



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., OCTOBER 27, 2016
Kyrouz Auditorium, City Hall

Board Members Present: David B. Gardner, Vice Chairman
Leonard A. Gyllenhaal, Secretary
Michael C. Nimon
Joseph Parisi, III
Alternates: Sage Wolcott
Kris Howard

Meeting was called to order by the Vice Chairman at 7:00 P.M.

Previous meeting minutes of October 13, 2016 submitted for review, motioned, seconded and accepted as written.

Old Business: None

Continued Business: None

New Business:

61 Grapevine Road: Attorney Meredith Fine presents with the owner of the property, Mr. McCarthy. This application is for special permit to the height exception. Mr. McCarthy provided to the Board photographs and signatures of support for review. Due to an error by the engineer when building this house, the height limit was exceeded by the General Contractor; while the Building Inspector, Engineer and General Contractor worked back and forth to rectify this issue the home was occupied despite an Occupancy Permit being denied by the Building Department. The occupants indicated they were unaware of this issue until a complaint was filed with the Building Inspector and they received a violation notice in 2003 which went unaddressed until 2014 when another complaint was filed with the Building Inspector. In 2015 a request was made to survey the height of the structure. During this timeframe an Occupancy Permit was denied.

Mr. Gardner asked Ms. Fine to explain "Preconstruction Grade" which is described as measurements from ground zero and not from fill. Mr. Gardner also asked what specific relief is being requested to which the response was "to exceed height of 30 feet to 34.9 feet".

William Sanborn, Building Inspector was asked to step up to the podium and spoke about the construction, the height requirements and ongoing correspondence and interaction with the owners,

builder and engineer. He feels this can and could be rectified in a simple manner by submitting an application for height exception to the Zoning Board of Appeals, having it approved and be done. There has been much time invested in this issue by the City and Attorney Fine has done excellent research and after discussion with counsel the statute of limitation does take place and Mr. Sanborn supports the ZBA in granting the height exception.

Mr. Gardner asked if Mr. McCarthy had been granted an Occupancy Permit to which the answer was “No, it will be granted when the issue is resolved”. Mr. Gardner expressed his concern that the dwelling has been occupied for such a long time without the permit.

Mr. Howard asked if Mr. Sanborn is now satisfied with the engineering to which Mr. Sanborn replied, “Yes”.

No one spoke in favor or in opposition to this application.

The Board held a brief discussion and indicated they are pleased with the letters of support. Mr. Nimon and Mr. Gardner agreed that if this application had been submitted when the structure was being built it would have passed.

Decision of the Board: Granted

28 Adams Hill Road: Mr. Gardner recused himself and Mr. Gyllenhaal chaired this hearing. The contractor for occupants, Rocky Neck Design presents before the board for the applicants as they are out of the country. This request is for a second story addition to a small, stunted garage to try and make it more proportionate, modern and less boxy. The height would increase from 13 feet with a dormer on one side and long roofline. This space is to be used for storage as there is limited space in the home. Mr. Gardner asked if this will be just studs with no insulation or plumbing. The contractor indicated there would be electricity for lighting and sheath with tongue and groove for an “old” look inside. He states that he understands it is not to be used as a living space and only for storage.

Speaking in favor:

Mark Glovsky, 8 Adams Hill Road - Mr. Glovsky indicates he is appearing in favor of this application especially after seeing a two-page letter of opposition submitted. The owners of 28 Adams Hill Road have done a great job of rendering a pleasant appearance to their property and have brought it a long way from what it was when purchased. Mr. Glovsky feels that this garage renovation can and will certainly enhance the neighborhood.

Speaking in opposition:

Holly Dublois, 14 Adams Hill Road – Ms. Dublois’s driveway abuts the property and there is a 15 foot right of way as well as a large hedge. Ms. Dublois has only recently had a chance to speak with the owner and they could not agree on what the structure will look like when complete. Ms. Dublois would like a 3-D model of the garage created for her to visualize what will be built as this structure is at the entrance of her drive and is anticipated to be higher than the structure already there. She has concerns that a second floor will bring with it more foot and automobile traffic if it is used for anything other than storage.

A discussion of the Board ensued and a vote of the Board was held.

Decision of the Board: Granted

2 Dornell Road: Attorney Joel Favazza appears as representation for the applicant. This is a recently created subdivision and the request for a height exception, the building and lot are conforming otherwise, but due to the unusual topography of the lot. The rear of the property is so steep that the elevation is only 10 feet higher than the roofline.

Mr. Gardner asked if there are street signs yet for this subdivision to which the answer was “No”.

Mr. Gyllenhaal asked about the average grade, 36.9 at the peak, 33.6 in the front of the house which is much lower than the rear and why they are requesting the height exception.

No one spoke in favor and no one spoke in opposition.

