



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M, March 9, 2017
Kyrouz Auditorium, City Hall

Board Members Present: Francis S. Wright, Chairman
David B. Gardner, Vice Chairman
Michael C. Nimon
Joseph Parisi, III
Alternates: Sage Wolcott
Kris Howard

The Chairman called the meeting to order at 7:00 p.m.

The meeting minutes of February 23, 2017 were submitted for review. Mr. Nimon mad a motion to accept the minutes as written and Mr. Walcott seconded the motion.

Old Business:

75 Atlantic Road - A letter from Horace Turner, Architect, was read into the record withdrawing the application without prejudice. Mr. Wright motioned to accept the withdrawal and Mr. Gardner seconded it.

26 Wonson Street – Attorney Joel Favazza requesting the board’s permission to handwrite a notation on the stamped decision indicating “Lot #3 on the Land Court Plan 0019D”. The board reviewed this decision and approved the handwritten notation.

The Clerk showed board members new site placards that will be used to mark application sites so that board members can locate them with less difficulty. Many areas are not marked clearly or, in fact, at all. The board approved these placards and they will be included with applicant mailings effective next meeting.

Continued Hearings:

161, 165, 171 Atlantic Avenue, OVL, LLC - Attorney Deborah Eliason presents with OVL, LLC partners Jim O’Donovan & Patrick Keoughan to address several items from the previous meeting. Item one of the Chairman’s memo from a meeting with Gregg Catamadori of the Planning & Development Department regarding what Mr. Miller a partner in OVL, LLC did and did not know before purchase of the property and also to bring in individuals to speak in favor of the project should they want too. Attorney Eliason indicated that when thinking about the process it was realized how far astray this hearing has gone. The first filing of the application was August, 2016 at that time a plan was not included with the application as they were there seeking a reconfiguration of the lots only. The

board asked for a submission with plans at that point they withdrew without prejudice. In December 2016, they returned with a conceptual plan as a courtesy to the board. However, there is no application before the board to approve the plans, yet many of the questions raised at that hearing were related to the design and not to the reconfiguration of the lots. At the end of the hearing the board had some questions, we continued to January 26, 2017, and then at that hearing got even a bit more off track. At the January hearing, many neighbors were heard and most seem concerned with the design and very little with the decision before the board. At this time OVL, LLC will not have anyone speak to support this application as it is felt that will be a distraction from the request for lot relief which is the only request before the board at this time. The project plans will be submitted and debated by the City Council, at some point, but not here before the Zoning Board of Appeals to be considered.

In addressing item one of the Chairman's memo, there was a concern after the last hearing that the board may have been left with the impression that she and the client were not honest with them about what OVL knew before they purchased the property. Attorney Eliason wanted to be clear that neither Mr. O'Donovan nor Mr. Keoughan knew about the FEMA issue before OVL purchased the property. Craig Miller handled the purchase and they heard about it for the first time at the ZBA meeting. It was also the first time Attorney Eliason heard about this as well. Only Mr. Miller was aware of this issue and he was not at the hearings. Attorney Eliason referenced "Lamb v Massachusetts" in support of her clients. A conversation ensued regarding the basis of this case.

Planning Director, Gregg Cadamatori then stepped before the board to discuss what transpired in the conversations with Mr. Miller and when Mr. Miller knew about the FEMA issues. In December 2013, public hearings were held regarding the adoption of FEMA maps for effectiveness in July 2014. There were draft maps available for at least a year, which were accessible by the City website and other means including outreach meetings by FEMA. Mr. Wright asked Mr. Catamadori if he has advice as to how the board should administer the definition of lot size until addressed by City Council.

No one spoke in favor of this application.

Speaking in opposition were Mr. Bill Kasdon of 30 Links Rd. Mr. Rob Parsons of 39 Harriet Road. Ms. Cathy Clancy of 78 High Popples Road and owner of 4 Eagle Road as well as Mr. Charles McManus of 20 Links Road.

