



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

**ZONING BOARD OF APPEALS
Remote Participation Meeting Minutes
September 3, 2020**

Board Members Present:

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

Also in Attendance:

Bill Sanborn, Building Commissioner
Alison Battle, Clerk
Greg Cefalo, Building Dept.

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

Minutes:

Ms. Schlichte moves to approve the minutes of 7/30/2020 as they are written.

Mr. Nimon seconds

All in favor, 4-0

Ms. Pratt will be joining the meeting late.

Items are taken out of order this evening due to members and participants attending the Planning Board meeting.

Old Business:

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.

Atty. Favazza shares his presentation and gives the Members a brief narrative as to why this application is still before the Board along with the history of the property and their correspondence with the Building Department since 2018.

Atty. Favazza discusses the findings of the EDIC and photos of the property taken today with the changes made.

Atty. Favazza discusses the issues that his Client has in order for him to make this property compliant with what is being requested by the Building Dept.

The Board and Atty. Favazza discuss the definition of a temporary structure and how that applies to the Applicants dumpsters on the property, parking and screening for fencing.

Ms. Pratt is now present for the meeting and recuses herself from this application.

Mr. Sanborn is now present for the meeting and goes over the decisions by the EDIC and the issues that he is still finding with this property.

Mr. Sanborn goes into the definition of a temporary structure as anything attached to the ground and not on wheels.

Greg Cefalo discusses his concern with the screening on the left side of the property and its maintenance, as well as, the dumpsters in the right of way of the access land in the back of the property.

The Chair calls for comments or questions by the Board and the Members ask questions regarding other dumpsters at other businesses in the City, and what the impact of this decision will be on these other dumpsters.

Atty. Favazza answers the Members questions and asks Mr. Sanborn if the City is okay with the storage of the dumpsters on the right of way.

Mr. Sanborn discusses the need for an easement through the City Council to store the dumpsters in this area.

The decision as to whether a dumpster is a temporary structure is further discussed by all parties.

Ms. Schlichte moves to overturn the decision that a dumpster is a temporary structure.

Mr. Nimon seconds
All in favor, 4-0

The Chair states that he would now like to discuss the parking issue.

Atty. Favazza shares his screen and gives the Board a narrative on the parking issues before the Board.

The Chair calls for questions by the Board.

Mr. Sanborn points out to the Board that these are 2 separate properties and relief must be granted to each specific property, as well as, what will need to be approved by City Council for a condition of use. He also discusses comments from the EDIC meeting stating that they felt that they do not have any enforcement or control over this issue.

Mr. Sanborn states that he would still like to see the property cleaned up, screening for the dumpsters and customer parking moved off of the street with lines for parking.

Speaking in favor – None

Speaking in opposition – None

The Chair calls for discussion by the Board.

The Chair calls for a motion.

Ms. Schlichte and the Chair would like to hear more on the screening and how it relates to parking before a motion is made.

Atty. Favazza goes over the definition of screening and states that the majority of the yard has been screened and the issues his Client has with screening the rest of the yard.

Atty. Favazza goes over the screening issues compares this area to Pond Rd. where there is no screening and requests that his client be treated the same as the other businesses in the City as they are in an industrial park not a business park like Blackburn.

The Chair points out that there is no permit for the dumpsters to be on the left lot and Atty. Favazza insists that the area is not a "junk yard" as stated by the Building Dept.

Ms. Schlichte states that his clients is the least desirable looking property in the area and that his client has to be responsible for the property upkeep.

Mr. Sanborn responds to Atty. Favazza stating "why can't he just leave his client alone" that the other properties received the same requests, however, his client is the only one who is unwilling to comply and work with the Building Department to take action to maintain their property and follow guidelines to make the property presentable.

The members state their opinions and concerns.

Ms. Schlichte moves to grant a Variance from Section 4.1.4 (A) (7, 8) only, to allow a parking area within one foot of the external property line and to allow parking area without curbing or barrier to contain it with the following conditions:

1. A use Permit is granted by the City Council
2. It is used only for the existing business on that portion of the lot
3. Dumpsters on the left lot to be screened
4. Maintain new screening

Mr. Nimon Seconds
All in favor, 4-0

Ms. Schlichte moves to grant Variance from Section 4.1.4 (A) (9) to allow a parking area within one foot of the external property line.

Mr. Nimon Seconds
Motion failed, 0-4

Ms. Schlichte moves to grant Section 4.5.1 to allow an existing parking area and industrial uses to remain unscreened with the following conditions:

1. The existing screening is not altered.
2. The dumpsters stored on the left end be screened with some type of removable barrier back at the dumpster line.

