



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., December 8, 2016
Kyrouz Auditorium, City Hall

Board Members Present: Francis S. Wright, Chairman
Leonard A. Gyllenhaal, Secretary
Michael C. Nimon
Joseph Parisi, III
Alternates: Sage Walcott

Meeting was called to order by the Chairman at 7:00 p.m.

Previous meeting minutes submitted for review, motioned and seconded to accept as written.

New Business:

Mr. James Flint of 1037 Washington Street requests to be heard by the Board regarding application that was approved on October 27, 2016. Request granted by Chairman.

1037 Washington Street: James Flint presents to the board regarding a previous decision granted on October 27, 2016 which was to lift an existing structure and leave it 26" higher with a dormer. At this time after interior demolition it is clear that lifting the structure would cause much damage to the interior and exterior of the structure, therefore he is asking the Board to consider a petition to replace the existing structure with no changes sans the 26" height increase and the dormer as previously approved. Mr. Parisi indicated the proposal is not an issue but questions the mechanics of changing a decision, is a timestamped plan required? Mr. Wright was not present when the initial application was approved. Mr. Gyllenhaal felt it must be a new hearing. While there is no issue with the new proposal proper advertising and protocol must be followed. The question was posed as to whether Mr. Flint has spoken to the Building Inspector about this and the answer was "no". Therefore, Mr. Flint will speak with Bill Sanborn, Building Inspector, City of Gloucester and advise the Board of the outcome.

73 Mt. Pleasant Street: Attorney Joel Favazza presents representing the applicant, Frank McCracken is also present. Mr. Wright asked about the history of this project as he recalls it going back to at least 1994. Mr. Favazza indicated that the proposal was withdrawn and there is nothing in the building file about it. Mr. Favazza also indicated that the advertisement for this hearing was inaccurate and for the record this is an appeal of a decision of the Building Inspector. The Building Inspector felt that a use variance did not need amending. In 1994 Mr. McCracken came before the board to change a barn into a garage for a collection of automobiles which he would store and work on in the structure. He had the support of over 50 neighbors and only one neighbor opposed. The use variance was limited to the footprint of the existing barn. It does not apply to the rest of the property where the garage is built, an accessory to allowed use or permitted use structure. The Building Inspector questioned primary use if there were vehicles in both structures. Mr. Favazza outlined the barn uses and layout. The garage out

back is only a garage, there is a second floor for storage, no plumbing and electrical service which is also used to heat the building. Mr. Favazza doesn't feel the use variance needs to be amended, a permit was issued in the summer and when the siding was being put on the garage a neighbor called and complained therefore the Building Inspector felt there may be a need for zoning relief and that is why they are before the Board this evening. There would be no occupancy permit without a zoning decision. Mr. Parisi asked what section/accessory use table in R10 and it was 2.3.7. Mr. Wright asked if there was anyone in the audience here about this request and there were a few neighbors that answered yes.

Speaking in favor – No one

Speaking against – No one

General questions: Margaret Kimball, 77 Mt. Pleasant Street. Ms. Kimball is not opposed but does not understand the occupancy issue, is there going to be an apartment in this garage? A tree was previously removed that afforded some privacy and with that gone she has concerns there would be more neighbors. In answer to her question Mr. Wright indicated there is no proposal for plumbing in the building so no apartment would or could be added without that and that would need to be approved by the Board.

Jane Goodwin, 77 Mt. Pleasant Street thought that there was another 3 car garage being built and that is why she had concerns but now that this has been explained she has a much better understanding. Mr. Gyllenhaal asked if she objected to the structure and if so she is able to say so at this hearing. Ms. Goodwin indicated she has no objection as it is already there.

Frank McCracken, 26 Edgemore Road, the petitioner, stated that he is going to put in bushes and hedges as he had promised the neighbors before and will keep his word.

Joel Favazza stated, for the record, that there would be no residence in the garage, no plumbing and is aware there would be much permitting required to add an apartment; this will solely be an automotive garage.

Mr. Wright asked if all pertinent information to make a ruling for relief has been presented to the board as this is a decision that will affect the Building Inspectors opinion. Mr. Favazza reiterated this is strictly utilitarian, not like the barn that was renovated; if there were a hardship it would be the topography of the lot. Mr. Parisi asked if sticking to accessory use what about the height of the building, is it limited to 12 feet? Attorney Favazza said no, it is allowed up to 30 feet as an accessory building and adheres to all principle setbacks.

After a brief Board discussion regarding use variance vs. permit a vote was taken to extend the previously granted use variance.

Vote of the Board: Granted

38 Gee Avenue: Jason Worthley presents the application on behalf of his father Earle Worthley who wishes to install a CB antenna on the roof at 38 Gee Avenue. Jason indicated the top of the antennae would be 26 feet above the roof line and due to local ordinance 2.3.6, other principle uses #7 a special permit is required if 10 feet beyond the roof line. Mr. Worthley has personally approached all abutters and discussed this with them. The total height from the ground would be 47 feet, the existing antennae is 17 feet above the roofline, there would be no guy wires holding the antennae instead it will be secured with brackets to the house.

