



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

**ZONING BOARD OF APPEALS
Remote Participation Meeting Minutes
April 29, 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 -Absent

Also in Attendance:

Bill Sanborn, Building Commissioner – Absent
Greg Cefalo, Zoning Enforcement Officer
Alison Battle, Clerk

Old Business:

43 Farrington Ave.

Deborah Eliason, Esq. of Eliason Law Office, 63 Middle St. is present to represent, Phyllis A. Sudbay Estate seeking Variance 3.2 front yard setback to allow the Applicant to sell the property, a conforming vacant lot, as a buildable lot. Lot has plan for single family home that requires Variance to be constructed.

This is the last piece of the property that is part of the estate that the children are seeking to sell as part of the distribution of the estate. They are seeking a 30' Variance the property Variance is 40' and they are seeking 10'.

The culvert that was questioned by a neighbor is discussed as being within the setback and the house is not over the culvert.

At the last meeting the Board requested that they have elevations provided to them. The Client had architectural plans drawn up without changing the site plan as this is the only place that the house can be set due to the wetlands on the property. They are proposing a 2 story building with elevations 26' above average grade.

Speaking in favor: None

Speaking in opposition- None

Atty. Eliason nor the Board has heard from John & Molly Burns who were in opposition at the last meeting.

The Board is appreciative of the Applicant drawing up plans and is more comfortable with the project. They feel that if the new owner wants to build something larger or different they will need to come before the Board to do so.

Ms. Pratt moves to approve a Variance 3.2 front yard setback to allow the Applicant to sell the property, a conforming vacant lot, as a buildable lot. Lot has plan for single family home that requires Variance to be constructed.

Ms. Schlichte seconds

Mr. Nimon abstains as he was absent at the original meeting.

All in favor, 4-0

New Business:

9 Beachmont Ave.

Bill Heney, Esq. and Jennifer DiCarlo Esq., 86 Dodge St are present to represent, Juan Eugene del Rio and Sara Castle del Rio seeking to appeal the issuance of Building Permit #BLD-21-35.

Ms. Pratt recuses herself.

Atty. Heney believes that the height calculations, which were originally discussed with the Building Inspector have been corrected. He discusses the common ownership of 6 & 9 Beachmont Ave. and the lot sizes of less than 20,000 ' each. Atty. Heney discusses the Derelict Fee Statue and how it pertains to these properties.

Beachmont Ave. is a private way that runs between these 2 lots. His client believe that both numbers 6 & 9 own to the center line of the private way and abut at a grassy area. These 2 lots were sold as one lot in the past.

Atty. Heney discusses the Merger Doctrine MGL 40(a) Section 6, and how the Derelict Fee Statue relates to the Merger Doctrine by deciding who owns which area. He feels that the Building Inspector either deemed that these are not abutting lots or that the lots are an exception to MGL 40(a) Section 6 due to a barrier between the lots that rises to the level that creates an interruption. He does not agree with either of these determinations.

Atty. Heney discusses Land Court Judge Ruben's case and how it is very similar to this case.

Atty. DiCarlo discusses the lots being on an unimproved unpassable way as this road is a dead end and shows the Board other like cases and its significance.

Greg Cefalo, 3 Pond Rd is present on behalf of the Building Department. Mr. Cefalo states that the position that his department is taking is that Beachmont Ave. is a laid out way, whether private or public. There are lots on either side and the lots run parallel with the laid out way. While they may have rights to the middle of the way, the lots are clearly defined by the edge of Beachmont Ave. and to them this constituted the barrier between lots which would make them non-contiguous though in common ownership. This Zoning District was R-10 and changed to R-20, so you will find more undersized lots than expected. It's a densely populated area.

Speaking in favor: None

Speaking in opposition:

Gene & Sara Del Rio, 9 Crawell Ave. feel that this is a non-conforming lot and were told that any building put on the property would need a Variance. They are concerned with the size and scope of the project and its validity. They feel that this project has a great impact on the view and site lines of the neighborhood and believe that the permit granted should be reversed. They looked into purchasing this lot and feel that it is impassible.

Sal Frontiero, Frontiero Law Offices, 46 Middle St. is present to represent the owners of 9 Beachmont Ave. who are the permit holders for a two family homes on this lot. Atty. Frontiero gives the history of the property and rebuts the comments made by Attorneys Heney and DiCarlo. He discusses the multiple paths that are at the end of the way that the neighbors use to pass through to Stage Fort Park.

Rebuttal: Atty. Heney rebuts Atty. Frontiero's comments.

Ms. Schlichte move to approve to appeal the issuance of Building Permit #BLD-21-35.

Mr. Nimon seconds

All opposed 4-0, the Members are in support of the Building Inspectors decision.

652 Essex Ave.

Petition of Richard S. Hersey seeking front yard and rear yard Variances to allow construction of a new two family dwelling.

This petition has been re-advertised for the 5/13/2021 meeting.

3 Fort Hill Ave.

Craig Herrmann, 10 Highland St is present to represent, Manning & Margarita Curtis seeking Special Permit 1.9 alter/expand structure to allow full renovation to the existing home with new gambrel roof, second floor reconfigured, existing doors & windows replaced.

The owners are requesting to fully renovate their existing home that is located on a corner lot. They will be taking the entire house down except the existing masonry. The footprint of the existing house is located completely within the front and side yard setbacks.

Speaking in favor: None

Speaking in opposition: None

Ms. Pratt moves to approve a Special Permit 1.9 alter/expand structure to allow full renovation to the existing home with new gambrel roof, second floor reconfigured, existing doors & windows replaced.

