



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

**ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., February 27, 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

Alternate:

Peter Cannavo

Also in Attendance:

Bill Sanborn, Building Commissioner
Alison Battle, Clerk

The Chair introduces the Board members and gives the public a brief overview of the proceedings as they pertain to all open meetings.

Old Business: None

New Business: None

Minutes:

The minutes will be held over to the next meeting

Continued Hearings:

80 Commercial St.

Mark Nestor, Esquire 46 Middle St. 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.

Atty. Nestor sent a letter to the Board requesting a continuance to the 3/12/2020 meeting.

Ms. Schlichte moves to continue this application to 3/12/2020.

Mr. Nimon seconds

All in favor, 5-0

86-86 R Rocky Neck Ave.

Sal Frontiero, Esquire, Frontiero Law Office, 46 Middle St. is representing, Regina Attaya seeking Special Permit to alter/Expand non-conforming structure 2.4.3 (6), Variances for side yard setbacks, lot width, distance from accessory building to street, allow parking in front yard setback, accessory closer to street than principal building to allow addition to existing structure, conversion of property to 3 family with parking in front yard setback.

Atty. Frontiero sent a letter to the Board requesting a continuance to the next available meeting.

Mr. Nimon moves to continue this application to the 3/26/2020 meeting.

Ms. Schlichte seconds

All in favor, 5-0

24 Kondelin Rd.

Joel Favazza, Esquire, Seaside Legal Solutions, 123 Main St. 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.

Atty Favazza is present and states that he is presently working out the details with the Building Commissioner and feels that they will be able to come to a decision by the next meeting.

Mr. Nimon moves to continue this application to the 3/12/2020 meeting.

Ms. Schlichte seconds

All in favor, 5-0

New Hearings:

4 Cononicus Rd. and 31 King Phillip Rd.

Joel Favazza, Esquire, Seaside Legal Solutions, 123 Main St. is representing Thomas Baker seeking Variances, lot area, lot area per swelling unit to allow petitioner to divide a merged lot into 2 lots.

Atty. Favazza is present this evening with this clients and gives the Board a brief description of the proposed work.

Atty. Favazza discusses the Applicant's request for relief to reconfigure the lot lines between 4 Cononicus Rd and 31 King Phillip Rd. to improve the configurations of the (2) properties.

Speaking in favor: None

Speaking in opposition: None

The Public hearing is closed.

Mr. Nimon asks Atty. Schlichte asks if there are any legal ramifications of this being done and she doesn't believe so.

The Board discusses the reconfiguring of lot lines to take land from lot 2 and give it to lot 1.

Mr. Sanborn discusses the Merger Law to make lots conform when combined.

Ms. Pratt moves to grant a Variances, lot area, lot area per swelling unit to allow petitioner to divide a merged lot into 2 lots.

Ms. Schlichte seconds

All in favor, 5-0

Atty. Favazza asks the Building Commissioner if there is an additional need for alteration, expansion or use.

Mr. Sanborn states that there is not.

74 Holly St.

Petition of Robert and Frances Osten seeking Variance 3.2 right side setback to allow construction of a new attached garage.

Mr. Osten is requesting relief for an attached garage due to the location of the STEP/sewer would need to be moved to make it conform. He would also like to preserve some old trees that are on the property and feels that the aesthetics of the home will improve with the plans he is requesting.

Speaking in favor:

Maryanne Whitticare, 70 Holly St. is a direct abutter and is in support of this project.

Speaking in opposition: None

Discussion of the Board:

Mr. Nimon is concerned with the neighbor on the right side, as it will directly impact them. He was told during his site visit that they are away on vacation. He is afraid that they may not be fully aware of this meeting. The Chair states that he is comfortable with granting this relief as there is a lot of ledge on the property and moving the STEP would be very costly for the applicant.

The Public hearing is closed.

Ms. Schlichte moves to grant a Variance 3.2 right side setback to allow construction of a new attached garage.

Ms. Pratt seconds

Mr. Nimon votes no as he is concerned with the size of the Variance requested and the neighbor not being present this evening.

4-1

13 Old Salem Rd.

Joel Favazza, Esquire, Seaside Legal Solutions, 123 Main St., is representing, Matthew Swansburg seeking Variance, front yard setback to allow construction of a single family with attached garage. Garage within front yard setback.

Atty. Favazza discusses the proposed project to construct a single family home with attached garage. The property has (2) frontages, Old Salem Rd. and Spring St. It is surrounded by wetlands and elevation changes throughout the lot. The garage will be 17.5' from the property line abutting Spring Lane. The required setback is 30'. Spring Lane is an unbuilt private paper road.