Decision of the Board: Granted

160 Wheeler Street: Attorney Joel Favazza presents with the owners of property, Lee & Thomas Evangelista. Attorney Favazza first submitted paperwork to correct the name of the applicant from G&R Realty Trust to Latt Realty Trust. Applicants own property at 154 Wheeler Street and purchased the property at 160 Wheeler street as an opportunity to rebuild and share with their family and put down roots. Requesting a special permit to alter and expand a nonconforming structure. A lot coverage variance is also requested due to the small size of the lot, 140 square feet. There is no height relief being requested.

Mr. Nimon asked where the high water and mean water mark is. Due to new FEMA code the new house would have to come up 4.5 feet, based on the assessed value of the house whether a renovation or tear down it will have to be raised. The pilings will be covered to make it look like part of the house, however, the first floor is above flood plain requirements. Mr. Nimon asked if the drawing handed out is the west elevation and it is not, it is the south elevation. The home is in need of cosmetic and structural repair with potential benefit to neighboring properties. There have been offers made to the abutters to the left of the property to accommodate a provisional parking space and to take down poles and wires for an enhanced view of the abutters behind the property. An offer to eliminate the concrete stairs between 160 Wheeler and the abutter to the right has also been made. Attorney Favazza provided a list of signatures of support but not all signers live in the neighborhood. Mr. Gardner asked if any of the direct abutters had signed the letter of support to which Mr. Favazza could not provide an answer.

Much conversation ensued as to lot size, size of house now and size of house after alteration/renovation as well as actual height of structure as Mr. Nimon asked if half of the 9 feet height request is taken up by the 4.5-foot flood plain. Attorney Favazza indicates that hardship applies if literally enforced this would be an unbuildable lot, setback and coverage requirements make an impractical building envelope, but reusing piles gets into lot coverage and set back issues, another hardship, 20-foot frontage, 55-foot rear frontage “this lot will look just like the other lots out there”.

Mr. Howard asked about sewer and infiltration systems, Attorney Favazza indicated those issues need to be approved by Board of Health and the Department of Public Works but is not sure what the procedure is. Mr. Gardner asked about parking and a driveway, where would a car go? There is a paved area at the front edge of the structure, street side. Mr. Gardner asked if there was a driveway, Mr. Favazza indicated a wall will be moved toward the house and parking created in this area for the site.

Mr. Howard asked what steps come after if this application is approved, Attorney Favazza indicated they would then go before the Conservation Commission, DPW and or the Board of Health and State permitting as well.

Speaking in favor: Joan Lepore, 120 Wheeler Street, Steven Evangelista, 122 Wheeler Street, Joe Caruso 6 Riverside Road and Frank McCormack of 15 Tidal Cove Way.

Speaking in Opposition: Attorney Mark Nestor representing abutters at 156, 158, 162 and 148 Rear Wheeler Street. Attorney Nestor reviewed the application requests and voiced the many concerns of abutters which included but were not limited to noncompliance with the ordinance, will be detrimental to the neighborhood, would be 9 feet taller and closer to the road, could restrict access to the right of way. Attorney Nestor spoke to the fact that the structure was purchased in disrepair and now a significant amount of relief is being requested due to financial hardship. This is felt to be “self-inflicted” and the neighborhood should not suffer for this. Attorney Nestor indicated that this property is the smallest piece of land on the point yet it will have the second largest structure with an approximate 30% increase in size and a roofline to 29.3 feet. Photographs were submitted showing properties on Wheeler street now, proximity of the deck and abutting home, slope of land at the back of the structure and a joint rip wall between properties.

Attorney Nestor then spoke to the fact that there is a feasible economic alternative to this application just not the one the owner wants.

Speaking in opposition: Ginny Dillon, 156 Wheeler Street, The Dexter’s, 150 Wheeler Street. As well, four letters of opposition from abutting neighbors were filed with the Zoning Board of Appeals and placed in this file.

Attorney Favazza returned to the podium and indicated that much of the opposition by abutters is based on confusion about the project and that the neighbors are behaving as if they had no idea this was happening. He also indicated that he reached out to Attorney Nestor.

There was much discussion amongst the Board and a decision was made to conduct a site visit on Saturday, November 4, 2016 at 9:00 a.m. and Mr. Gardner requested that all attorneys, the applicants and any neighbors that want to be there should attend.

Continued to November 10, 2016

26 Wonson Street: Attorney Joel Favazza presents for owners Peter & Joan Lafata who are also present. This plan originally had a typographical error when submitted, the actual lot size is 17,300 and not 10,000 as indicated on the original plan. There is no house on the lot at this time and they are also working with the Conservation Committee. The relief requested is a variance to access the lot over its frontage. Mr. Gardner asked what zoning ordinance is the relief being requested from and the reply was “access over frontage of lot, but cannot quote exact ordinance”. The lot and house are conforming to all regulations, there is no height exception request. The lot is approximately 170% the size needed to build the house on. Mr. Gardner asked Mr. Favazza to review the plot plan with the board and explain the lot ownership, orientation and topography. The public was invited to step up to listen and view as well.

