



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

**ZONING BOARD OF APPEALS
Remote Participation Meeting Minutes
March 25, 2021**

Board Members Present:

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

James Gigliotti - Alternate

Also in Attendance:

Bill Sanborn, Building Commissioner
Alison Battle, Clerk

Approval of Minutes:

Ms. Schlichte moves to approve the minutes of 3/11/2021 as they are written.

Ms. Pratt seconds

4 in favor, Mr. Nimon abstains as he was not present for this meeting.

New Business:

6 Mt. Vernon St.

Petition of Kimberly Mackey and John Rogers appealing the decision of the Building Commissioner concerning a zoning violation involving a deck located.

Ms. Pratt recused herself from this meeting.

Mr. Sanborn informs the Members that his department has been waiting for Ms. Mackey to drop off papers to his office since it was requested at the last meeting. He received word today at approximately 12:00 PM that photos were dropped off at the Mayor's office, which is after the required submission deadline. The photos only show the deck, with 2 chairs on it, as it is now and not prior to the changes being made as was requested by the Board. At this point, he doesn't have enough evidence to make them take more of the deck off than he already has.

Kimberly Mackey, 139 Bray St. is present and states that it is an unrealistic burden of proof for her to need to come up with photos of her neighbor's property from years ago. The photos that she supplied show that there is new wood on the deck.

The Chair would like to continue this application again as the photos were not submitted in time for the Board to view them.

Catherine moves to continue this application to the 4/15/2021 meeting.

Mr. Nimon seconds

All in favor, 4-0

6 Duley St.

Joseph Luna of Luna Design, 100 Conifer Hill Dr. Suite 405, Danvers, MA is present to represent, David Higgins seeking Special Permit 1.9 alter/expand a non-conforming structure to allow renovation of existing structure.

This is a single family home on the existing footprint. They would like to add a bay window, dormer, extend the attached shed up to the existing roofline and add a roof deck. This structure was built on a non-conforming lot. They will not be changing the footprint. They have reviewed the plans with the neighbors and the Board has received 3 letter of support from the abutters.

Speaking in favor: None

Speaking in opposition:

Barbara Jobe and Doug Duckett, 8 Duley St. are direct abutters. They sent a letter in opposition to the Board and discusses the disagreement that she has regarding the property line. She is concerned that the structure will be on her property line.

Mr. Luna discusses that they are not over the property line referencing a survey done by Meridian Associates which shows the tapering of the property line. They are at ½' at the closest point.

Mr. Duckett informs the Board that there is a disagreement on the property lines from 2 independent survey companies. His mother in-law Barbara Jobe is requesting that there be a setback minimum of 6" between any structures proposed to be built.

Mr. Luna states that it is very unclear where the property line lays without going to Land Court and that they are proposing to go very close if not over the property line.

Joel Maxwell, 10 Duley St. questions if these 2 homes are on sewer or a septic systems and will it handle what they plan to do.

The Chair states that there is a sewer alarm box on the plans so it should be a step system.

Rebuttal:

Mr. Luna rebuts the comments made, stating that the property was reviewed two times by Meridian Associates and he feels that their information is correct. He is willing to compromise and move the bay window back 18" as it will not be a significant architectural change.

Ms. Schlichte moves to approve Special Permit 1.9 alter/expand a non-conforming structure to allow renovation of existing structure with the condition that no protrusion from the building be more than 18" from the existing structure.

Mr. Nimon seconds

Mr. Parisi asks that the motion be altered to add the requirement of the submission of a new plot plan showing the 18" and not the 24" that were originally applied for.

Ms. Schlichte and Mr. Nimon accept the alteration.

All in favor, 4-0

31 Magnolia Ave.

Deb Eliason of Eliason Law Office, 63 Middle St. is present to represent, Michael Ciaramitaro seeking Special Permit 2.3.1 #3 1-2 family with exterior changes and Variances for lot area and lot area per dwelling allow the construction of addition 26' by 32' with deck to allow conversion of one family to two family.