Speaking in favor: None

Speaking in opposition:

William Fonvielle, 27 Old Salem Rd and owner of 19 Old Salem Rd. up until today when it was sold. He is concerned with the plans of the new owners of 19 Old Salem Rd and how it will affect the property in question. He was propositioned to sell the land at number 19 to put a cell tower on the property. Thought he sold the property to other owners, he doesn't know what the new owner's plans for the property are. He is present for information, not if favor or opposition.

The Public hearing is closed.

Atty. Favazza rebuts the comments make.

Mr. Nimon moves to grant a Variance, front yard setback to allow construction of a single family with attached garage. Garage within front yard setback.

Ms. Schlichte seconds

All in favor, 5-0

18 Spring St.

Sal Frontiero, Esquire, Frontiero Law Office, 46 Middle St. is representing, Cape Ann Investment Group seeking Special Permit 2.3.1 (7) to alter/expand non-conforming structure, Variances 3.2.2 front yard setback, side yard setback, lot width, lot area, lot frontage, percentage of vegetated cover from parking design and layout 4.1.4, demolition of existing structure and construct new 3 story structure with 6 dwelling units and 6 parking spaces on lot.

Atty. Frontiero is present this evening with 3 of the 4 owners of Cape Ann Investment Group and gives a brief summary of the relief requested. The Petitioner proposes to tear-down the existing two-family dwelling with two-bedroom units and replace it with a six-family dwelling containing six one –bedroom units. Relief from the ZBA is necessary to be able to petition to City Council for a Special Permit for the six –family use. The lot is the largest in the area, (1) of the units will be is planned for affordable housing. The Applicants sent out letters to the abutters and spoke to two of them before the meeting. Due to their concerns with parking, the Applicant's will remove all fencing and replace it with privacy fencing with a 30 year warranty.

Speaking in favor:

Joel Favazza, 123 Main St. owner of 145 Prospect St. discusses the demand for affordable housing in the area and appreciate what the owners of 18 Spring St. are trying to do.

Speaking in opposition:

Sean Gaharity, 12 Spring St. feels that this area is too saturated and is concerned with traffic, parking, changes in zoning and transient renters vs. two family home owners.

Brooke Gray, 15 Spring St. states that there is currently many multi–family homes on the street and not enough parking. Adding 6 more until is over congesting a small one way street that is already over congested.

Chris Grey, 15 Spring St. does not want a 6 unit building on his street.

Rich Conolly, 14 Spring St. is present to represent himself and 2 other units in his building. Mr. Conolly discusses the speeding issue on Spring Street along with the current drug activity in the rental units on the street, stating that there have been recent police and ICE raids and overdoses. He is also concerned with the changes that the proposed project will have on his property value.

Fredrick Martin, 143 Prospect St. Asks if these until will be rental or condo units and if there have been utility and resource studies done. He questions if it is zoned for a 3 family, why do they need to go to a 6 family.

The Public hearing is closed.

Rebuttal:

Atty. Frontiero states his disappointment that these neighbors did not respond to the letter that his client sent out before this evenings meeting. He feels that the statements made this evening that rentals are bad is offensive and discusses the need for housing in Gloucester. He states that they are meeting the regulations for parking and are bettering the property and current parking situation. Atty. Frontiero discusses that they see no issues with utilities and that the municipal infrastructure is fine downtown.

Mr. Sanborn discusses the restrictions of affordable housing.

Mr. Nimon things that 6 units compared to a 2 or 3 family home is substantially more detrimental to the neighborhood and he does not see the hardship. There are no other 5 or 6 families in the area. He states that this may be where the neighborhood is going, but is currently not in keeping with the neighborhood. Ms. Schlichte discusses the area being designed and zoned as a high density area, the current neighborhood and parking that is being put in.

The Chair states his concern with cars backing out of the drive way. He feels that they cannot always make the turn into the narrow driveway. He feels that 6 parking spaces is an overreach and would be more in support of a 3 family being built on this lot.

Ms. Pratt feels that a 6 family on such a tight street is too large as you can barely drive down the street without it.

Atty. Frontiero asks the Board if they can continue the application to another date, so that he can work with his client to possibly scale back the project.

The Chair feels that this is not a good precedence to begin as the public has come out this evening for a vote, but will agree to do so if the majority of the members would like to do so.

Mr. Nimon moves to continue the application to the 4/9/2020 meeting.

Ms. Pratt seconds

All in favor, 5-0

26 High Rock Terrace.

Daniel Pasquarello, Esquire, Pasquarello, Fink & Haddad LLC, is representing, Wendy Lippe seeking a Special Permit to alter/expand a non-conforming structure to exceed maximum allowable building height to allow demolition of existing structure and construction of a new dwelling.

