



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., APRIL 27, 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.

Mr. Parisi made a motion to accept the minutes of March 30, 2017 and April 13, 2017. Mr. Gardner seconded the motion.

Old Business: 18-A Calder Street, Attorney Favazza of Seaside Legal Solutions requested the hearing be continued to the next scheduled Zoning Board of Appeals meeting. Attorney Favazza will sign a waiver of time.

Continued Business:

10R Tufts Lane: Mr. Nicastro asked to clarify that at the original meeting, many years ago, there were no neighbors there in opposition as previously stated. Mr. Wright indicated that there had to have been concerns voiced that led to the condition put in the original decision be it by an abutter or the board. He feels it was an unfair stipulation and that is why he is here before the board today.

Abutters invited to stand behind the board members to view the new drawings presented by Mr. Nicastro after meeting with neighbors and listening to what they had to say, he has made some changes to his layout, and feels this will be a great improvement to the lot and the neighborhood.

Speaking in favor:

Jerry Ciolito, 101 Gloucester Avenue. Mr. Ciolito is buying a property on Tufts Lane and he feels this will do the neighborhood good to develop the lot, a house and landscaping is a positive enhancement.

Rosalee Nicastro, 8 Stanley Court. Her children, Jeremiah & Lisa were born and raised in the City of Gloucester; they live and work in the City. They have worked hard and made great strides over the years and have built this house on their own. Their children, her grandchildren, love the home and the

family is happy there. Allowing this lot division to happen will benefit the family and the neighborhood. The lot will be cleaned up as right now, it is being used as a dumping spot for yard cuttings, leaves, branches, etc., by the neighborhood, and this would be an enhancement and not a detriment.

Diane Lapine, 4 Tufts Lane. Diane indicated she has no issue unless a duplex were to go in and wondered if that could be a condition. She has spoken with Jeremiah many times, he is a great neighbor and while initially, there was concern as in the past a developer wanted to cut in another road and develop that area. Now knowing that Jeremiah does not plan to develop the area in that way, she is much more comfortable with his request to divide the lot.

Judy Mitchell, 8 Tufts Ln agrees with Diane and just want to be sure the use of the land is not excessive, no duplex perhaps a small house, that would be acceptable. Are there conditions that can be put in place for conservation of the wetlands and the trees, perhaps a conservation restriction could be applied.

In opposition:

Tom Mannle, 34 Bennett St North. His home is adjacent to the lot at 36 Bennett St North, at this point they are not really opposed just undecided. Mr. Nicastro has reached out to the neighbors and has been flexible and understanding and Mr. Mannle commends him for being accessible. He does still oppose the subdivision of the property; the concern being the precedent this might set. As a direct abutter he feels building a house there would not improve the neighborhood. More specifically, he feels that the lot as proposed is not a suitable building lot; there is a utility easement that runs in front of his home and underneath the proposed building lot. This was not marked on the plans submitted by Mr. Nicastro. His feeling is the proposed location of the house would interfere with that easement. As well, it is a precarious lot, very narrow, essentially fill done during the original work for the subdivision that was going to go there.

Janet Dickinson & Erin Canniff, 32 Bennett St North. The water and sewer lines are underneath the proposed site via an easement. The site itself is comprised mostly of fill from when her home and the Mannle's home were being built and has concerns regarding this. At the very least, an engineering survey needs to be done to establish the stability of the site for a house to be built on it.

Lindsey Crouse and her brother, Tim, owners of 11, 15 & 15R North Bennett St. She wanted to state for the record they are against this project. Their neighbor Richard Krangle contacted Rick Blue, Lindsey's spouse and that is how they learned about this application. An easement was sought relative to the hardship of the site topography. This is where the water and sewer lines are, above it is all fill. He referenced the original decision indicating no more division of lots.

Mr. Nicastro stepped back to the podium and indicated there would be no disturbance to water and sewer lines with the division. Mr. Wright asked what the rough dimensions of the build area would be and the answer was 150x75 feet. Mr. Wright commented that given the physical situation of the house, this division affects Bennett St North more so than Tufts Lane.

Mr. Gardner spoke of the size of the lot(s), one is 100,000 feet and the other 90,000 feet, almost four acres of land. He has gone and viewed this area three or four times to get a feel of what the impact to the neighbors would be. Given his observations of the houses around the area, built in the last 25-30 years this become a large neighborhood. The home situated on the proposed lot would have to be a

modest home. His feeling is one more house on a two acre lot could not be much more detrimental to the neighborhood. As to the condition placed in the original decision, it stated there would be no more “sub-divisions” and this request is not request to create a sub-division.

Mr. Wright asked for additional board input. Mr. Parisi spoke of the topography of the lot and the previous decision, he agreed with Mr. Gardner’s position. Mr. Howard agreed also. He recommended in the future when stipulations such as this one are written into a decision then back up information and documentation should be provided. Mr. Wright stated that he felt once a condition is placed it should not be rescinded.

