



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

**ZONING BOARD OF APPEALS
Remote Participation Meeting Minutes
July 29, 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
Greg Cefalo, Zoning Enforcement Officer
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.

The Chair recognizes the Members present.

Approval of Minutes:

Ms. Schlichte moves to approve the minutes of 7/8/2021 as they are written.

Ms. Pratt seconds

Mr. Gigliotti was absent on 7/8/2021 and abstained from the vote.

All in favor, 4-0

Old Business:

18 Calder St.

Joel Favazza, Esq. of Seaside Legal Solutions, 123 Main St. is present to represent, Milton M. Sears Jr. and Cynthia Jane Sears Trs. Last year they were before the Board and approved to modify an existing Variance from 8.14.1986 and a Variance for left side yard, to allow construction of (2) additions to the existing single family home. The decision was time-stamped by the City Clerk on 8/12/2020. He is looking for a 1 year extension on these decisions.

Ms. Schlichte moves to extend the Variances that were granted to Milton M. Sears Jr. and Cynthia Jane Sears for 18 Calder St. for a period of one year.

Mr. Nimon seconds
All in favor, 5-0

The Chair announces that the Board will be meeting in person again starting September 14, 2021.

1 Babson Ct.

Robert Visnick, Esq. of Cape Ann Law, 45 Broadway, Rockport, MA. is present to represent, 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.

Adria Prat and Peter Cannavo recuse themselves.

Atty. Visnick gives the Board a brief recap of the proposed project discussed at the last meeting and shows photos taken at the site visit on 6/26/2021. The photos show the view from the neighbor's yard on 4 Hovey St. including their solar panels. The stick that was placed on the 1 Babson Ct. building shows the height of the railing system on the building.

Architect Dan Ricciarelli, 10 Durby Sq. Salem, MA is present to go over the changes in the plans. The Applicants and Architects met with the neighbors and made changes to the plans after hearing their concerns. They added some sloped roofs at the rear elevation of the structure to address the massing in the back of the building.

Sanir Lutfija, 10 Durby Sq. Salem Ma shares his screen.

The building including the roof will be 10" below the zoning requirement. They are before the board requesting a Variance for the roof deck. The deck will be transparent and they are using cable rails. The owners have stated that they are willing to write in all purchase documents that the owners cannot put anything on the rails that is opaque. The owner would like to see a barrel vaulting so they are also playing with some of the roof forms. They also added some more traditional dormers and gable roofs on the side elevations. The stairs for the roof deck access are now incorporated into the back of the building instead of suspended out and sloping roof and dormers were added in the rear.

Mr. Ricciarelli discusses the shadow study that they were asked to complete and compares it to the shadows cast by the current building before the fire. He feels that they will be no different from the original roof, only casting shadows early in the morning in the winter months.

Ms. Schlichte confirms that the height Variance that they are looking for is only for the roof deck.

The Chair calls for questions by the Board.

The Board has no questions at this time.

Speaking in favor:

Mike Bertolino, 9 Babson Ct. is the applicant and discusses how he is trying to improve the area since the building burned down in 2017. He discusses the structure being in the FEMA flood zone and the need to raise the house due to this. He also discusses parking, the roof and the railing.

Speaking in opposition:

David Osborne, 4 Hovey St. discusses the photo that he submitted to the Board which showed that there was no shadow in the winter before the previous building burnt down and that the shadow only reached the footings of his solar panels. He discusses how his view previously was of all peaked roofs and how it will be affected by a wider building with a flat roof. He is afraid that if this roof deck is allowed then all the houses in the area will want one.

Nicole Sarofeen, 2 Hovey St. is concerned with the Board setting a precedence for height Variances for roof decks in the area that will change their view. She doesn't think that the roof deck will financially affect the owner of 1 Babson Ct. and is concerned with the shadowing of the renewable energy for her neighbor. She is concerned that Babson Ct. was not wide enough for a fire truck to go down when the house caught on fire.

Rebuttal:

Atty. Visnick rebuts the comments made by the opposition.

Discussion by the Board:

The Board is discusses the roof deck as not essential and that it could have adverse impact on the surrounding properties, but not on the view from Hovey St. as it is so much higher than Babson Ct. Some voice concerns that approving this application will set a precedence for future projects.

Mr. Nimon reads from the Zoning Ordinance.

The Chair states that the Applicant made a good effort to accommodate the neighbors and that some of the reasons that there are no other roof decks in the area is because the FEMA regulations are new and that no other homes in the area have been rebuilt. He feels that there are many decks along the boulevard that are at least close to the height of this roof deck, just not on a flat roof. He didn't feel that there was any view obstruction during the site visit. He things the roof deck will highly impact the sale of the upper level unit.

Ms. Schlichte moves to approve 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.

Mr. Nimon seconds

Atty. Visnick requests a continuance to address some of the Boards concerns.

Ms. Schlichte moves to withdraw her first motion and moves to continue the hearing on 1 Babson Ct. to 8/26/2021.

Mr. Nimon seconds

All in favor, 4-0

New Business:

2 Reservoir Rd.

Megan Breaker, Esq. of Kline, Gardner & O'Connor, 96 Middle St. is present to represent, Joseph & Julie Gucciardi seeking Special Permit 2.3.1 (3) to allow conversion of 1 family to 2 family with changes to exterior dimensions of the building.

