



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

**ZONING BOARD OF APPEALS  
Remote Participation Meeting Minutes  
June 17, 2021**

**Board Members Present:**

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

**Alternate Member**

James Gigliotti

**Also in Attendance:**

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

The following statement is read by the Chair at the opening of the meeting:

This meeting is recorded by video and audio in accordance with state Open Meeting law. Pursuant to Section 20 of Chapter 20 of the Acts of 2021, this meeting will be conducted by remote participation. Additionally, all votes taken by the Zoning Board of Appeals at this and future remote meetings will be by roll call vote. If you are calling in on a phone you can press Star 9 (\*9) to request to speak. If you are watching on a computer or device, there is a "raised hand" button that you can tap or press to request to speak. Please use either of these options during oral communications to be recognized to speak.

The Chair introduces the Members.

**Approval of Minutes:**

Mr. Gigliotti moves to approve the minutes of 6/10/2021 as they are written.

Mr. Cannavo seconds

Ms. Schlichte and Mr. Nimon abstain as they were not in attendance at the meeting.

Mr. Parisi, Mr. Cannavo & Mr. Gigliotti in favor

3-0-2

**Old Business:**

**1 Babson Ct.**

Robert Visnick of Cape Ann Law, 45 Broadway, Rockport, MA, 1 Babson Court Realty Trust seeking Variances for front yard, side yard, rear yard and a Special Permit to exceed maximum allowable

building height to allow demolition of existing 3 story, 3 family structure and construction of a new 3 story structure.

Peter Cannavo recuses himself.

The owner would like to demolish the existing 3 story structure that was destroyed by fire on 5/13/2018 while it was in prior ownership. It was purchased in 8/17/2020 by this owner after it had passed the 2 year deadline in the GZO under 2.4.8 to rebuild so he now needs Variances. He would like to rebuild the 3 story structure making it into 3 condominium units. He also owns the property to the left of this property.

Atty. Visnick explains that the structure is non-conforming and encroaches into the left and rear yard setbacks, but will be on the same footprint that it is on currently and will not be increasing the current non-conformities. He is also requesting a Special Permit to exceed the allowable building height. The structure is currently at 28' and he would like to go to over 34' due to being in a flood zone and the lack of parking on Babson Ct. the Applicant would like to build three, 1 car garages on the first floor to eliminate potential flooding and help to elevate congestion. He feels that the structures behind this structure are high above it and it will not impede on the other properties. The additional height is in the wire railing system of the roof deck and not part of the actual structure.

The Board has received several letters in support of this project.

Ms. Schlichte states that they are not completely building on the same footprint, but are going into the front yard setback 7' more than it currently is.

Dan Ricciarelli, 10 Derby Sq. Salem, MA is the architect for this project answers questions regarding the dimensions of the project and explains the parking.

Mr. Sanborn questions the mean grade that the engineer John Judd has on the plans.

The Chair asks who owns the solar panels behind this house that will be blocked by the increase in this structure.

Speaking in favor: None

Speaking in opposition:

Olimpia Palazzola, 57 Western Ave. reads a letter into the records that she sent to the Board after the 72 hour submission deadline. Ms. Olimpia lost her connection, so the Clerk reads her letter into the record.

Christine Vachon, 4 Hovey St. lives in the house behind this building and owns the solar panels that the Chair voiced his concerns with. She discusses her concerns in losing her view, the solar panels, flooding and how the flat roof will affect her.

Judy & Nicole Sarofeen, 2 Hovey St. have lived in this house since 1950. They discuss the difficulty fire trucks have getting down the street. The rodent problems that they have due to this structure and the effect the increase in height will have on the neighborhood. They are in support of sustainable energy and feel that the house does not fit in with the neighborhood.

Huff Stauffer, 8 Hovey St. is concerned that this project will affect his view. He is also not in favor of a futuristic design.

Margaret McDonald, 10 Hovey St. states that when you purchase a home with a view, you shouldn't lose it by someone else going beyond the allowable setbacks and feels that it will affect their property values.

Rebuttal:

Atty. Visnick rebuts the opposition's comments stating that the view and design are not factors for this Board to consider. He discusses the height increase and feels that it will not affect the view and the solar panels because it is only a railing.

Mr. Ricciarelli states that the building will be fully sprinkled where the previous one was not and that the rodent issue will go away once the new construction is built.

Discussion by the Board:

The Chair informs Atty. Visnick that they are asking for Variances and height brings in the criteria for view and shadow. The Board will take these criteria into consideration.