Atty. Pasquarello is present this evening with Architect Rob Gulla, 593 Essex Ave. Gloucester, MA who together discuss the proposed project on this pie shaped lot.

The existing structure was not build to withstand the coastal location it is in and has been damaged multiple times by winds and waves leaving concerns for life and safety. It is discussed that the current damage to the structure was done by a rogue wave that broke some of the 2 X 6 studs and not a storm.

Atty. Pasquarello discusses the recommendations from a coastal geologist, all of which have been worked into the proposed project. These recommendations include putting the structure on stilts 8' above grade and moving the structure as far back as possible on the lot. There were no other recommendations made. The Applicant is before the Board requesting a Special Permit for height exception and the demolition of the existing structure and construction of a new dwelling. A letter from the Coastal Engineer was submitted to the ZBA with this application.

The new structure will be on a smaller footprint and entirely within the setbacks. The new location will decrease the width of the lot. They are not changing the frontage.

The difference in the height of the new structure vs. the current structure is discussed along with how it will affect the neighbors as they are looking through their windows. Atty. Pasquarello discusses the panoramic sweeping views of the neighborhood and states that while the view may change slightly due to pulling the house back on the property, it will not take away any views that the neighbor already has. It is stated that it will not affect Mr. Bebchick or the Sheedy's views at all and will open up the views for the Ryan's, nor will there be any overshadowing issues to the homes in the neighborhood. Mr. Gulla states that if someone's view is impacted, it is already impacted by right and that Ms. Lippe is not obligated to lessen the channeling effect of the water for the neighborhood.

Due to the neighbors' concerns with water coming onto the street now that the home is being put on stilts, Ms. Lippe has decided to leave the current foundation in place, fill it with crushed stone and put pipes in it for drainage of the water back into the ocean in-between wave cycles during small events. They will also be

leaving the current terrace in place and add an endcap to it to help combat wave action. These actions were taken due to the request of the neighbors, however moving the house back and raising it are the only suggestions given by the Coastal Engineers.

Mr. Gulla hands out a 3D image of the current house and the proposed house to the members to show that if someone's view is impacted, then it is already impacted by right. They meet all setbacks.

Mr. Sanborn states that he agrees with Attorney Pasquarello statement that a Variance is not needed, as they already have lot width and frontage as the frontage is already non-conforming. The Board members are all in agreement with this.

Speaking in favor: None

Speaking in opposition:

Les Bebchick, 15 High Rock Terrace discusses the letter and photos that he provided to the Clerk prior to the meeting. His major concern is the refusal or lack of commitment by the applicant to provide some form of reasonable flood mitigation to protect their house and the homes of the neighbors downstream on High Rock Terrace. He is concerned that ocean water from the many winter storms that they have will now go up to Ms. Lippe's house which will now be 10' further back on the lot and close to the road and flow under her house due to it being on stilts, then flowing down High Rock Terrace. His request for Ms. Lippe to put a seawall in place of the current terrace and endcap have not been taken into consideration. This is a private road and is not cared for or repaired by the City and any damage that occurs must be repaired by the neighbors. He has lived in this neighborhood for over 20 years and they have had little to no damage to the street due to storm water. Mr. Bebchick discusses his research of homes on stilts and with seawalls. The height of the proposed home is discussed in comparison with the adjacent homes and other recently build in the area and in regards to elevation.

Catherine Ryan, 17 High Rock Terrace shows the Board a presentation of photos from recent storms. She submitted opposition paperwork prepared by her lawyer last year when this was address before the Board. Ms. Ryan reads from this to insure that it is in the minutes. The Board insures Mr. Ryan that it is on record and that they have read it. Ms. Ryan gives the Board a brief description of the character neighborhood describing it as an open and beachy dead end street with glacial rocks and homes both close and far apart. She states that 26 High Rock is not unusually or inordinately storm hit in comparison to the other homes on this street. She feels that it is a commitment to live here and that the changes that were suggested by the Coastal Engineer will not help with storm damage or that there is proof that moving the house back is necessary as the seas or winds are never the same. Ms. Ryan feels that her view will be greatly diminished and shows the Board photos of a house with a 12' latter against it. She is concerned that no plans have been shown on landscape, privacy and proximity to the surrounding homes along with environmental concerns and the ability for a fire truck to turn around safely.

Ms. Schlichte asks if they move it closer to High Rock how it blocks the View and Ms. Ryan and Mr. King answers.