The Chairman read a letter of opposition from 9 year old Velia Wrinn of 50 Bennett Street South who voiced her concern about what may happen to the wildlife in the area as well as the wonderful places she and her friends play in.

Mr. Gardner made a motion to approve the request and Mr. Parisi seconded this motion.

Vote of the board: Granted with provisions. Dissenting vote, Mr. Wright.

New Business:

7 Sunset Point Road:

Appealing a decision of the Building Inspector related to 10 Sunset Point Rd by Valerie Nelson Attorney in Fact for Irene Nelson and represented by Attorney Meredith Fine. Mr. Wright recuses himself from this hearing, he is an abutter, and Mr. Gardner assumed the chair. Attorney Fine provided the board a handout, which contained the original application for 10 Sunset Point Road, the Zoning Board of Appeals decision, dated January 28, 2016 as well as plot plans for 10 Sunset Point Road, photographs and letters from neighbors.

Attorney Fine stated that an appeal was filed with the Building Inspector, Mr. Sanborn, indicating the building at 10 Sunset Point Road did not match the terms of the special permit and variance issued for that property in January 2016. The decision made by the building inspector appears to have been made based on the plans submitted with the building permit application. What Mr. Sanborn seems to be saying is what was built matches the plans submitted with the building permit application and Attorney Fine’s argument is what was built does not match what the Board allowed the applicant to build.

The applicant proposed a modest plan; building a second story on an existing building, an addition and a garage with a 3% increase in the footprint. This is what the board approved. What was actually built is an entirely new structure with a 56% increase in the footprint. If the application had been completely forthright, if the board had known the totality of what they were being asked to vote on it is Attorney Fine’s belief that there would have been a very different discussion than the one that did take place.

The relief requested is for denial of an occupancy permit for the property until the neighborhood can work out a settlement. They are not asking to have the structure torn down, just withhold the occupancy permit. Attorney Fine then asked the board to look at Exhibit A in the booklet she provided at the beginning of her presentation. A review of the application description and narrative was done. Pointed out was “the additional square footage will nudge the building beyond the 25% maximum lot coverage limit to 28.3%”, again, proposing a modest change to what was previously there. Attention was then drawn to the zoning application requirements listed on the application, listing the relief being sought by the applicant. The proposed site plan was then reviewed by Attorney Fine who indicates it misstates how close the structure was going to be to the roadway. The pavement on the ground in the

plan is not in the correct location. Looking at this plan it is her belief no one would realize how close to the road this building would be.

Addressing Exhibit B, the Zoning Board Decision Attorney Fine asked the board to review the section called Petition Purpose, which seems to be essential to a decision. The purpose of the petition was to allow the owner to “rehabilitate an existing structure” which is what the board granted.

Exhibit C is a drainage plan submitted to the City two months after this decision. It was submitted to the engineering department and attention is drawn to the wording

Mr. Parisi made a motion to put to a vote the appeal of the Building Insp decision at 10 Sunset Point and Mr. Walcott seconded this motion.

6 Lupine Lane:

Mr. Howard recuses himself, as he is an abutter. Sebastian Noto presents this evening requesting a side yard variance to construct a 10 x 16 shed. The lot lines are such that the positioning the shed would be awkward therefore this place makes the most sense to situate the structure. This shed will be complimentary to his home in style. Mr. Noto has spoken to his abutters and there were no objections, especially from the abutter whose yard backs up to the position of the shed. Mr. Wright asked why this spot, why not, instead, moved slightly to the left and turned 90 degrees, it would sit nicely in that spot. Mr. Noto said there is a walkway near the edge of the driveway made of concrete; from the corner of the garage to the proposed shed is 6 feet and moving it left would put it on the walkway. Mr. Wright said if turned 90 degrees it would fit. Mr. Noto brought the plans up to the board for closer review and conversation ensued as to where placement of the structure would best be suited.

Vote of the board: Approved with amendment to placement.

10 Middle Street:

Mr. Robert Heinmen, Architect for Sheila Williamson, who owns of property. The owner lives on one floor and her sister lives on another. By adding this third floor, it would create more living space for both of them yet keep it as a two family home. The request for a side yard setback is due to an outdoor stairway landing turn that juts into the yard. Vertically, the idea was to create eight-foot ceilings on the third floor and also provide a roof with sufficient pitch and that pushed the structure up over the thirty foot height limit. Mr. Heinmen referenced photographs provided with the application showing the height prior to elevation and with the proposed elevation so as to be able to compare to the other structures around it.

Mr. Gardner asked if any neighbors had objected to this plan. Ms. Williamson said that they had been notified and there were no objections. Mr. Parisi asked if a tree had fallen on this house previously and caused damage, Sheila replied that it was that house.

Vote of the board: Approved unanimously.

Board Discussion related to Rules & Procedures.

Motion to adjourn Mr. Parisi, seconded Mr. Howard