances.

Mr. Sanborn confirms this statement. Noting that the Logo on the signs are different from what was show to the City Council when they granted a Special Permit for them.

Board Discussion:

The Board members state that they feel that this sign is appropriate for the size and scope of the building. They all like to look of the sign.

Speaking in favor: No

Speaking in opposition: No

Mr. Nimon moves to grant Variance from sign regulations GZO 4.3.2 to allow permitted signs (in violation) to exist.

Ms. Schlichte seconds

All in favor, 5-0

Mr. Parisi thanks Mr. Gardner for his 14 years of service on this Board and to the community.

Mr. Gardner is happy to have done his part to make Gloucester a better place to live.

The Board agrees that he will be greatly missed.

Motion to adjourn was made at: 8:30 PM

Motion by: Mr. Nimon

Second by: Ms. Schlichte