They are looking to construct a 26' x 32" one story addition in order to convert from a 1 family to a 2 family dwelling with exterior dimensional changes. This addition will be in the back of the existing dwelling and will be mostly shielded from the street. Mr. Ciaramitaro's parents will be moving in with them to down size and help with childcare. The new dwelling will be 832 sq. ft. and have 1 bedroom, an office, a living room and a kitchen. The Applicants have spoken with many of the abutters and have received letters of support from some of them. They have also submitted a letter from the Board of Health stating that there is adequate sewer capacity.

This lot is the victim of a significant zoning change that caused it to become significantly undersized. It requires the lot to be double the size for each unit which this lot does not have. The project does meet the required dimensional setbacks. Due to re-zoning, these lots went from R10-R30 which made a significant number of them non-conforming. Due to these issues this family is unable to take advantage of the option of the 2 family use that is allowed.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit 2.3.1 #3 1-2 family with exterior changes and Variances for lot area and lot area per dwelling allow the construction of addition 26' by 32' with deck to allow conversion of one family to two family.

Mr. Nimon seconds

All in favor, 4-0

66 Eastern Point Rd.

Deb Eliason, Esq. of Eliason Law Office, 63 Middle St. is present to represent, JCG Investments LLC seeking a Special Permit 1.9 alter/expand non-conforming structure to allow the existing 2 family to be demolished and replace with new 2 family dwelling.

Ms. Schlichte recuses herself. Mr. James Gigliotti will be voting on this application.

After the last meeting the Board asked the Building Inspector to do some research. His findings were that the home is existing as a two family now. Due to this, the application was

re-advertised to be a conversion from a two family to demolish and construction of a new two family.

This is a conforming lot and the new building will correct 2 non-conformities. One in the front lot and the other in the side yard. The non-conformity in the rear yard is being improved all along the entire building. It will be improved from 6.3' to 9.3'.

The building has been pushed back at the request of the neighbor. They have revisited the height of the building and still feel that a Special Permit for Height is not needed. Atty. Eliason discusses the difference between design elevations and average grade elevations.

Atty. Eliason discusses the changes that have been made to the plans since the last meeting. They have brought the dormers in 3' to reduce the boxy look of the structure and have also changed the stairway on the right hand unit by removing the switch back. The trim has been changed to white and the windows have a more colonial look. The size of the dormers have been reduced to alleviate some of the concerns of the dormers. They are keeping the driveway in the same place as it has always been as they feel that this is the safest situation.

Atty. Eliason discusses the letters in opposition received by the Board and feels that they mostly discuss the design of this dwelling which is not the purpose of this Board.

Speaking in favor: None

Speaking in opposition:

Joel Favazza, Esq. of Seaside Legal Solutions, 123 Main St. is present to represent Tracy Dickson, 1 Island Rock Lane who is a direct abutter. He feels that there is a lack of necessary information in this application and that there is still no plan of record regarding the height, which was questioned in the last meeting, showing contour lines. He would like to know how they calculate average grade. He feels that they are using the wrong section of GZO because he believes that this is still a 3 family and 2.4.5 does not apply. 60 neighbors are in opposition to this project with not one person in favor and Atty. Favazza show a map of the opposed properties.

Atty. Meredith Fine, 46 Middle St. is speaking on behalf of her client the Trustees of the Sea Croft. She is in complete agreement with Atty. Favazza who discusses the work that the neighborhood went through to get 60+ signatures and hiring multiple attorneys to prove to the Board that this project is not right for this neighborhood.

The Chair states that he did not see the opposition documents and the Clerk confirms that they were loaded onto the Google drive the Tuesday before the meeting.

Atty. Fine feels that the memorandum that the Building Commissioner relied on to make his decision regarding whether it was a 2 or 3 family was for the wrong property. She believes that he used the Sea Croft property. Her findings show that this property has been a 3 family since 1966 and it is a 3 family on the Assessors cards. This property was advertised and the Applicant purchased the property as a 3 family and that this matters here because everything that Atty. Eliason is relying on does not apply to this application. She believes that the Applicant needs a Special Permit for height. This is a seaside village and the purpose of zoning is to promote conformity and consistency and to protect the neighborhood character.

