



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

**ZONING BOARD OF APPEALS
Remote Participation Meeting Minutes
October 29, 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

The Chair calls the meeting to order, introduces the members of the Board and reads the Open Meeting Laws.

Approval of Minutes:

Ms. Schlichte moves to approve the minutes of 9/10/2020, 9/24/2020, 10/8/2020, and 10/10/2020 as they are written.

Mr. Nimon seconds
A roll call vote is taken.
All in favor, 5-0

New Business:

Ms. Schlichte moves for the approval of 2021 ZBA meeting schedule.
Mr. Nimon seconds
A roll call vote is taken.
All in favor, 5-0

The Chair confirms that the 2021 ZBA meeting schedule is set.

Old Business:

16 Gibbs Hill Rd.

Deborah Eliason, Esquire of Eliason Law Office, 63 Middle St, Gloucester, MA is present to represent, Beth & Anthony Costanzo seeking Variance (side yard) to allow construction of attached garage with room above.

The Chair informs the Board that public testimony was heard at the last meeting and the public hearing was closed. The meeting was continued to give the members the opportunity to view the previous decision.

Mr. Nimon recuses himself as he was not at the original meeting.

The Chair allows Atty. Eliason to give a brief overview of the project as she was newly hired by the Applicants and did not represent them at the last meeting.

Atty. Eliason shares her screen and gives the Board a brief overview of the required relief. Atty. Eliason informs the Board of an error made at the last meeting in a letter by the opposition. This is a 10' setback not 20' as was stated, because they are in an area that benefits from the appendix of 3.2 of the Zoning Ordinance.

Atty. Eliason shows the Board photos of the property and explains that the house will be less than 2' from the property line, but also about 80' from the opposition's property and much higher than their property due to a large drop off. The Board views photos from Google Earth to show this. There are many trees between the two houses.

The Costanzo's have receive letters of support by the other surrounding abutters at;

3 Banjo Way

14 Gibb's Rd.

18 Gibb's Rd.

22 Gibb's Hill Drive

The Costanzo's are willing to follow most of the requirements in the prior decision other than making it a single story to appease the Frontiero's. They are willing to do drainage mitigation, use pervious driveway materials, plant some vegetation and if the Board feels necessary, they will remove the windows from that side of the garage.

Atty. Eliason asks that the Board grant this request due to the hardships presented, the surveyor's mistake of the property lines many years ago and the topography of the front lawn is very steep.

The Chair calls for questions by the Board.

Mr. Parisi questions how they will get to the room from the house and is concerned with the potential of it becoming a separate living unit.

Atty. Eliason states that it will be accessed from the daycare and used as an office, not as a bedroom as the plans incorrectly state.

Mr. Cannavo and Ms. Schlichte also discuss that Mr. Costanzo originally stated that he needs the room for his growing family.

Atty. Fine states that that may be a plan way down the road and that they know that they will have to come before the Board to do so.

Mr. Sanborn informs the Members of the laws regarding turning a 1 family home into a two family home and the 1 year waiting period to convert the dwelling into a two family.

The Costanzo's have texted their attorney to state that they do not have any plans to convert their dwelling into a 2 family, but they may use the room as a bedroom in the future.

Ms. Pratt lost connection for part of the meeting. The Board had to continue the vote on this application to the next regularly scheduled meeting.

Ms. Schlichte moves to continue this application to the 11/12/2020 to give Ms. Pratt can listen to the recording.

Mr. Cannavo seconds

All in favor, 4-0

154 Wheeler St.

Joel Favazza, Esquire of Seaside Legal Solutions, 123 Main St, Gloucester, MA is present to represent, Lee Evangelista, Trustee seeking Special Permit 1.9 alter/expand non-conforming structure and Variances for side yard setback and lot width to allow construction of an addition of a garage and seconds story master bath and laundry room.

Atty. Favazza has submitted amended plans and it is discussed and decided that he can present these plans to the Board. They were submitted to the office of the Building Commissioner on 10/22/2020.

The Chair closed the public hearing at the last meeting, but will allow people to speak on the new plans.

Atty. Favazza shares the new plans and presents them to the Board comparing them to the originally submitted plans. They would like to add a garage with a second floor above it. They have reduced the requested left side yard relief to 2 feet and the relief for the lot width will remain the same. They are still requesting a Special Permit to alter/expand due to the condition of the lot. Side yard setback and lot width Variance as well. They project has gone from a 12' (2) story addition, to a 10' 6" addition on the first floor and an 8' addition on the second floor.