No one spoke in favor or against.

Vote of the Board: Granted

10 Holly Street: Samuel Piscitello is seeking a variance to install a deck at the back of his house. When it was built there were sliding doors installed, however, there is a drop of approximately 4 feet which is unsafe and he would like to add the deck to insure safety and serve as another egress in case of emergency. Mr. Wright asked if Mr. Piscitello had the house built for him and the answer was yes. Mr. Wright commented that the builder put the house right up against the rear yard setback which left the sliding doors up in the air and without any place to go without a variance. Mr. Piscitello indicated that due to the lot size that was the way the house needed to be positioned at the time.

No one spoke in favor or against.

Vote of the Board: Granted

11 Albion Court: David McWilliam, spouse of applicant presents to the Board to expand a shed in the backyard. This would be used in two ways, one as storage and a workspace for the home occupants and allow the neighbors to use their full yard rather than their limit space with a fence. Letters of support submitted by neighbors were handed to Mr. Wright, Chairman. While the statute mostly discusses residences for height restrictions and not accessory structures it is believed that they are covered the same. A variance for side yard setback is not needed if this is true and only a special permit for the increased height of the shed.

Read into record was the letter of support by Michael & Jennifer Johnson. Brief Board discussion ensued.

No one spoke against.

Vote of the Board: Granted

1236 Washington Street: Attorney Mike Faherty presents for the homeowner, Penny Nathan who is also present. Ms. Nathans has owned the property since 1973 and has recently had an unavoidable financial hardship yet wishes to remain in her home. Mr. Faherty indicates as well that this is a request regarding multiple buildings, a multi-family property not a regular 1-2 family category. On the property now there are two family dwellings and a rear building that was a family cottage, the use of which was discontinued in 2002. Mrs. Nathans is now looking to reassert the traditional use of this building. Mr. Faherty offered a description of the setbacks as well as lot width that is currently complied with.

By history when the property was purchased in 1973 there were 3 family dwellings as well as the living unit in the cottage. In 1988 there were renovations. When sewer came to the area there was a question of two or three betterments, and the owner was advised to remove the kitchen sink from the cottage to alleviate one of the betterments, in theory making it no longer a dwelling. A tank was installed by the city and existing septic system was connected into the tank at that time. When the Building Inspector recently looked at it he felt that in order to comply as a dwelling/apartment the sink must be reinstalled but that as well, there is limitation to more than one principal dwelling on the lot.

The owner understands that another septic tank must be installed at her cost in order to revert the cottage to a dwelling. This structure is frequently occupied by friends and family that assist Ms.

Nathans with her daily tasks. An ordinance exists for multifamily dwellings but not for multifamily properties.

Mr. Gyllenhaal asked if this should be heard before the City Council first and Mr. Faherty indicated the relief was required before they can go to the council. Reasons for hardship were reviewed as well as the change of FEMA maps. Mr. Faherty indicated that there will be no visible changes to the property when viewed, only the dwelling space will be affected.

Mr. Parisi asked about a second means of egress which Mr. Faherty addressed.

Speaking in favor: Paul Bradstreet, 1257 Washington Street. Mr. Bradstreet indicated that Ms. Nathans has improved the property greatly since she purchased it and he is all in favor of this as it will help her out and allow her to stay in the neighborhood.

Jonas Sylvester, 1238 Washington Street. Mr. Sylvester indicated that given no changes to the position of the buildings on the property he has no objection to this application.

Bonnie Sylvester, 1238 Washington Street. Mrs. Sylvester wanted to state that the building has never been occupied year round yet, in the summer time when it has been occupied there can be a very high level of noise and is concerned if this becomes occupied 12 months a year this could be a problem and wanted to make this known.

Speaking against: No one.

Mr. Faherty addressed Mrs. Sylvester's concerns and indicated to the board that now Ms. Nathans is aware this was an issue and will certainly monitor and enforce the quiet behavior of her tenants.

Vote of the Board: Granted

50 Causeway Street: Attorney Joel Favazza presents with the applicant, Joseph Profetto who has a property that is already very close to the zoning requirements for a multi-family dwelling in the R-20 area, which falls short only in frontage. He is requesting a variance for frontage to create 3 family units. There is ample parking for five cars and this conversion will afford the owner, who is a veteran, additional income/support. The added apartment benefits the City as well and will create no demands on the sewer, gas or electric as this is already accommodated. Fiscally the property becomes more sustainable with the additional income to the owner and increase in property taxes for the City. There is a shared common driveway with another lot and if congestion of the common driveway were to become an issue there is ample room to expand.

Speaking in favor: Penelope Capone, 52 Causeway Street. Ms. Capone is in full support of the application and has indicated she shares the common driveway with Mr. Profetto and has no objection to his plans.

Vote of the Board: Granted

A motion to adjourn was made at 9:00 p.m. which was seconded and approved.