



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., APRIL 13, 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 Zoning Board of Appeals meeting to order at 7:00 p.m.

Old Business:

Rules of Procedure discussion postponed to the April 27, 2017 meeting. The Building Inspector and the Clerk have provided additional handouts to review prior to this discussion.

City road maps are available for members; if members need one the Clerk has them. They are a reproduction of a detailed street map at the Building Department.

Continued Business:

15 A/B, 19 A/B, 21 A/B & 23 A/B Kennedy Rd/Magnolia Reach Capital LLC:

Attorney John McElhinney returns for the petitioner after having conversations with the neighbors regarding concerns previously voiced. This has resulted in a plan to plant trees to create a screen for privacy and noise reduction. Markers had placed to indicate where the trees would be go. There shall be 20, 6 to 7 foot white pines; these will be planted by June 15, 2017. The contractors had been starting at 7:00 a.m. on Saturday; per City Ordinance, they are not to begin before 8:00 a.m. on Saturday. This was brought to the contractor's attention and assurances were made that it will not occur again.

David Morrow, 26 Long Hill Rd spoke to what happened at the meeting and agreed that pine instead of spruce will grow faster and it was a good decision. During the meeting Mr. Smith said the trees would be part of the condominium landscaping plan therefore, they would be maintained and should they die they will be replaced.

Mr. Gardner made a motion to approve the application for a special permit for height exception. Mr. Nimon seconded this motion.

Vote of the board: Approved – Unanimously.

New Business:

18-A Calder St:

Attorney Joel Favazza of Seaside Legal Solutions has requested a continuance to April 27, 2017. Mr. Wright made a motion to continue to April 27, 2017. Mr. Gardner seconded the motion.

Vote of the board: Continued to April 27, 2107.

63 Main St:

Attorney Mark Nestor presents for the applicant, Gloucester Harbor Company. The applicant is seeking to convert second and third floor offices into one-bedroom apartments, there would be no change to the exterior of the building, only interior work. This conversion would be in keeping with most of the other buildings on Main Street, which have, retail on the first floor and residential on the other levels. After a conversation with the Building Inspector, the permit for change of use was submitted. This is not a permit for alteration/expansion, merely a change of use. The parking request is withdrawn.

Mr. Wright indicated that the request for open space per dwelling unit is a decision of City Council and not the Zoning Board of Appeals should that be required.

No one spoke in opposition or support.

Mr. Parisi made a motion to approve the special permit to alter/expand with change of use. Mr. Nimon seconded this motion amending it to reflect the change of use Special Permit as it is not an alter/expand situation.

Vote of the board: Approved – Unanimously.

7 Birch Grove Heights:

Attorney Joel Favazza of Seaside Legal Solutions presents with the owners and their family. This two family structure was built in 2000, at this time there are three families occupying the premises, the owner of the home, his two children, their spouses and children. They now need more space and would like to convert the second floor of an accessory building (the garage) into living space with bedrooms and a bathroom.

Mr. Wright brought up the changes in ordinance regarding plumbing in accessory buildings, creating living spaces, creating a second principle dwelling, this adds to neighborhood density and how the ordinance has expanded over the years. Attorney Favazza responded that this is not an issue of creating more density. There will not be more cars, there would not be more people, everyone that would occupy that space is already living in the house, and this would be more akin to adding an addition. A meeting occurred in August after the petitioner sent a letter to the neighbors, to discuss this project prior to submitting the application.

No one spoke in opposition or support.

Mr. Gardner asked for the opinion and views of the board as to whether this is a slippery slope to head down, one that could perhaps set a precedent that cannot be taken back. Mr. Wright added the request is concerning and he does not feel this should be supported due to the precedent that would be set. Mr.

Nimon expressed mixed feelings, he has no issue with what the family wants to do, he understands their situation but in doing so this would set a precedent, as Mr. Gardner stated. Mr. Parisi read from the accessory building ordinances and questioned whether this opens up questions of boarders and lodgers.

Mr. Wright asked Attorney Favazza if he would like a vote of the board at this time, Attorney Favazza asked if he resubmitted this as a three family dwelling would the board consider it then. Mr. Gardner told Attorney Favazza that is a decision to be made at that time and would Attorney Favazza like a vote, yes or no.

Attorney Favazza requested the petition to be withdrawn without prejudice. Mr. Gardner made a motion to withdraw the petition without prejudice. Mr. Nimon seconded the motion.

Vote of the board: Withdrawn without prejudice.