Ms. Dillion and her son who were the direct abutters in opposition are now in support as the applicants have agreed to use code compliant fire retardant materials to alleviate their fears. Atty. Favazza shows an aerial view of the homes of the neighbors in opposition and in favor.

The Chair calls for questions by the Board.

Speaking in favor:

Ginny Dillion, 156 Wheeler St. feels that she is the most impacted by the proposed addition. She is happy with the resolution that she has come to with the Evangelista's and is now in support of the project.

Speaking in opposition:

Meredith Fine, 46 Middle St. representing Ed and Terry Lafferty, 2 Breezy Point Rd. states that many of the letters in support are family members of the Evangelista's. The proposal that has been made does not solve the Lafferty's problem and questions why a plan was presented at the site visit that did not require a Variance and now they are before the Board requesting a Variance. She feels that this proposal has no hardship at all and that the issues discussed by the Applicant's attorney are not Boards problem (DEP, Storage, Conservation) and that all lots in this area are shaped the same. Atty. Fine discusses the comparisons that were made to the other properties in the area stating that these properties have more green space to have a garage then this property.

Peter Jones, 145 Wheeler St. is the abutter across the street from the Evangelista's. States that the letters from Salem and Switzerland are from his sons who have a vested interest in this issue as his house is their home. Mr. Jones comments on Atty. Favazza's statements and discusses how the connection that the neighbors have with the ocean is being taken away and the beauty of the neighborhood is being diminished.

Donna Sheppard, 150 Wheeler St, feels that an addition of any size is too much as the house is already imposing as it is and they neighbors do not want to fill up all of the available space in the

area. She is concerned with Ms. Dillion's statement that she will also be adding onto her home in the near future. She feels that provisions should have been made when the house was built in 2017 for a garage. They are taking away views from all of the residents on Wheeler's St. and neighboring streets that walk the area daily.

Edward Lafferty, 2 Breezy Point Rd., feels that this is detrimental to the neighborhood with no hardship. He feels that this will make parking on Wheeler's Point worse than it is now.

Steve Dexter, 162 Wheeler St., has lived in his home since 1971. He feels that there is no hardship as this is a summer home and they are just looking for a place to store their summer furniture which he feels is unnecessary.

Rebuttal:

Ms. Pratt asks Atty. Favazza to share his screen showing the revised plans and he does so. Atty. Favazza discusses a letter written by Atty. Fine which references the Brittan case and compares it to the case before the Board. He also states that the comments and letters written in opposition do not go against the GZO. He shows photos of the property before it was built.

Atty. Favazza goes over the revised plans for Ms. Pratt due to her connection issues during the beginning of the meeting.

The members discuss their concerns with the density on the upper portion of the lot, the reasons why they feel that there is a topographical hardship, and that they appreciate that they Applicants reduced the size of the project for the neighbors.

Ms. Schlichte moves to approve a Special Permit 1.9 alter/expand non-conforming structure.

Mr. Nimon seconds

All in favor, 5-0

Ms. Schlichte moves to approve a Variances for side yard setback of 2' and lot width Variance of 16'.

Mr. Nimon seconds

All in favor, 5-0

2 Breezy Pt. Rd.

Meredith Fine, Esquire, 45 Main St, is present to represent, Terri & Edward Lafferty seeking Variance 3.2 front yard setback, side yard setback to allow installation of new 8' x 10' shed.

This is a continued hearing due to a question being raised at the last meeting regarding being able to grant a Variance to put a shed on an easement owned by the City. The issue was addressed by Atty. Fine and an email has been received by the Board from Mike Hale, Director of the DPW.

Atty. Fine states that Mr. Hale was in favor to this request as long as the shed is portable. The City will give the Lafferty's ample notification to move the shed or will move it for them if they are unable to do so themselves. She sent an amendment to the City Solicitor and received a response from him today. She has an easement that both the City and the Lafferty's are in agreement on but have not had enough time to record the easement. She is asking the Board to approve the request before the Board pending the recording of the easement with the State.

The Chair calls for questions by the Board.

Mr. Sanborn spoke to both Mr. Hale and Mr. Payson. They informed him that they are close to an agreement but it has not been signed yet. He suggests that the Board continue this application until the agreement has been signed.

The Mayor offers her opinion as she would like to discuss the request with Mr. Hale and Mr. Payson before she signs it and she hasn't seen it yet.

