



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

**ZONING BOARD OF APPEALS  
Remote Participation Meeting Minutes  
May 13, 2021**

**Board Members Present:**

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

**Alternate Member**

James Gigliotti

**Also in Attendance:**

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

**Approval of Minutes:**

Mr. Nimon moves to approve the minutes of 3/25/2021 as they are written.  
Ms. Pratt seconds  
All in favor, 5-0

**Old 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 recuses herself.

No one has been present to represent this application at this meeting or the last meeting. The Chair declares that this matter was resolved without a decision.

**105 Wingersheek Rd.**

Marshall Handley, Esq., is present to represent Suzanne & Frank Kinzzie appeal of Building Permit BLD-20-478.

Ms. Pratt recuses herself.

Atty. Handley feels that this ramp falls under the jurisdiction of the International Highway Code and should be reviewed by one of their Engineers. Their main complaint was regarding the setback and

the revised plans has addressed this matter. He still does not feel that the plans are sufficient to build the ramp or that there is a sufficient area to turn around.

Mr. Cefalo, Zoning Enforcement Office, 3 Pond Rd. states that the Building Commissioner reviewed the plans and found that as they exist they complied for zoning purposes.

The Chair asks if the Applicant would like to withdraw the appeal now that they plans are compliant. He still would have the ability to appeal if they apply for a Variance later on.

The Board discusses the possible next steps.

Speaking in favor: None

Ann Marie Lindquist, 101 Wingersheek Rd.

She is concerned that there are many neighbors interested in this matter and where unable to access this meeting. She feels that this project is 5x larger than any other in the neighborhood. She is concerned that this will turn into a hotel.

Tom Mannle, 1037 Washington St., Trustee for the family residence at 79 Wingersheek Rd. He reminds the Board of Atty. Fine's comments at the last meeting and discusses the inconsistencies of the neighborhood and the change of use of the existing house becoming a rental property instead of a residence.

The Chair clarifies for the audience what is before the Board this evening and that the property is compliant as it stands.

Frank Kinzie, 111 R. Wingersheek Dr. discusses the design specs for the ramp design. The garage door opening right next to bedroom and the need for the ramp. He is concerned that this will be a mini hotel. He discusses the possibility of regrading and the fill they will be using. He is concerned that the Conservation Chair is the architect for these plans.

Ronald McNeil, 103 Wingersheek Rd. discusses the fill and how it will affect the elevation of the house. He is concerned that the Conservation Chair is the architect for these plans.

Speaking in opposition:

Mark Cabrowski, Concord, MA is present to rebut the public's comments.

Ryan McShera, Red Barn Architecture, 84 High St., Ipswich, MA, goes through the process they have gone through with the Building Inspector, how they determined the average grade and states that no fill will be brought in. He also discusses his design for the ramp and what he needed to do to make it compliant.

David Caulkin of Backchannel Consulting, 175 Foot Long Circle, Portsmouth, NH speaks on behalf of the owners of 105 Wingersheek Rd. He discusses the requirements for new construction being built near the ocean must be put on stilts and how it affected the plans for this house. He notes that the fill is not in the appeal and that it was brought in at a later time. He reminds the audience that the plans were approved in 2017 and that they are just trying to finish the project, however, it must be done in stages and they need this permit to knock the house down to begin the structural process that is being questioned.

Atty. Hanley states that the matter of the fill was raised in the appeal and that the intrusion of the ramp has been corrected but the plans themselves are still insufficient and cannot be approved. He feels that they still need further plans and engineering to be approved by the Building Dept. He doesn't see any engineering stamp on the plans. He feels that the Building Permit should be denied until the proper plans are submitted and approved.

The Chair discusses the previous comments from the Building Inspector who stated that they will need to see more plans before they are approved to build the ramp.

Ms. Schlichte moves to approve the appeal in so far as it relates to the elevated ramp that goes to the driveway. The rest of the building permit stands as it relates to the main structure.

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.

Since the last meeting Atty. Favazza has met with the direct abutter, Lisa Rigsby, and come to an agreement to leave the decks as currently configured with three conditions written into all leases going forward.

1. To restrict the use of the deck to egress only. Not deck furniture or grills.
2. To construct a 3 ½' wooden barrier with a least 1 layer of acoustic shielding material across the face of the compressor.
3. The chain link fence will be replaced with an 8' stockade fence that will be solid from the ground up with the nice side facing out toward Ms. Rigby's property at 3 Taylor Ct.

The Board discusses if the Applicant would need to come back before the Board as an 8' fence needs additional relief that was not advertised. The Chair feels that it can be conditioned this evening without going the Variance route, with the understanding of the special requirements for an 8' fence to insure that it is structurally sound.

Lisa Rigsby, 3 Taylor Ct. agrees that they have come to an agreement. Her only concern is of Mr. Allen's track record and what the assurances are that these conditions are met and what the timeframe will be for the Applicant complying with the conditions.

The Chair informs Ms. Rigsby that this matter will not come before this Board again but will be enforced by the Building Dept.

The Board discusses a completion period added to the condition.

Atty. Favazza has no problem with the restriction of the use being immediate or a 45-60 day completion requirement on the shielding, but is concerned with the fencing being completed in that time, as all trade companies are backed up at this time and they are receiving quotes for fall.

The Board agrees that all building materials are backed up and feels that a completion requirement with an October date would be better.

Catherine 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 with the following conditions written into the leases and to be completed by October 1, 2021.