The Members share their concerns with the height, shadowing and the additional encroachment of front yard setback.

Mr. Sanborn informs the Board that the mean elevation from the average grade numbers are missing from the plans and feels that they will also need relief for lot area per dwelling.

Ms. Schlichte moves to continue this application to the 7/8/2021 meeting with a site visit scheduled for 6/26/2021 at 9 AM.

Mr. Nimon seconds  
All in favor, 4-0

### **New Business:**

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

Sal Frontiero of Frontiero Law, 46 Middle St. is present to represent, 68 High Popples Rd. Condominium trust seeking to appeal the Building Inspectors issuance of a stop work order for Building Permit BLD-21-119 to allow the construction of two new attached garages. One car garage on one side and a two bay garage on the other side.

Atty. Frontiero gives a background of the history of this project on the property that was purchased by Mr. Bevilacqua in 2018. This property was before the ZBA on 4-11-2019, requesting to add garages on either side of the building, construct an attic dormer and to convert from a one-family to a two-family. Due to neighborhood opposition, the Petitioner moved to withdraw his petition without prejudice and converted the house from a single family to a two-family use as a matter of right. The units have been sold as 2 separate condominium units and as part of the negotiations the buyers have requested that garages be added to the units.

The Petitioner than sought and was granted a building permit to construct a one-car garage addition on one side of the dwelling and a two-car garage addition on the other side, as was in the original plans. A stop work order was issued by the Building Inspector on 4/6/2021, alleging that the Petitioner needs a Special Permit to convert to a two-family use with changes to exterior dimensions before such work could commence. The Petitioner is before the Board this evening requesting that the Members overturn the Building Inspectors decision and feels that the policy of waiting a year to make exterior changes is not in the Zoning Ordinance.

Ms. Schlichte asks for a clarification of the timeline of events.

Mr. Sanborn informs the Board that the plans that were proposed in 2021 are the exact same plans as were before the Board on 4/11/2019 and the date stamped is 2019. He gives the Board his recollection of the process noting that before the Petitioner received his occupancy permit, he came in to apply for a two-family. It's still a single family until that occupancy has been issued and the permit has been completed. The permit had not been completed and that point he could not do this. He was still in violation of the ordinance that states that you cannot enlarge a single family to make it

a two-family without a Special Permit. A permit was mistakenly issued by his department. Once he reviewed it, it was determined that it was issued in error.

Mr. Sanborn states that what has happen in this case was being done quite often in years past and the Board at the time agreed that a time period be put in place of 1 year after the Certificate of Occupancy was issued. He feels that the Petitioner is bypassing the intent of the Ordinance. The 1 year rule has been in place since 2004 and this is the first time someone has challenged it.

Mr. Nimon confirms that they have been enforcing this one year rule since 2006, and Mr. Sanborn agrees.

Atty. Frontierro is asked to address Mr. Sanborn's comments and he wishes to wait until his rebuttal.

Speaking in favor: None

Speaking in opposition:

James Town, 12 Links Rd. discusses the history of misrepresentation of the Petitioner. Mr. Town lost connection.

Doug Smith, 2 Mayflower lane is a direct abutter agrees with Mr. Town and states that this developer has completely changed their neighborhood. He questions how this cannot be passed by the ZBA and the Petitioner still be able to turn around and do it as a matter of right.

Mark Poulin, 84 High Popples Rd. has followed this process since day one and still opposes it. He feels that the addition of the garages is more detrimental than the blithe that they have already added to this corner. He discusses how busy this corner is. He feels that the developer has misrepresented the units to his clients and it should be stopped here. He feels that this is a self-imposed hardship.

Robin Towne, 12 Links Rd. states that the property sits on the corner of 4 streets where a serious accident happened years ago involving a child on a bike. She has 5 young children. This property went from a one-family to a four-family quadrupling the amount of traffic coming out of this one property. She feels that the garages will completely obstruct the site lines on this corner.

The Chair informs the audience that what is before the Board is whether or not they can add the garages now and not have to wait a year. They are not asking for any relief.

Jim Town, 12 Links Rd. lost connection earlier. He has heard the convenience factors before. He questions the overall process but understands that it is not before the ZBA this evening. He feels that they City should enforce other ordinances if they are going to enforce this one, like parking on a four way corner or the stop signs that they have been requesting to control the traffic or water. They are repeatedly being told it's not that department's problem, hoeve r, the neighbors are the ones that have to live there. He feels that making Mr. Bevelacqua Z wait 1 more year, is one less year that he and his neighbors will have to deal with the issues brought on by this developer.