Mr. Nimon seconds

All in favor, 5-0

4 Warner St.

Doug Keiles and Lori Luftkin are seeking a Special Permit 5.3 home occupation to allow a small personalized bakery.

They would like to run a small personalized bakery out of their home. All orders come from internet purchases for pickup only. They have been approved by the Board of Health and have a pickup storage bin and a small sign on their front porch.

Speaking in favor:

John Deguardo, 144 Prospect St. has no issues with this request and feels that it is an advantage for the community.

Speaking in opposition: None

The Board discusses their concerns on how they will control growth of the business with the Applicants and reminds them of the Home Occupation rules.

Ms. Pratt moves to approve a Special Permit 5.3 home occupation to allow a small personalized bakery.

Mr. Nimon seconds

All in favor, 5-0

24 Edgemoor Rd.

Sarah Green is present to represent her application seeking a Variance to allow replacement of an existing 6' fence with a new 8' fence.

Ms. Pratt recuses herself.

Her 6' fence blew down in a windstorm this winter. There is a new house on the abutting lot and she would like to put up an 8' fence to replace the old fence to create more privacy. She has spoken to her neighbor and they are in agreement.

The Chair discusses planting arborvitaes instead of the fence, however, Ms. Green feels that they would take too long to grow. He reminds her of the special requirements for building a fence that tall.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Variance to allow replacement of an existing 6' fence with a new 8' fence.

Mr. Nimon seconds

All in favor, 4-0

7, 8 & 8R Lantern Ln.

Joel Favazza, Esq. of Seaside Legal Solutions, 123 Main St. is present to represent, Deborah Castellucci seeking Variances for front yard, side yard, rear yard, lot area, lot frontage to allow the combination of 3 lots into 2 new lots with existing single-family dwelling on one lot. Conversion of existing garage into dwelling on other lot.

The owners are requesting to be allowed to combine 3 separate lots into two new lots with one single family house on each lot using the existing single family house on one lot and converting the existing garage, with no increase to the height or footprint on the other lot. The son and his family will be moving back to Gloucester and living on the second lot. These are some of the larger lots in the area and the direct abutters are in support of the project. The Abutter on Marble Rd. has requested the following conditions, of which the Applicant has already agreed to.

1. No future expansion to the height or footprint.
2. They will put either a stockade fence or dense vegetation at the south-west boundary line.

3. They acknowledge that the back yard was there first and will be used for family crafts, recreation, raising animals, etc. to allow the abutters to continue to enjoy the use of the property.

Speaking in favor:

Jason and Sara Grow state that the Castellucci's have been great neighbors for over 20 years and are in favor of bringing young families to East Gloucester as it is so difficult for young families to afford to live in East Gloucester. The Castellucci's have been proactive with any issues that have arisen.

Speaking in opposition: None

Ms. Pratt moves to approve a Variances for front yard, side yard, year yard, lot area, lot frontage to allow the combination of 3 lots into 2 new lots with existing single-family dwelling on one lot. Conversion of existing garage into dwelling on other lot with the conditions listed above.

Mr. Nimon seconds

All in favor, 5-0

18 Taylor St.

Joel Favazza, Esq. of Seaside Legal Solutions, 123 Main St. is present to represent, Michael Allen seeking Special Permit 1.9 alter/expand non-conforming structure and side yard Variance to allow construction of two new rear egress decks.

Mr. Allen purchase this property in rough shape in a foreclosure sale. Atty. Favazza goes through the opposition's letter and construction schedule.

The owners tried to reconfigure the bathrooms so they didn't have to go through them to exit through the second egress, however, the central air compressors did not fit into the planned area. In June of 2020 they submitted new deck plans to the Building Department which were approved. The original stairs to the deck were 3.7' off of the property line. The new stairs are 0.2' off of the property line. Due to these changes Mr. Allen is willing to agree to a condition of no patio furniture or grills on this deck.

Speaking in favor:

Don Hayes, 21 Rockport Rd. states that the property was a big eyesore and the changes made are a huge improvement for the neighborhood.

Speaking in opposition:

Lisa Rigsby, 3 Taylor Ct. is a direct abutter and agrees that they have made huge improvements to the neighborhood, but also feels that the deck is dangerously too close to her property.

Ms. Rigsby goes through her multiple complaints beginning on April 8 2020 to the Building Department that she submitted to the Board before the meeting. She states that this work was done without going to the ZBA for approval beforehand. Mr. Allen was told by Jim Butler that he needed to go to the ZBA to seek relief on 11/2020, but the deck and stairs were constructed anyway. She feels that the property has been improved, but at her expense. She

feels that she has lost privacy and safety as they can crawl on her roof from their deck as it is so close. There are tiki torches and a grill against the fence that is against her property line.

The Chair explains what is before the Board this evening and how they tend to take these issues into consideration.

Rebuttal:

Atty. Favazza addresses Ms. Ribsby's timeline and agrees that the intent of the applicant is disappointing, but that he is before the Board to make things right. While they can't control what is done in the yard, such as gathering and grilling, he suggests increasing the height of the fence.

Ms. Pratt moves to approve a Special Permit 1.9 alter/expand non-conforming structure and side yard Variance to allow construction of two new rear egress decks.

The Members discuss the application and complaint and would like to visit the site again to see if there is a remedy to make the deck compliant. They are very concerned with the Applicant doing the work before securing the required relief.

Ms. Pratt withdraws her previous motion.

Ms. Pratt moves to continue this application to the 5/13/2021 meeting.

The public hearing is closed by the Chair.

Motion to adjourn was made at: 10:00 PM

Motion by: Ms. Pratt

Second by: Mr. Nimon

All in favor, 5-0