This property does not fit in. The neighborhood feels that this property is too big and does not conform to the area.

Michael Faharty, Esq. is present to represent Jim and Jen Bordanaro. Their property is immediately adjacent to the property at 66 Eastern Point Rd. He would like to clear up a statement made at the last meeting that his client endorsed this project and spoke to the owner about the design. This is not true. His client was asked if he would have a problem with a driveway being put next to his property and his clients answer was that he didn't have anything to do with it, but that he didn't think that the City would go for it. He was also asked what he thought of the design and answered that he had not seen them.

Atty. Faharty discusses the Building Commissioners memo which referenced a 1/27/1983 decision which was related to an adjacent property of which he was the attorney for the petitioner for this application and he disagrees with Bills interpretation of this decision.

A municipal lean on the property from 2008 is discussed as it states that it is listed on this lean as a 3 family. The Assessors property card lists this property as a three family dwelling. The current Applicant also hasn't made any changes with the assessor's office since he purchased this property in 2020. He feels that the Board must treat this application as a 3 family, as the application, Assessor's Office and the Applicant references the house as a 3 family.

Atty. Faharty objects to the use of Zoning Ordinance 2.4.5 (B) as it says absent of a Variance. He states that there have been no changes to the GZO so he feels that the Board must go by the plain meaning of the Ordinance.

Caleb, 1 Island Rock Lane informs the Board that he dropped off the petition on Monday 3/22/2021 and reads the statement that was attached to the petition.

Maryanne Bouche, 93 Mt. Pleasant Ave. is the owner of 75 Eastern Point Rd. She was originally in favor of this application but is now in opposition after reviewing the details. She discusses her concerns with the building being larger, cars driving fast and the difficulty of getting out of that driveway. She states that this was always a 3 family.

Rebuttal:

Atty. Eliason rebuts the opposition's comments. Discussing the height on the submitted plans, her belief that there is no need for a Special Permit and goes through the history of the dwelling in regards to it being a 2 family vs. a 3 family.

Discussion by Board:

The current sq. footages vs. the proposed sq. footage of the living space is discussed. Atty. Eliason doesn't have this information available.

James, Gattuso, owner of the property states that the new dwelling will add 4100 sq. ft. He discusses the topography issues.

The Board discusses if they are looking at a 2 family or 3 family tear down.

Mr. Sanborn states that he further researched the property after the last meeting and found that Atty. Fine's findings were correct. The document that he used was for the neighboring property and that both properties were once owned by the same person. He found that the property was a 3 family for as far back as the house was there and that the 2 units added onto the side were rented as summer cottages.

Mr. Sanborn looked into the Assessors records and found that in 2004, the owner took out a building permit to take off the rear cottage and install a foundation. At this time he stopped working on it. He applied for extensions and extensions were granted through 2004. Since then the previous owner has not applied for any extensions and no work has been done to this house. In its present condition it has been used as a 2 family since 2004. He feels that he abandoned the use of his 3 family when he failed to apply for extensions and keep a current permit. The Assessors will assess you for what they get permits for, not what was built, so if you took a building permit out to change the use of your house, they will assess the house at what the building permit says until they find another document that changes their opinion. Mr. Sanborn states that the Board has the right to gather information from other departments in the City to assist them in making a decision. If someone does not like the Building Commissioner's decision, there is a route they can take to question that decision. He is in charge of determining the legal use of every dwelling in the City and he has made his decision and the use of the building is a 2 family.

The Chair states that they are not on this Board to question every licensed engineer's plans brought to this board. It is something that will be dealt with further down the road. He discusses other cases that come into play and feels that they are asking for the correct relief.

It is discussed that the amount of opposition is troubling, however, as this may not be their favorite looking house, it is not up to this Board to vote on the aesthetics of a house. The driveway safety isn't changing from what is currently is. The traffic pattern isn't changing.