Kathy Clancy, 78 High Popples Rd. agrees with Bill Sanborn regarding the Ordinance and the Rules. She feels that Applicants often look for ways to circumvent the intent of the Zoning Ordinance and this is a prime example. No changes have been made in the neighborhood or in the lot size, locations or conditions on this property to now allow what was a probable denial of the ZBA in 2019. These proposed changes remain substantially detrimental to the neighborhood and creates even more density on a property that is already overdeveloped. She is surprised that this loophole exists and is concerned with this. She feels that this request should be denied.

Mark Nestor, 45 Middle St. represents Steve and Jean Muniz, 2 Links Rd. discusses how the Fieldstone Meadows case does not apply to this one. He discusses the developers misrepresentation throughout this case and feels that he should have to wait until 2022 to do anything.

Rebuttal:

Atty. Frontiero rebuts the comments made by Mr. Sanborn and the opposition. He doesn't think it is fair to have an oral policy for 15 years and feels that it is absolutely meaningless whether it is uniformly applied or not.

Discussion by the Board:

The Members state that they are troubled by the whole project and feel that the developer is being deliberate and methodically to get what he wants. They find it hard to believe that the 2 purchasers request exactly what was on the plans in 2019 without being told that it can be done.

They are concerned that the policy stating that they have to wait a year isn't written and are uncomfortable with unwritten rules. They feel that the neighbors are correct and that the Board needs to look at the Ordinance regarding 1-2 family conversion regulations. Bill made an important point stating that the two-family was submitted before the one-family was submitted.

Ms. Schlichte moves to overturn the Building Inspectors issuance of a stop work order for Building Permit BLD-21-119 to allow the construction of two new attached garages. One car garage on one side and a two bay garage on the other side.

Mr. Nimon seconds

All opposed 0-5, the Members are in support of the Building Inspectors decision to issue a stop work order.

### **222 Main St.**

Meredith Fine, 46 Main St. is present to represent the buyer of, 222 Main Street Holding LLC, seeking a Special Permit for a change of use, Special Permit 4.1 lesser parking off street, Variances for front yard, side yard, lot area, lot area per dwelling unit to allow the applicant to obtain proper permits to allow the existing building with 3 commercial units on first floor and 7 residential units on # 2, # 3, # 4 floors.

There are no exterior or interior changes to this building. They are just trying to make the building legal. There is commercial units on the first floor and residential units on the second floor.

Speaking in favor: None

Speaking in opposition: None

Mr. Parisi states that he is familiar with the property and it does exist as it says. He trusts the affidavit from Ralph Pratt that was in the packet.

Mr. Sanborn states that he did some research and found that in 1969 they only had 2 commercial and three residential units. He has no record of when the other units were added. The Assessors did not pick this issue up until 3/2004.

It has been assessed as 3 commercial and 7 residential for 17 years as far as the assessors are concerned.

Ms. Schlichte moves to approve a Special Permit for a change of use, Special Permit 4.1 lesser parking off street, Variances for front yard, side yard, lot area, lot area per dwelling unit to allow the applicant to obtain proper permits to allow the existing building with 3 commercial units on first floor and 7 residential units on # 2, # 3, # 4 floors.

Mr. Nimon seconds

All in favor, 5-0

## **22 Riverside Ave.**

Petition of Ernest Curtis seeking Special Permit to allow construction of an addition to the front of the dwelling with attached deck.

The Curtis' would like to add an addition to their home for their son and family who live there to have more room for their expanding family.

He is expanding a non-conformity because the stairs already protrude into the front yard setback. This is a violation of the non-conformity.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit to allow construction of an addition to the front of the dwelling with attached deck.

Mr. Nimon seconds

All in favor, 5-0

## **9 Haskell Court.**

Stephen Davis, 1 Sattler St. Extension is present to represent, Geoffrey & Christina Thomas seeking a Special Permit 1.9 to allow enclosure of existing front deck creating a single story mudroom.

This is a small home. They would like to close in their front deck to create a closet and mudroom where the entry door is.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit 1.9 to allow enclosure of existing front deck creating a single story mudroom.

Mr. Nimon seconds

All in favor, 5-0

## **Discussion by the Board:**

Mr. Sanborn informs the Board that he will look into the recent changes in 40 A regarding solar panels and let the Board know what he finds at the next meeting. He believes that is has to do with blocking/shadowing them.

Mr. Cannavo seconds

All in favor, 4-0

Ms. Schlichte moves to adjourn at 9:25 PM

Seconds: Mr. Nimon

All in favor: 5-0