Ms. Schlichte moves to approve a Variance 3.2 front yard setback, side yard setback to allow installation of new 8' x 10' shed with the condition that a recorded easement agreed upon by the City of Gloucester and the Applicant regarding use of that easement area where the shed is going to go.

Mr. Nimon seconds
All in favor, 5-10

18 Blynman Ave.

Joel Favazza, Esquire of Seaside Legal Solutions, 123 Main St, Gloucester, MA is present to represent, Frank Ciaramitaro seeking Special Permit 1.9 to alter/expand non-conforming structure and Variances for front yard setback; side yard setback and off street parking to allow petitioner to construct deck/stairs and convert from a two-family to a three-family dwelling.

This is a continued application. The Board requested additional documentation and a better parking plan.

Atty. Favazza shares the screen and discusses the (2) different parking areas that the Applicant is willing to condition into the decision.

The Chair calls for questions by the Board.

A Special Permit for waiving parking is discussed by the Board vs. granting Variances for parking requirements.

The Chair calls for discussion by the Board.

Ms. Schlichte moves to approve a Special Permit 1.9 to alter/expand non-conforming structure and a Special Permit to convert from a 2 to a 3 family and Variances for front yard setback; side yard setback and off street parking to allow petitioner to construct deck/stairs and convert from a two-family to a three-family dwelling subject to the Condition the relief on the Applicant adhering to the parking plan.

Mr. Nimon seconds
All in favor, 5-0

New Business:

12 Riggs Point Rd.

Petition of Conrad Vitale seeking Variance 3.13 change in size or shape of lots to allow a portion of 14 Riggs Point Rd. to be added to 12 Riggs Point Rd. per GZO 3.13 to enable applicant to proceed to the Planning Board for an ANR to allow 14 Riggs Point Rd. to give a portion of their land.

John McDougall, 10 & 12 Riggs Point Rd. discusses his project. He would like to purchase parcel A from his neighbor Conrad Vitale that is behind his property at 12 Riggs Point Rd. This will make Mr. Vitale's land non-conforming and his land on 12 Riggs Point Rd more conforming. This land is

attached to his property at # 12 and is separated by a stone wall on Mr. Vitale's property. Mr. McDougall shows photos of the land. This land is currently overgrown and uncared for. He has 7 letters of support and 3 verbal supports.

The Chair summarizes the hardship for the Applicant.

The Chair calls for questions by the Board.

The Members confirm the lot sizes.

Speaking in favor: None

Speaking in opposition: None

The Chair calls for discussion by the Board.

The Board discusses the legal aspects of this request and any future issues that could occur due to granting this decision.

Mr. Sanborn notes that it goes against zoning by making a conforming lot a non-conforming lot.

Ms. Schlichte moves to approve a Variance 3.13 change in size or shape of lots to allow a portion of 14 Riggs Point Rd. to be added to 12 Riggs Point Rd. per GZO 3.13 to enable applicant to proceed to the Planning Board for an ANR to allow 14 Riggs Point Rd. to give a portion of their land.

Mr. Nimon seconds

All in favor, 5-0

8 Harold Ave.

Petition of James & Janelle Puopolo seeking Special Permit 1.9 alter\expand non-conforming structure, Special Permit 3.16 exceed building height, Special Permit 3.2 exceed percent of lot coverage to allow two new dormers on existing roof and add exterior stair to convert from a 1 family to a 2 family.

Janelle Puopolo states that her sister is retiring from the Post Office and moving back to Gloucester and would like to live in the family home. They would like to make the house into a 2 family for her to be able to do so.

Mr. Sanborn informs the Board that he reviewed the application and they require relief for parking which was not advertised. None of the parking meets any adequate requirements even for one space due to the width and they do not see where they are adding any additional off street parking. They are required to add 1 new parking space for the additional unit.

Mr. Parisi informs the Members that the Ward Counselor has received a great deal of concerns with parking in the neighborhood.

The Chair calls for questions or discussion by the Board.

The Board is in agreement that the application must be continued and re-advertised.

Ms. Schlichte moves to continue this application to 12/10/2020 for it to be re-advertised.

The Chair reminds the Board of the Special Meeting coming up.

Mr. Nimon seconds

All in favor, 5-0

Motion to adjourn was made at: 9:24PM

Motion by: Ms. Schlichte

Second by: Mr. Nimon