Mr. Nimon moves to approve a Special Permit 1.9 alter/expand non-conforming structure to allow the existing 2 family to be demolished and replace with new 2 family dwelling and a Special Permit 2.4.3 to alter/expand a non-conforming structure and 2.4.5 to demolish/replace an existing 2 family.

Ms. Pratt seconds
All in favor 5-0

7 Gloucester Crossing Rd.

Deb Eliason of Eliason Law Office, 63 Middle St. is present to represent, Fuller Schoolhouse Rd. Inc. seeking Variance 4.3 sign ordinance relief from total signage to allow signage to be added to new YMCA.

Marc Conserva of Metro Sign and awning, 170 Lorum St, Tewksbury, MA, reads a prepared statement regarding the new YMCA organization and the building.

They are requesting to add a wall sign over the front entrance on the north façade of the building facing the parking lot. 13.75" H x 22.75" W x 1.5 in. D = 24 sq. ft. Channel letter and logo set on north façade of building facing the parking lot 59" H x 74.6" W x 1.5 in D = 30.57 sq. ft. Channel letter and logo set on east elevation of building 67" H x 84.7" W x 1.5 in D = 39.41 sq. ft. Channel letter and logo set on south elevation of building 67" H x 84.7"W x 1.5 in D = 39.41 sq. ft. All will be stainless steel, with internal (LED) halo lit, Black.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Variance 4.3 sign ordinance relief from total signage to allow signage to be added to new YMCA.

Mr. Nimon seconds

All in favor, 5-0

New Business:

105 Wingaersheek Rd. Marshall Handley, Esq., 9 Abbott St, Beverly, MA is present to represent, Suzanne & Frank Kinzzie appeal of Building Permit BLD-20-478.

Adria Pratt recuses herself.

They are before the Board this evening to appeal the Building permit issued to this address because the plans that the permit is based on do not show the ramp that is identified in the notations of the plans and the elevations. The ramp is 13' high on a 1'12 feet' sloop, 100' long and 26' wide. This ramp encroaches on the required side lot of his client's property and is 2' off of the property line.

Mr. Sanborn discusses the memo from Red Barn Architecture which his office received on 3/23/2021. Mr. Sanborn has requested that they submit more information regarding this ramp. They have agreed that this ramp is in the setback and to cut it back out of the setback and they agreed to submit structural plans showing the ramp prior to construction. Mr. Sanborn shares the site plan. No ramp was shown on the original plans that were submitted.

Mr. Sanborn suggest that this meeting be continued until he receives more plans and details to ensure that everyone is happy with the outcome of this project.

Atty. Handley discusses the issue of the fill being used. The site plan submitted is devoid of topographical information. His client is concerned that the base grade of 13' is incorrect. The plans show a large area of grey that is unexplained. His clients are concerned that this is 6' of fill in a high wind and dune environment.

Mr. Sanborn agrees and states that Conservation will have to weigh in on the new submitted plans.

A Building Permit has been issued, however, before they can begin construction, they must submit new plans for approval.

Ms. Schlichte moves to continue this application to 5/13/2021.

Mr. Nimon seconds

All in favor, 5-0

524 Washington St.

David Jaquith, Architect, 81 Railroad Ave, Rowley, MA is present to represent, John & Joan Morris seeking Special Permit 1.9, Variances for side yard, rear yard, lot width, lot area and lot frontage to allow the addition to rear of existing structure with deck off addition.

They are adding 8' x 10 1/2' room that is 13' above the backyard ground. There is a severe drop between the street and the back yard. Beyond these additional room there is a deck that will also give them some useable outdoor space. This is a one story addition in the back and will barely be seen from the street. It encroaches on the left side yard setback and rear yard setback.

They have spoken to their neighbors and they have signed a petition in favor of the project.

The Members confirm that they are requesting the correct relief and Mr. Sanborn confirms that they are.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit 1.9 alter/expand non-conforming structure, Variance 3.2 left side setback to allow construction of a new attached single bay garage.

Ms. Pratt seconds
All in favor, 5-0

Motion to adjourn was made at: 9:36 PM

Motion by: Ms. Schlichte
Second by: Mr. Nimon
All in favor, 5-0