



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., November 10, 2016
Kyrouz Auditorium, City Hall

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

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.

Continued Business:

160 Wheeler Street: Mr. Wright recuses himself and Mr. Gardner will Chair. Attorney Joel Favazza representing applicants reviewed the site visit that took place on November 4 with the Board members; there have been revisions to the plan since that visit. Attorney Nestor has reviewed these plans and Attorney Favazza handed the board copies of the revisions. The lot coverage variance has been withdrawn and is now conforming. The biggest difference in the revision is the height of the structure. Attorney Favazza provided state statute that indicates the first floor must be moved up 4.5 feet and presented a view of the existing house if raised showing the height from the ridgeline will be the same as the original home therefore, not getting taller, instead being raised due to floodplain. Additionally, addressing one of the concerns of neighbors and proximity of the homes, the owners will also be installing a sprinkler system in the structure.

Mr. Gyllenhaal addressed the elevation in the structure and the significant increase in mass of the structure and Attorney Favazza agreed that there is no denying it is getting bigger. Mr. Gardner asked Attorney Favazza to review the new drawings with the board and address questions regarding the height and width of the structure.

Mr. Howard asked for clarification of the application now that there are new plans. Right side variance, lot width variance and lot coverage variance have been dropped. The special permit to alter and expand a nonconforming structure still stands.

Mr. Gyllenhaal expressed his concern about the mass of the structure. Attorney Nestor asked to step forward and speak on behalf of the neighbors. Revised plans reviewed did address the concerns of neighbors, they are now in favor of the concept but there is much more for this project to clear before it

goes ahead. They have withdrawn their opposition at this time based upon the plans dated November 5, 2016.

No one else spoke in favor or against at this time.

Vote of the Board: Granted

26 Wonson Street: Attorney Joel Favazza presents for the applicants. Mr. Gardner had asked for a continuance at the last meeting so that he could discuss this with the Building Inspector. Mr. Gardner recalled his discussion with the Building Inspector who feels this should be before the planning board for 5.2.1 and Mr. Gardner agrees with this. Attorney Favazza rebutted indicating this is not a common driveway although the Board and Building Inspector agree it is. Attorney Favazza indicates common drive is an option. Plan A, zero frontage comes in solely through 24 Wonson Street. Plan B requires paving 65 feet of Wonson Street, cutting in a driveway and moving a pillar, this private way is titled to the properties. Plan C comes through Horton Street, involving mitigation plantings, also water melting, snow etc., coming down the steep slope of the hill. The planning board was fully aware of where the owners wanted to come into the property; through the familiar gates of the "common drive". This is a conforming house on a conforming lot which meets all setbacks and no relief is being requested. Plan B and C represent serious hardship to his client both topographically as well as financially.

Mr. Gyllenhaal asked if neighbors have deeded right of access through the strip of land between the two properties? Some of the neighbors have rights to cross the property to access theirs and their right to cross must not be impinged. Mr. Gyllenhaal expressed the opinion that Horton Street would be a better option to which Attorney Favazza disagreed indicating it belongs to the applicant and he can do as he pleases with it if it does not interfere.

Mr. Howard asked if Mylar had been recorded and was it approved with a driveway on it and if the driveway has to be another way would they have to go back to the Planning Board or Conservation Committee? The answer was; a return to the Conservation Committee would be required but not to the Planning Board.

Mr. Gyllenhaal disagrees with the hardships presented as there are other options that do not present a hardship and that the applicant is using a street that only exists on paper and this should be a Planning Board issue. Attorney Favazza sited a financial hardship if required to pave a part of the street.

Speaking in favor:

Brenda Malloy, 43 Rocky Neck Avenue, realizes the portion of the street on Wonson presents a tough hardship as it will cover an open grassy area that painters use, people gather on to view the harbor etc., yet feels the applicants should be allowed to use their property at will.