Clifford King 17 High Rock Terrace states that he looked at the home at 26 High Rock when he was purchasing his house as it was also for sale and it was obvious that it was going to see a lot of storm damage and be very expensive to insure so he chose not to purchase it. He feels that the storm damage should be no surprise to the current owner. He and Ms. Ryan discuss the damage to other properties on this street.

Ms. Ryan states that there has been no outreach from the Applicant or her Council since last year and discusses the regularity of storms and the often need for repairs to homes in the area. She feels that the proposed plans would greatly reduce her views of the ocean as well as her neighbor's views.

The Chair informs Ms. Ryan that this is not a continued application but a new one and it is not a requirement for them to meet with the neighbors.

The Public hearing is closed.

Rebuttal:

Atty. Pasquarello and Mr. Gulla rebut the comments from the opposition stating that they worked with Mr. Bebchick on the last plans and incorporated some of his requests into the plans before the Board today, however, they began to realize that he would not be content unless Ms. Lippe provided flood mitigation for the entire neighborhood and it is not her responsibility to provide this. They cannot accept Ms. Lippe's house to solely stop the water from getting to Mr. Bevchick's house.

Mr. Gulla states that Ms. Lippe is not putting her house on stilts because she likes the look of it and that this decision is purely driven by life and safety issues. He notes that some of the photos shown by Ms. Ryan were not of Ms. Lippe's property as she stated, but taken somewhere else. He also states that Ms. Lippe's house will not be the tallest house in the neighborhood by far and that some of the neighbors that have spoken this evening have taller houses than Ms. Lippe. He also states that the Seawalls that Mr. Bebcheck viewed were built by the property owners for themselves not for their neighbors.

Ms. Lippe, 26 High Rock Terrace speaks emotionally about how the community should be supporting each other with the rising of the sea level. She states that she supported Mr. Bebchick on his projects in the past and that the neighbors should not hold her responsible for all of the damage on the street in exchange for their support on this application. She also informs the Board of the horrible emails that she has received from the neighbors in response to this application.

Discussion by the Board:

Mr. Nimon discusses a photo submitted to the Board in regards to view obstruction and how view obstruction doesn't come into plan up to 30'. Ms. Schlichte agrees that they are not allowed to consider view obstruction Up to 30' and that by just moving the house it will not be substantially more detrimental to the neighborhood than the existing structure.

Mr. Nimon and Ms. Pratt also discusses previous discussions where the Board came to the verdict that 1 house is not a neighborhood and the Chair states that any non-conforming structure has greater rights. They have to allow things to come forward if they are already a non-conformity because of width. As for height the testimony this evening stated that they are all already below the existing height, so all that is being blocked is the sky.

Ms. Schlichte states that she understands the neighbor's concerns, but this one house is not protecting the entire neighborhood, nor is it their obligation to be a storm barrier to the entire neighborhood. She feels that Ms. Lippe is entitled to some relief and it is an unfair standard that her neighbors are holding her to.

Mr. Cannavo states that even if she did put up a seawall, it wouldn't be enough to protect her house from the rising water and that she would still need to go up on stilts. He feels that she has no other options.

The Chair notes that the owner has the right to take the house down and questions what the neighbors think would happen, he doesn't think that it would increase the issues that they are voicing this evening.

Mr. Nimon moves to grant a Special Permit to alter/expand a non-conforming structure to exceed maximum allowable building height to allow demolition of existing structure and construction of a new dwelling.

Ms. Pratt seconds

All in favor, 5-0

84 Causeway St.

Craig Herrmann, 18 Sargent St. is Architect is representing. Corey Grammas seeking a Special Permit 2.3.4 #9 to allow a new exterior deck on restaurant to be used for outdoor seating and restaurant & bar service.

Mr. Grammas spoke to Mr. Sanborn last week and he asked him to apologize to the Board for not being able to attend this evenings hearing.

Mr. Grammas is adding a deck to the bar side of the restaurant as part of an improvement plan that he has been working on over the past few years. Mr. Grammas is also bringing the restrooms up to code. Due to this he will lose seats inside the restaurant and is hoping to gain them back as seating on the deck. His occupancy will remain at 130 as that is all that his septic system will allow.

The Chair reminds the members that what is before the Board is only to allow the use to have outdoor seating and services.

Speaking in favor: None

Speaking in opposition: None

The Board feels that Mr. Grammas does a great job running a fantastic place and it will be a nice place to have restaurant seating available there.

The Public hearing is closed.

Ms. Schlichte moves to grant a Special Permit 2.3.4 #9 to allow a new exterior deck on restaurant to be used for outdoor seating and restaurant & bar service.

Ms. Pratt seconds

All in favor, 5-0

Motion to adjourn was made at: 9:45 PM

Motion by: Mr. Nimon

Second by: Ms. Schlichte