Mr. Nimon Seconds
All in favor, 4-0

New Business:

Ms. Pratt joins the meeting.

273 East Main St.

Sal Frontiero, Esquire of Frontiero Law, 46 Middle St. is representing, Last Stop LLC seeking Special Permit 1.9 alter expand non-conforming structure, Variance side yard to modify Variance granted May 17, 2017 to allow construction/replacement of stair egress from 2nd floor dwelling unit.

The LLC is owned by a husband and wife, Nancy and Daniel Egger. The Eggers purchased the property in April 2019. The property contains a store that serves foods on the first floor and an apartment on the second floor. This is a multi-family dwelling.

Attorney Frontiero informs the Board of an error and that they will not be modifying a previously granted Variance, but are also requesting a Variance to exceed 35’.

The Petitioner seeks to reconstruct the stairs and landing to the minimum required width under the building code of three feet. In order to do so, he will need to encroach into the setback, as well as, encroach onto a neighboring lot. The Petitioner has obtained an easement from Dr. Thomas Pearce, who owns the adjacent property. A Copy of that signed easement was included in package.

Speaking in favor – None

Speaking in opposition - None

The Chair calls for questions by the Board or a motion.

Ms. Schlichte moves to approve Special Permit 1.9 alter expand non-conforming structure and a Variance for left side yard setback to allow construction/replacement of stair egress from 2nd floor dwelling unit.

Mr. Nimon Seconds

All in favor, 5-0

97 Leonard St.

Carole Bailey and James Tiernan, 1 Glenview Rd., Wilmington Ma 01887, seeking Special Permit, Variance left side yard, rear yard to allow addition of single bay attached garage with storage and addition to existing house right side. The current home only has a crawl space for storage.

Mr. Tiernan gives a narrative of the proposed plans. They would like to take down one side of their cape style home and rebuild it adding an attached garage with storage above it.

Mr. Nimon requests clarification of what is being proposed by the Building Commissioner and Mr. Sanborn does so.

Speaking in favor – None

Speaking in opposition –

Ruth Carmichael, 99 Leonard St. finds that the addition will be overbearing on her property as she is on the side that will be affected. She is concerned with her light and view being blocked.

The Chair informs Ms. Carmichael that the Board cannot take into consideration the exception to the increase in height as it is within their right.

Steve Harris, 96 Leonard St. is across the street from 97 Leonard St. and is in objection to the esthetics of the neighborhood being changed if these two house are put closer together. He feels it will change his site line.

Sarah Campbell, 103 Leonard St. feels that there are setbacks in place for a reason and doesn't see that there are any hardships present to alter the required setbacks.

Rebuttal:

The Applicants address the concerns brought forward by their neighbors and inform the Members of the hardships of putting the garage on the other side of the dwelling. They state that there is a lot of ledge on the right side, access to sewer pump and the easement for drainage would all need to be moved.

The Chair calls for questions by the Board.

Mr. Nimon states his concerns with this project as the neighbors on the left are in opposition.

The Board would like the Applicant to look into their hardships more closely and report back to them with the information.

Ms. Schlichte moves to continue this application to the 9/24/20 meeting.

Mr. Nimon Seconds

All in favor, 5-0

44 Bass Ave.

Mark Donohoe of EBI Consulting Inc., 21 B Street Burlington, MA 01803 is representing, Donald Swimm Tr. Seeking Special Permit 1.9 to alter/expand non- conforming structure, Variance front yard setback to allow construction of new C.M.U. brick veneer wall at gable end of existing building.

Mr. Donohoe gives the Board a brief description of the work that is required for this 100 year old building. The Wall has separated from the Building and cannot be saved. They would prefer not to take the wall down as doing so would require the owners of the 7-Eleven store on the first floor to close for at least 4 months. Instead, they are proposing to build a new wall outside of the existing wall and extend the roof to the new wall, thus enclosing the old wall inside.

Mr. Sanborn explains that the City supports this project going forward.

Speaking in favor- None

Speaking in opposition – None

The Chair will entertain a motion if there are no questions.

Ms. Schlichte moves to approve Special Permit 1.9 to alter/expand non- conforming structure, Variance front yard setback to allow construction of new C.M.U. brick veneer wall at gable end of existing building.

Mr. Nimon Seconds

All in favor, 5-0

Board Discussion:

Motion to adjourn was made at: 9:51PM

Motion by: Ms. Schlichte

Second by: Mr. Nimon