Speaking in opposition:

Attorney Meredith Fine, representing Tory & Greta Bagshaw who are also present. Attorney Fine indicates the reason the lot conforms in theory is due to the relief being requested. The Planning Board did not see this plan when applied for ANR, just a plot plan. This proposal does not meet the requirements for the variance as the hardship was self-inflicted when the lot was created. There is substantial harm to the public good by seeking this frontage access so that a very large, even huge, house can be built; a house that big cannot be built with the access the owner has for the property now. Elevation building plans were not provided. Two pieces are being proposed, one part of the

Rosenfeld's driveway makes this a common driveway. You can't use a common driveway for frontage. The other part is that the Wonson Street extension is forty feet wide, a paper road, just a grassy area, that is no way near the 65 feet of frontage needed. To pave Wonson Street, council would have to submit a road improvement plan. The Bagshaw's driveway is owned by adverse possession. The street is not registered land and, therefore, the city would have a problem creating a road improvement plan with a driveway in the middle of the road. By using Horton Street as frontage and only giving the Planning Board a bare outline of the plan the owner was able to avoid scrutiny. If required to pave Wonson Street, the house would have to be smaller, and if they had to face Horton Street the house would have to be smaller due to Conservation issues. Instead, by using the small corner it allows a huge house on the property. This is not a hardship.

Richard Rosenfeld, 24R Wonson Street, Mr. Rosenfeld owns the right of way/easement that is being discussed, the drive that goes in front of 24 Wonson Street is the only driveway that goes to 24 and 24 Rear Wonson, the single and only access to 24R. The proposed building will run the full length of the property line, blocking his view of the harbor. To facilitate construction of the building use of this driveway would be required. He asked if without his permission to use this right of way/easement would the variance be able to be granted and, as well, would permission from the Bagshaw's be required as this would be burdensome additional use of his right of way. Mr. Gyllenhaal asked who owns the deed to the land and this easement is titled to Mr. Rosenfeld.

There was additional discussion between the Board and Attorney Favazza regarding the actual hardship of the applicant if given many different options, the actual access to be used once the project is completed and the fact that the Board feels this should have been addressed by the Planning Board as does the Building Inspector.

Vote of the Board: Granted

New Business:

17 Rockport Road: Attorney Wilhelmina Sheedy presents for the petitioner. Mr. Gyllenhaal recuses himself. This application is to allow the petitioner to raise and rebuild an existing nonconforming structure. Mr. Robert Gulla, Architect, 593 Essex Avenue explained that the changes to the home and lot will bring most of it back into conformity. A question was posed by Mr. Gardner as to what the structure on the back of the lot is, the applicant Mr. John Arasian indicated when he purchased the property in 1978 there was a fence there and he assumed the shed was on his property. It will be moved when the renovations are completed.

No one spoke in favor or against.

Vote of the Board: Granted

15 Sleepy Hollow Road: Nicole Sassi of Treehouse Design, Rockport, MA presents with petitioners, Gerard & Sheila McGovern seeking a special permit to alter/expand on a nonconforming lot. Tim Thurmon of Treehouse Design is also present. Renderings of the expansion were submitted to the board for review. A question was posed as to what percentage of the lot would be covered. Mr. Nimon asked about the concrete foundation which is allowed as they are outside the conservation area. New septic has been approved for this project as well. This home will be of a craftsman style with sloping roofs in an effort to not block views for the neighbors. The neighbors have all been contacted and are in support of this project.

No one spoke in favor or against.

Vote of the Board: Granted

5 Hesperus Circle: Michael Gomez, Treehouse Design, Rockport, MA presents with the owners of the property. There would be a decrease in nonconformity with this renovation. The structure will become a primary residence when completed, a forever home. This structure will remain under the 30-foot height limit. There are seven signatures in favor of this application as well as one vote of support verbally by another neighbor. The lot will expand from 96 feet to 97.1 feet due to the expansion of the home. Mr. Gyllenhaal asked if the structure will block anyone else's view and the answer was "no".

No one spoke in favor or against.

Vote of the Board: Granted

Motion to adjourn was made and seconded at 9:30 p.m.