



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., JUNE 8, 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.

Previous meeting minutes submitted for review, edits required. List member vote on each decision

Old Business: None

Continued Business:

18A Calder Street, Withdrawn by Attorney Joel Favazza of Seaside Legal Solutions.

New Business:

19 Hartz Street: Attorney Sal Frontiero appears before the board; the applicants are present as well as Architect Chuck McManus. The petitioner would like to put an addition on the existing house and garage to accommodate their son who is living at home. It is a single family home; they would like to convert to two family so the son may have a living space apart from the main home. A discussion regarding requested relief, and whether the right side setback is required ensued. There is only a need for a variance on the left side, it was the understanding of counsel if non-conforming, converting requires a special permit, and the Building Inspectors position was a different use category one loses their non-conforming grandfather rights. Mr. Sanborn responded that is not correct, as the garage is not connected to the house and therefore, would not need a right side yard setback or variance, which will apply to the front as well.

Mr. Wright asked why the garage could not be pulled back a little bit more, it would encroach on the main structure and the family wants to try to maintain the deck. This could require a change to the design. The neighbors were notified and spoken with and are in support. As well a workshop for the son's personal hobbies, there will be no storage of landscaping supplies, etc. nor will there be noise from landscaping machinery or equipment.

Speaking in favor: Terry Greel, 3 Wise Place. Mr. Greel lives next to the property and he did meet with the applicants and saw the plans, he feels it is excellent however, wanted to ask for two stipulations, one being no parking on Wise Place, and the other that no business conducted out of the garage, as one of the parties owns a landscaping company.

No one spoke in opposition.

Attorney Frontiero indicated there were no problems with the requested conditions per his clients. Mr. Nimon then asked how can that be enforceable, the parking request, it is unenforceable; the board does not have the authority to tell someone not to park on a public street. Mr. Gardner asked if Wise Place is a public or private way, it is believed to be a public way.

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

Vote of the board – approved, unanimously. Assenting votes: David Gardner, Joseph Parisi, Kris Howard, Michael Nimon and Francis Wright.

27 Taylor Street: Mr. Howard recuses himself. Attorney Deborah Eliason appears on behalf of the applicants, who are also present. The applicant's mother was the prior owner of the property it has been in the family since 1945. At this time, the request is for relief to build a single family home with a two-car garage underneath. The home would be modular in style thus limiting neighborhood disruption, as there would be little to no digging or blasting required. A letter was sent to all abutters with a copy of the plans and an offer to meet and discuss them. An additional email in support of the project was received after the packet with letters of support were provided to the board.

Mr. Wright questioned how a hardship could be proved in this situation, the narrowness of the lot and the amount of ledge on the lot are a couple of factors was the response. There are limited variances being requested; it is not a detriment to the public good nor does it undercut the purpose of the zoning ordinance, at time of purchase zoning was apartment district, no minimum lot size but not more than 50% of lot area covered by the building.

Mr. Gardner stated that the board cannot grant a variance due to lot size; Attorney Eliason disagreed with that statement. Mr. Gardner also noted it is a highly congested area, the houses are very close together and the lot is currently being used without permission for parking of vehicles. Attorney Eliason said there had been a concern voiced that parking space might be lost and stated the parking spaces on the street would not be affected. Mr. Parisi read from 2.4.6 vacant land exemption ordinance, which states clearly that the only way to create a buildable lot is with 5,000 s/f of area and 50 feet of frontage. Does the board have authority to bypass 2.4.6? Attorney Eliason indicated the property would be grandfathered if it fell under that ordinance, nor does she believe it prohibits her from seeking the variances.

Michael Nimon asked if the board ever granted a square footage variance to create a buildable lot, he does not think so, having been on the board eight years he could not recall it happening. Lot size cannot be the reason for a hardship. This is a narrow lot and there is ledge on the property. Mr. Gardner felt this would be a good case for the city solicitor to give an opinion on and would give time for the board to reflect on this and whether they have the authority/power to make this decision.

The Building Inspector, Bill Sanborn asked when the property was purchased. The original purchase was in 1945 by Mrs. Carter's parents who then sold it to Mrs. Carter in 1961. This lot is in what was previously called the "apartment district", Mr. Sanborn indicated lot area since 1955 or 1950 was

50,000 s/f however Attorney Eliason replied that the way she read the ordinance there was no lot area requirement, but you could not use more than 50% of the lot area.