Letters of opposition were submitted to the chair of the board by Dr. and Mrs. Peter Coakley of 20 Eastern Point Blvd, Jeannine Tillotson 33 Links Rd, Lillian & Craig Olmstead 10 Eastern Point Blvd as well as Mark & Pam Poulin of High Popples Rd and Peter Hood, General Manager of Bass Rocks Golf Club.

Attorney Eliason clarified that this is a very specific dimensional request and it does not include the large wetland area on the property.

Board Discussion: Mr. Wright offered Attorney Eliason an option for a vote at this time which would in his opinion, be negative for her client or the application could be withdrawn without prejudice and come back to board with a new plan or, wait until FEMA decides on their application to move the flood line. Mr. Wright reiterated why on each point the board would not or could not grant the request.

Attorney Eliason consulted with her clients and requested a formal vote.

Vote of the Board: Mr. Wight read the definition of Zoning Ordinance 1.7.2 He referenced the conversations held prior to the purchase of this property. He questioned why there were 3+ years between the property purchase and the FEMA petition submission in 2016. He outlined several more reasons for his thought process and decision and called for a vote of the board.

Mr. Wright motioned to deny requested variances for reasons as noted previously. This motion was seconded by Mr. Gardner.

Decision of the board: Denied 5-0

Dissenting votes: Mr. Wright, Mr. Gardner, Mr. Nimon, Mr. Parisi, Mr. Walcott

125 Wingersheek Rd/125 Wingersheek LLC: Attorney Mina Sheedy submitted a written request to withdraw the application without prejudice. Mr. Wright made a motion to accept the withdrawal. Mr. Nimon seconded this motion.

Decision of the board: Granted. Withdrawn without prejudice.

New Hearings:

10 Grapevine Rd - Attorney Patricia Johnstone appears before the board on behalf of the petitioners, the Hadley's. The first order of business is notifying the board that the applicant is withdrawing the request for a second unit in the carriage house building. There will now be three units - two in the main house and one in the carriage house. Mr. Gardner asked what section of the zoning ordinance Attorney Johnstone is working under and the reply was 1.9.2. This is a purchase under contract by the Hadley's as the seller. Mr. Wright asked for clarification as to why they are here, and Attorney Johnstone replied it was because the main house would become a two family dwelling and Mr. Sanborn, the building inspector, deferred to the board.

Board discussion: Mr. Nimon stated that the withdrawal of the second unit in the carriage house makes his decision easier as the original request seemed a bit too dense; Mr. Gardner indicated it did not affect his decision. Mr. Parisi suggested this falls under ordinance 1.9.1. Mr. Gardner referenced ordinance 1.8.3.

No one spoke in favor of the application and no one spoke in opposition.

Mr. Nimon made a motion to approve the application as amended and Mr. Gardner seconded this motion.

Board decision: Granted 5-0

25 Andrews St – Mr. Wright recuses himself from this hearing. Mr. Gardner assumed the Chair. Attorney Joel Favazza presents for the applicant, Ann Banks. To clarify, Attorney Favazza indicated this is an addition for a new bathroom not to enlarge an existing one. Ms. Banks is an aging resident in the home and it will become easier to use a bathroom on the first floor of the dwelling as opposed to the second floor should stairs become a challenge for the applicant in the future. The request is for a nine-foot variance for the side yard setback as well as a special permit to alter/expand a nonconforming structure.

There were no questions from the board regarding this application.

No one spoke in favor of the application and no one spoke in opposition.

Mr. Gardner motioned to approve the application and Mr. Walcott seconded the motion.

Board decision: Granted 5-0

8 Coggeshall Rd – The applicant, Pamela McKay came before the board to request a continuance to March 30, 2017. Due to a last minute change, their representative was unable to attend this evenings meeting.

Mr. Nimon motioned to grant a continuance to March 30, 2017. Mr. Walcott seconded this motion.

Board decision: Granted 5-0

Mr. Howard made a motion to adjourn and Mr. Parisi seconded the motion.

Adjourned at 8:30 p.m.