11 Biskie Head Point:

Attorney Joel Favazza of Seaside Legal Solutions presents with the applicant/home owner. The home was built “small and tall”; over the years, the foundation has been lifted with beams and cinder blocks. The footprint of the foundation is actually smaller than the home and it is now sinking and tilting due to the supports. This land is subject to the FEMA flood plain maps and it must be built to proper code, raising the house brings it to the height limit of 35 feet. The neighbors are aware of the request before the board and there has been no comment to date from them. The proposed porch is a wraparound style, this porch would lend to a more esthetically pleasing structure given the height and width of the home. This project has already passed through the Conservation Commission.

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

Mr. Wright asked what the present height of the house, is it is over 30 feet. Mr. Gardner asked if the state had to be notified due to the proximity of the home to Route 128. Attorney Favazza indicated the Commonwealth of Massachusetts was not on the abutters list and, therefore, not notified.

Mr. Gardner made a motion to approve the special permit to alter/expand and Mr. Nimon seconded the motion.

Vote of the board: Approved – Unanimously.

21 Church St:

Peter Mercurio, owner of the home presents before the board to request a special permit to replace exterior stairs and landing used as a means of egress. Mr. Mercurio asked to first clarify that the address is, in fact, 21-1/2 Church Street. A permit was granted approximately 30 years ago to add a third floor and build the egress stairs that are now in dire need of repair. He hired an architect to design the new stairs and landing and has letters that he provided to his neighbors explaining what he was doing. Mr. Nimon questioned why Mr. Mercurio would need a special permit if the stairs were already there. Mr. Mercurio indicated that the first time he went to the building department he had a difficult time getting answers as to why he would need the permit, he returned and spoke directly to the Building Inspector, Bill Sanborn who told him that once the stairs are removed/taken down then he needs a permit to replace them.

No one spoke in opposition or in support.

Mr. Nimon made a motion to approve the special permit and Mr. Parisi seconded the motion.

Vote of the board: Approved – unanimously.

260 Main Street:

The applicant, Ben Legare presents before the board with minor alterations to a previously submitted application for a new building. The plan for the building is similar with one major change in the siding; brick on the first floor and clapboard on the second. It is more New England in look and style as was previously requested by the board when this property was before them. Mr. Legare spoke of the difficulty in making the whole building brick, there is not enough room between it and abutting structures to get lift jacks in to raise the bricks up. The clapboard would be cement board due to the proximity of other buildings and fire safety.

Mr. Wright asked to see the original design presented to the board, which was not very complimentary to the other buildings surrounding it and that, is why Mr. Legare made some changes to the architecture and outside covering. Mr. Parisi asked if it meets the fire safety requirements for the downtown area. Mr. Legare and his architect are working with code review now to be compliant to fire safety requirements.

When Mr. Wright asked how Mr. Legare became involved in this, Ben responded that the project had become very difficult and the owners walked away from it in frustration.

The representative for the seller, Rosemary Quarato of Remax Realty indicated Mr. Talidaros contacted her when he became frustrated with the project and decided to sell the property.

Mr. Gardner asked if the building in the renderings presented this evening is the same building from the previous meeting. The answer is yes; this presentation is colorized and that does make it look much different. Mr. Gardner stated this rendition really is not much like the rest of the buildings on Main Street and that concerns him.

Speaking in favor – No one.

Speaking in opposition:

Dennis Feeney, 15 Prospect Square. Mr. Feeney lives behind the structure, the elevation of the building will block his view of the harbor. He also wanted to know where the electrical service for the new building would come from as the existing electrical came from a utility pole located in Prospect Square. He feels that the transformer cannot bear any more strain and drain which happened when the previous construction was going on.

Alfred Chiancola, 26 Elm Street. Mr. Chiancola is the Secretary of The Moose Lodge, located directly next door to the proposed project. He has concern about damages from construction. The last project created issues, they were digging past the property lines and even under the building. There was damage to a stairwell of his building which cost several thousand dollars to repair. He would like some reassurance that this is not going to occur again.

Mr. Gardner made a motion to continue the matter for a few weeks for a review of the complete building department file. This continuance will also give Mr. Chiancola time to prepare a written list of what occurred with the last project, which the board may use to prepare conditions in a decision, should one be reached. May 11, 2017 is the continuance date. Mr. Nimon seconded the motion.

Vote of the board: Continued to May 11, 2017.

Mr. Parisi motioned to adjourn at 8:40 p.m. Mr. Howard seconded the motion.

Adjourned at 8:40 p.m.