- 1 To restrict the use of the 2 side decks to egress only. Not deck furniture or grills and they are not to be used as an area to socialize.
- 2 To construct a 3 ½' wooden barrier with a least 1 layer of acoustic shielding material around the compressor.

- 3 The chain link fence will be replaced with an 8' stockade fence that will be solid from the ground up with the nice side facing out toward Ms. Rigby's property at 3 Taylor Ct.

Mr. Nimon seconds and qualifies the condition that the use of the decks is immediate.

Ms. Schlichte accepts that amendment.

All in favor, 5-0

### **New Business:**

#### **652 Essex Ave.**

Carl Gardner, 9 Woods Lane, Ipswich, MA is present to represent, Richard S. Hersey seeking appeal of the decision of the Building Inspector. Determination of inspectors interpretation of property as corner lot with frontage on two streets and Variances for front yard and rear yard setbacks to allow construction of a new two family dwelling.

Ms. Pratt recuses herself.

Mr. Gardner informs the Board of Bill Sanborn's email to Mr. Hersey's attorney stating that he has revisited this issue and has determined that there is no access or frontage on the side of the lot and requests to withdraw the application without prejudice. The Board has received a copy of this email.

Catherine moves to allow the withdrawal without prejudice.

Mr. Nimon seconds

All in favor, 5-0

#### **68 High Popples Rd.**

Petition of BTE Development LLC seeking Special Permit 2.3(3) side yard Variance to allow conversion of a one family to a two family with exterior changes with dormers small second story addition and garages on each side of the structure.

This application has been re-advertised for the 5/27/2021 meeting.

#### **10 Waterside Lane**

Roger Mercaldi seeking Special Permit 1.9 Special Permit for Building Height to allow demolition of detached structure and replace with new structure/garage and office above.

Mr. Mercaldi has lived at this property for 2 years and has no storage for yard and sports equipment. Due to this he has had theft issues. He is also in need of office/gym space and is proposing to expand his home.

He is requesting that he be allowed to demolish and rebuild a new 2 car garage with above office space using the existing foundation and footings and going over the existing deck to the north and 4' to the west. He has considered other spots on the lot but are unable to do so due to a stream running through the lot.

Chair notes that there is no floor plan for a bathroom in the application packet. Mr. Mercaldi would like to remove a ½ bath from the request as it was a last minute thought and he did not have time to submit it correctly.

Speaking in favor – None

Speaking in opposition-

The Chair reads into the record a letter by a neighbor who would prefer the garage be placed in a different location.

The Chair closes the public testimony.

Ms. Schlichte moves to approve a Special Permit 2.3(3) side yard Variance to allow conversion of a one family to a two family with exterior changes with dormers small second story addition and garages on each side of the structure.

Mr. Nimon seconds  
All in favor, 5-0

### **16 River Rd.**

Steve Mielke, Architect and Attorney Robert Stewart are present to represent, Taplett, Frances Brooks & John Cawley seeking Variances for front yard and side yard setback to allow demolition of existing rear wing and garage to be replaced with new addition, entry stair and new rear wing with garage, mudroom, family room bedroom bath & new porch.

James Gigliotti recuses himself.

The current house has the back side facing the road. They would like to add an addition to the current house and a front porch to make the house more attractive and symbiotic.

The Board discusses if they need the Variances.

Speaking in favor –

Jane Remsen, 23 River Rd. feels that the house needs to be renovated so that it has a better flow. She feels it is a great plan.

Thomas Brooks, 14 River Rd. Father of Applicant is in favor.

Speaking in opposition-

Jane Deering, 18 Arlington St. is concerned with the height of the 3<sup>rd</sup> floor. She feels that the renovations being made in the village are taking away from the character of the neighborhood. She would like more time to view the plans before a decision is made.

The Chair closes the public testimony.

Rebuttal:

Atty. Stewart states that the 3rd floor has been in the building for 60 years so there is nothing going up any further. They are only adding the porch that is replacing some bushes that currently go out further than the proposed porch. The only changes to the setback is a small storage area that they are narrowing not widening and does not affect anyone's views.

Discussion of the Board:

The Chair discusses what is currently before the Board this evening and the Members discuss the density of the project.

Ms. Schlichte moves to approve a Variances for front yard setback for the addition of a porch and a Special Permit to alter and expand a non-conforming structure to allow for the demolition of existing rear wing and garage to be replaced with new addition, entry stair and new rear wing with garage, mudroom, family room bedroom bath & new porch at 16 River Rd.

Mr. Nimon seconds  
All in favor, 5-0

**25 High St.**

Robert Gulla, 593 Essex Ave is present to represent, Brent Davidson seeking Special Permit 5.3 Home Occupation to allow existing detached structure to be used as a home occupation.

They are proposing to renovate the existing structure that has already been permitted to be use as a home office. They would like to add a bathroom and sink so their clients would not have to go into the house to use the facilities. There will be no employees and there is plenty of off street parking.

Speaking in favor –

Frank Davidson, the Applicant, 25 High St. would like to practice at his home residence.

Nathan Cohan, 6 Hickory St. has no objection.

Speaking in opposition-

Ms. Schlichte moves to approve a Special Permit 5.3 Home Occupation to allow existing detached structure to be used as a home occupation with the condition that there be no kitchen, overnight guests or use as a dwelling unit.

Mr. Nimon seconds  
All in favor, 5-0

**Discussion by the Board: None**

Ms. Schlichte moves to adjourn at 8:57 PM

Seconds: Mr. Nimon  
All in favor: 5-0