Attorney Favazza indicated there are two options to comply; pave Wonson Street or cut in a driveway off Horton Street, both of these options represent a hardship as the neighbors don’t want to see this happen and, as well, the topography and the shape of the lot are unusual. This lot is in a wetland buffer zone and the plan will be to fill the Horton Street side with plantings which means this could be

granted without detriment to, no variance or special permit, all is conforming and the request is just for access. There is no harm to the public good and it is a sensible request for lot access.

Mr. Gardner asked if the access point could be moved farther down Wonson Street to which Attorney Favazza replied 65 feet of frontage is needed this would require paving and cutting in a sidewalk which would change the patch of grassy area and no one wants that. It also would involve the use of a right of way to enter the driveway.

Speaking favor: No one

Speaking in Opposition: Attorney Meredith Fine representing Greta & Tory Bagshaw of 2 Clarendon Street. The applicants will build a large house using the corner as access and call the house conforming; the buffer zone of the river goes halfway through the house, due to mitigation with the Conversation Committee the applicant has tried to keep the back portion of the property for mitigation and squeeze access into the small corner per the application request. "What is the front of the house", asked Attorney Fine. By calling it rear access the applicant can make the house larger, if the "front" is called the side yard, as Attorney Fine believes it is, the applicant would require zoning relief for the size of the proposed house and, therefore, this application is leveraging the frontage for a larger home. As well, Attorney Fine points out she sees a slope of 13 feet and not 20 feet when reading elevations of plans submitted by the applicant. The applicants have gone to Planning and gotten their ANR, gone to Conservation for their mitigation and are now in front of the Zoning Board of Appeals for this issue.

Mr. Gardner asked if this land is technically a lot. Attorney Fine indicated that it's not recorded yet and she feels that due to this it is not technically a lot. Mr. Gardner questioned whether the board could even vote on the matter if the lot is not recorded. As well, Mr. Gardner indicated he would like to ask the Building Inspector, Bill Sanborn or someone from the City Inspectional Services where the front of the house is and if Horton Street is considered the front or if Wonson Street is the front.

Mr. Richard Rosenfeld, 24 Rear Wonson Street as well as 20 Wonson Street. Mr. Rosenfeld has concern with the size and orientation of the structure to be built. Historically when this property was sold a plan was put together to build another house on the Horton Street side; it was innocuous and low, no blockage of views for the other homes. No one has seen the plan for the new house until today at this meeting. A 2.5 story house sitting on a hill will be a "monster house", the singular view of Rocky Neck from across the harbor and blocking many peoples view. If the house is built facing the inner harbor with Horton Street as the frontage, then it would be a smaller house due to space and size. However, if allowed to build as requested it will become a "monster house". The right of way must remain unobstructed at all times but nothing is in the plan to accommodate this.

Jerry Weinger, 1 Clarendon Street. Mr. Weinger related living there for 23 years and appreciates Rocky Neck being an old art colony. He understands this is a legal lot and can be developed however, he objects to the size of the lot and the fact that it will totally obstruct his as well as many other people's view. Mr. Weinger expressed his hope that the applicants will rethink this and, instead, they will build a tasteful home in keeping with the neighborhood and preserve the amazing views for tourists, artists and residents alike.

Greta Bagshaw, 2 Clarendon Street. Mrs. Bagshaw spoke to the concerns of rights of way and access to the "paper road" which is used very frequently by residents and tourists alike. She fears moving the access would take away the public use of this road. There are no viewable plans of this house, only a footprint and it could become a monstrosity which would be very out of character for a community designated by the State of Massachusetts as an Artist Colony.

Mr. Gardner then asked Mr. Favazza if he was asking the board to grant relief to access alternate frontage does this then give additional options to the applicant with respect to the location of the house? Attorney Favazza replied that it is a corner lot and it will not dictate a larger house if granted.

In discussion of the board Mr. Gardner indicated that he would like to speak with the building inspector for his input into the question of frontage access and house size. Mr. Parisi commented the applicant can choose by their ANR and they chose Horton Street therefore, variance criteria would have to be looked at.

Mr. Parisi made a motion to continue the hearing until November 10, 2016. Mr. Nimon seconded this motion.

1037 Washington Street: Tim Thurmon of Treetop Design presents representing the applicant, Mr. Flint is present also. This is small lot with two primary dwellings on it from back at least 100 years. There is a troubled foundation, 2 sides of the structure have sills buried in the ground. He would like to lift the structure approximately 2 feet, recap the existing foundation and reconnect the sewer, lifting the building a total of 26' from where it is now will remain under the height limit. He will add a dormer but not change the footprint of the structure on a nonconforming lot. The applicant, Mr. Flint will do the building lift himself.

No one spoke in favor

No one spoke in opposition

Decision of the Board: Granted

Motion to adjourn was made at 10:10 p.m. by Mr. Gardner and seconded by Mr. Parisi

Adjourned