



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

**ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., March 12, 2020
Kyrouz Auditorium, City Hall**

Board Members Present:

Joseph Parisi III, Chairman
Catherine A. Schlichte, Esquire, Vice Chair - absent
Adria Pratt, Esquire, Secretary
Michael C. Nimon

Alternate:

Peter Cannavo

Also in Attendance:

Bill Sanborn, Building Commissioner - absent
Alison Battle, Clerk

The Chair introduces the members and gives the public an overview of the proceedings that pertain to all open hearings.

Minutes:

Ms. Pratt moves to accept the minutes for 2/13/2020 as they are written.
Mr. Nimon seconds
All in favor, 4-0

Continued Hearings:

80 Commercial St.

Petition of 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.

A letter by Mark Nestor, Esquire was received by the Clerk today requesting a continuance to the 3/26/2020 meeting.

Mr. Nimon moves to continue the application to the 4/9/2020 meeting as the meeting for 3/26/2020 has been canceled, noting that this will be the last continuance for this application.

Ms. Pratt seconds
All in favor 4-0

4 Ronna Rd.

Joe Taormina 10 B Riverview Rd. is present to represent John Farrell seeking Special Permit 2.3.7 (21) customary accessory use to allow construction of bathroom in detached accessory building.

This application has been continued from the 2/13/2020 meeting. Mr. Taormina spoke with his client regarding the option of adding a ½ bath in his garage as the Board informed Mr. Taormina at the last meeting that they do not grant full bathrooms in an accessory structure. Mr. Taormina has spoken to his client and he has agreed to update his application to request for a ½ bathroom in his detached accessory building instead of the full bathroom.

Mr. Nimon moves to grant the updated request for a Special Permit 2.3.7 (21) customary accessory use to allow construction of ½ bathroom in detached accessory building instead of the full bath that was originally requested.

Ms. Pratt seconds

All in favor, 4-0

24 Kondelin Rd.

Joel Favazza, Esquire of Seaside Legal Solutions, 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 as she has for this application in the past.

Mr. Nimon moves to continue the application as there is not a quorum to vote on the matter and notes that the material that was requested for this meeting was not submitted until this morning. Due to the late submission, it was not viewed by the Building Commissioner as he was not in the office today, nor in attendance this evening.

Mr. Cannavo seconds

All in favor, 4-0

New Hearings:

6 Warwick Rd.

Wynne Nevins, 6 Warwick Rd. is present to represent herself and Marshall Nevins seeking Variance 3.2 left side setback for accessory uses to allow demolition of an existing shed and construction of a new 10'x14' shed.

Ms. Nevins informs the Board that they are requesting to take down and reconstruct an existing shed that is currently falling apart, however, due to the roots of a nearby tree, they have had to revise the plans and put the shed in a different area on the property.

The Chair informs Mr. Nevins that she will need to submit a new application and plans as the changes will need to be re-advertised.

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

Ms. Pratt seconds

All in favor, 4-0

3 Lowe Dr.

Ryan Mc Shera of Red Barn Architecture, 84 High St. Ipswich, MA 01938 is representing, Lillian Linquata seeking Special Permit to alter/expand a non-conforming structure and Special Permit accessory in-law apartment 5.24 to allow construction of 2nd floor over existing attached garage to create accessory in-law apartment.

Mr. Mc Shera discusses the proposed plans to add an in-law apartment over the garage to his client's home for a family member to live in. They are seeking a Special Permit to expand a non-conforming building on a non-conforming lot in order to construct an Accessory In- Law Apartment built within an addition over the existing garage. The proposed addition over the garage would encroach upon the front and rear setback requirements, but does not create any new dimensional non-conformity. The new addition will be located entirely over the existing building footprint and the only exterior changes will be to the porch area of the apartment.

In favor: None

In opposition: None

Ms. Pratt moves to approve the Special Permit to alter/expand a non-conforming structure and Special Permit accessory in-law apartment 5.24 to allow construction of 2nd floor over existing attached garage to create accessory in-law apartment.

Mr. Nimon seconds

All in favor, 4-0

20 & 36 Links Rd.

Sal Frontiero, Esq. of Frontiero Law, 46 Middle St. Gloucester is representing, Charles H. McManus & Doreen McManus seeking Variance for right side yard setback to allow existing accessory structure conversion to principal use (single family).