The petitioners are requesting to convert their parent's home from a 1 family to a 2 family, so that they can move into one of the units and their parents can continue to reside in their home for the

remainder of their lives and be cared for. They will be adding an addition onto the house so that each unit will have just over 500 sq. ft. of living space. All Zoning requirements have been met.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a 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.

Mr. Nimon seconds

All in favor, 5-0

31 Western Ave.

Joel Favazza, Esq. of Seaside Legal Solutions, 123 Main St. is present to represent, Maureen F. Malloy, Trustee, et al seeking Special Permit 4.1.2 and Special Permit 2.3.4 (9) to allow to continue to use their seasonal tent for outdoor dining permanently.

The Petitioner is the owner of the building who is petitioning for her long term tenants of the restaurant building, Carlos and Danielle Berdahn, the owners of the restaurant Yella on the Water.

They would like to make their temporary Covid outdoor seating permanent seating. They have purchased the tent that they were originally renting. They have had no complaints since Yella has returned back to full service dining and would like to reduce the number of off street parking units from 39 to 4. They are requesting a reduction of 5 spaces from 2019, since the tent has been in use since the 2020 season. They are applying for a Use Permit to expand their outdoor dining from just the deck to the tent area as well. They are also requesting to amend the Variances approved in 2019 to allow the deck to be built and now remain.

Atty. Favazza shows the photos of the parking lot, tent, restaurant and surrounding area and discusses the relocation of the handicapped spot.

The Chair calls for questions by the Board.

The Members discuss the process of permitting the tent by the Building Dept. and discuss their concern with the placement of the handicapped parking space in proximity to the ramp and building as well as the lack of barriers and required safety measures around the outdoor seating to protect the public.

Atty. Favazza addresses the points brought up by the Board.

Mr. Sanborn asks that the aerial photo be brought back up to look at the proposed new handicapped parking spot as he believes that it is a no parking area for the door that is on the building.

Speaking in favor: None

Speaking in opposition: None

The Chair keeps the public hearing open.

The Board suggests that the petitioner request a continuance in order to give them time to rework the plans.

Atty. Favazza asks for a continuance to the September meeting.

Ms. Schlichte moves to continue the application for 31 Western Ave. to the 9/9/2021 meeting.

Mr. Nimon seconds

All in favor, 4-0

1:23:40

71 Western Ave.

Petition of John & Marie Orlando seeking Special Permit 2.3.1 #10 to allow the use of a lodging house.

John Orlando, 71 Western Ave. is present to represent his application. He wants to continue operating a bed and breakfast out of his home. There will be no change inside or outside. When he started this business he was told that Gloucester did not have a bed and breakfast permit. He has since learned that B & B's are included as part of the Lodging License and would like to make his business legal.

Speaking in favor:

Jane Branceloni, 67 Western Ave. her property abuts Mr. Orlando's property and shares a driveway with him. She completely supports this request and has had 0 problems with his business.

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit 2.3.1 #10 to allow the use of a lodging house.

Mr. Nimon seconds

All in favor, 5-0

6 Island Rock Lane

Deborah Eliason, Esq. of Eliason Law Offices, 63 Middle St. is present to represent, Matthew Revis & Jennifer Revis Snider, Trustees seeking a Special Permit 2.3.7 (21) customary accessory use to allow the addition of guest sleeping quarters (2) bedrooms to the accessory pool house second floor.

They would like to renovate the second floor of the pool house. There will be no exterior changes to the pool house except for a covered portion of the roof. They are seeking to add (2) bedrooms and a second full bathroom on the second floor. The pool house is an accessory to the pool. There is currently a small kitchenette, a home gym, laundry room, changing room and a full bathroom.

This is a second home for the family and is used for family gatherings year round. The extra guest quarters will allow the expanding family to all gather at the same time.

The Board has received letters of support from all (3) surrounding neighbors.

The Members discuss the new Ordinance to allow living quarters in an accessory structure and how to insure that this does not become a secondary dwelling. They would like to insure that they are using it for the correct intent.

The lot itself is 50,000 sq. ft. so there is the potential for it to be subdivided, but the current property owner has no intent to do so.

If granted there will be a decision recorded that this is an accessory structure and it cannot be used as a separate dwelling unit.

Mr. Sanborn states that the pool house was built in 2011, before a bathroom in an accessory dwelling needed a Special Permit. At the time that this building was build there was a lot of discussion regarding it and whether it met the ordinance at the time. It was decided that the upstairs was to be left as one open space.

Ms. Schlichte does not see how this is an accessory dwelling unit when it has 2 bedrooms, 2 full bathrooms and a kitchen and is not comfortable calling it an accessory dwelling unit. She'd be more comfortable calling it an accessory unit.

The Board discusses the division of the property and the other options to insure that this does not become a permanent dwelling unit without coming back before the Board.

Speaking in favor: None

Speaking in opposition: None

Ms. Schlichte moves to approve a Special Permit 2.3.7 (21) customary accessory use to allow the addition of guest sleeping quarters, (2) bedrooms to the accessory pool house second floor with the conditions of accessory buildings; to not be rented and to remain for family use and for the buildings to remain in common ownership. No expansion of the building, or the existing kitchen facilities.

Mr. Nimon seconds but has reservations

All in favor, 5-0

Discussion by the Board:

Mr. Sanborn discusses the process of approving draft decisions written from Attorney's.

Mr. Parisi moves to adjourn at 9:10 PM

Seconds: Mr. Nimon

All in favor: 5-0