Atty. Frontiero passes out an aerial view of the neighborhood and property being discussed. The Petitioner has applied to the Planning Board for a Special Permit to create a pork chop lot by reconfiguring 20 Links Rd. and neighboring lot at 36 Links Rd. The resulting pork chop lot at 36 Links Rd. will contain a garage that will be converted to a single family residence. The change in use from the garage to the primary structure will not comply with the right yard setbacks due to the nonconforming rights are lost with the change of use. The McManus's are looking to downsize and sell their original home. They are 4' shy of the setback.

In favor: None

In opposition: None

Mr. Nimon moves to grant Variance for right side yard setback to allow existing accessory structure conversion to principal use (single family) contingent on the approval of the pork chop lot by the Planning Board.

Mr. Cannavo seconds

All in favor, 4-0

14 Sunset Point Rd.

Joel Favazza, Esquire of Seaside Legal Solutions, 123 Main St. Gloucester, is representing, Sean & Janet Sullivan seeking Special Permit 2.4.5 demolition and replacement of pre-existing non-conforming single or two family residence to allow demolition of existing structure and construction of new structure.

The Applicant purchased this property in 2019, with plans to retire there from New Jersey. The current building is inhabitable and falls below the FEMA flood plain and velocity zone. Due to this the new house must be put up on piling.

The existing lot is non-conforming (5000' short) and there will be no change in this non-conformity with the 1 family rebuild that is being proposed. The lot is a 1 family residential and will remain so. The new structure will be 100 % conforming to all dimensional zoning requirements including building height. The only thing that the Board needs to vote on this evening is the lot area being non-conforming.

The Board discusses the average grade of the structure.

The Chair informs the Board of the calls that he and the Mayor's office have received this evening pertaining to this application and this evening's hearing being held tonight. Due to the Mayor's request for the public to stay home due to the COVID-19 virus, many people did not feel comfortable coming out tonight to voice their opinion. Mr. Parisi feels that the Board should take testimony this evening, and then leave the hearing open to the public's testimony by letter to the Clerk. All submissions must be received 72 hours before the 4/9/2020 ZBA meeting.

In favor: None

In opposition:

Julie Sabiome, 12 Sunset Point Road reads from a letter that she wrote describing the history of the cottages on Sunset Point and how they have become no larger than small ranches over the years. Her home was previously owned by her mother. She would like the Applicant to follow the process with FEMA to request to decrease the height restrictions as she has read has been done before in other instances.

Ellen Robertson, 13 Sunset Road, purchased her home in 1951. She discusses that views are not owned, the history of storms and water retention in the neighborhood and the additional pole that the Applicant would like to put up vs. underground utilities. Ms. Robertson also reads a letter written to the previous homeowner from the Applicant. This letter was written before the purchase of the house and stated that she had no interest in making many changes to the cottage. She feels that 20' ceilings are not necessary, especially at the neighbor's expense.

Rebuttal:

Atty. Favazza feels that it is unfair to continue the meeting as many neighbors have come out this evening and all are speaking on issues that are conforming, and that his client is allowed to do to her property by right. The only thing that is before the Board this evening is a vote on if the lot area is non-conforming.

Mr. Nimon states that he is okay if the Chair decided to continue, but he feels that there is a large audience present this evening regarding this application and only 2 of them are interested in speaking. He is less inclined to continue.

Ms. Pratt agrees with Mr. Nimon and feels that the change suggested by the Chair will only confuse people as this is not the usual procedure. She feels that her answer to the question at hand is no, so it is not necessary to continue the application.

The Chair agrees that the answer to the question is no, but because of the calls received and the unusual situation, they should continue the application.

Mr. Nimon asks if the Board can accept written testimony up to the 72 hour submission deadline for the 4/9/2020 meeting, but to also make a commitment to vote on the application on 4/9/2020 and not to continue it again.

The public hearing is not closed.

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

Mr. Cannavo seconds

Ms. Pratt notes for the record that she is not opposed but will vote in favor only with the condition that the Board votes on this matter at the 4/9/2020 meeting.

All in favor, 4-0

Atty. Favazza notes for the record that people had the opportunity to provide opposition in writing before this evening and questions what testimony the Board expects to receive that the non-conformity exists. The Applicant is also working with the neighbors on putting the wires underground as suggested by the neighbors.

Motion to adjourn was made at: 8:05PM

Motion by: Mr. Nimon

Second by: Ms. Pratt