Speaking in favor no one.

Speaking in opposition: Kim Young, 25 Taylor St., Ms. Young has questions as a direct abutter, with concerns about ledge and blasting or not blasting, there is a stone wall separating the properties, also would like to know where is the sewer hooking up? She does not want it hooked into her line, as it would back up into her property. She stated she is not necessarily anti-project just has concerns for her property. When asked how she felt about a house going in beside her of this size she indicated it will be tall, but there is a similar house on a nearby street, which she felt the proposal would look like. Mr. Gardner asked if there is sewer on Taylor Street, Ms. Young was not sure about that, hers goes to Bent Street from the back of her house.

Anthony Marks, 250 Washington St., the lot size is too small for the house and he also questioned where they would tie into sewer service; there are already two homes on Taylor St that have sewer easements running through his yard and he really does not want anymore.

The attorney stated they are aware that they cannot tie into someone else's sewage or cross property lines without permission. The client will have an engineer look at the wall and be sure the wall is secure and there are no issues for the abutting neighbor, they do not anticipate blasting, a modular structure is going to be placed on the site, the basement will be the first floor.

Mr. Nimon motioned to continue the hearing to June 29, 2017 and Mr. Walcott seconded the motion.

Vote of the board: Continued to June 29, 2017.

4 Parker Street: Mr. Parisi recuses himself. Attorney Sal Frontiero presents to the board with Chip Nutter, Architect and Steven Vanderwerken, Representative of Institute for Savings, the bank is located in a marine industrial district, the only zone where height relief is not via special permit, a variance is required. Currently the height of the building is 37 feet with a lighthouse (3.2.3 footnote) the ordinance has read this way back into the 80's, not sure why. The request is for 12.2 feet relief from the average height of 40 feet. Mr. Wright asked what the hardship would be, the building as purchased was 37 feet high, this bank has a clock tower; a signature look of the bank. A portion of the second floor would have to be removed to remain under 40 feet, there was a tower there before with Rockport Bank and this institution wants to replace that with their signature clock tower. Letters were sent to every neighbor on the abutters list explaining what is being proposed and he only heard from one person, which actually related to the original construction of the building, so there was no opposition or favor relayed to him. Mr. Gardner wanted to confirm 40 feet existing; request is to go to 52.2 feet at the highest point, to accommodate the clock tower. It sounds more significant than it is, this is only the tower that will increase the height; they are not adding another floor.

Chip Nutter, Architect, Newburyport, MA explained height measurements for request. Photographs of other Institutes in different cities were provided to the board for review, the cupola at 4 Parker Street would be removed to accommodate the clock tower. Mr. Nimon feels the integration of the tower is well done. Mr. Howard agrees that it does look nice, perhaps shrink it 10%. He reads the footnote differently, and feels this cannot be done through the ZBA. Mr. Gardner asked if there is a possibility of pulling the tower back; bring it down a bit, perhaps the clock but not so much more above it. He suggested taking some time to digest this and have a vote at the next hearing, giving time to reflect and

look at others, does agree with other members of the board that it's too bad it can't be pulled back a little bit, scale it down.

Mr. Wright asked Attorney Frontiero to address the signage, which, inadvertently, was not advertised. There are two signs, or facades to be more technical. Therefore, Attorney Frontiero approached this as "two signs", the proposal is to do a 32.5 s/f façade on one side and adding the words "commercial lending center" to the facades on both sides of the building.

Mr. Howard made a motion to continue the hearing to July 13, 2017 and Mr. Gardner seconded it.

Vote of the board: Continued to July 13, 2017.

1-3 Cabot Lane: Mr. Nimon recuses himself. Mark Finn of Asbury Group, Topsfield, MA presents to the board. He has provided a photograph to the board of a proposed deck. Mr. Gardner asked if he had spoken with the neighbors, was there any opposition to this application? No, even the original abutter that opposed has come around. The applicant is asking for a 10 foot variance on left side, on rear yard variance, asking for 25 feet, discussion ensued, references were looked up to verify and confirm requirements, zoning and the requested relief are consistent.

No one spoke in favor or against the application.

Mr. Gardner made a motion to approve the application and Mr. Walcott seconded the motion.

Vote of the board: Approved. Assenting votes: Kris Howard, Joseph Parisi, David Gardner, Francis Wright, Sage Walcott.

52 Main Street: Attorney Frontiero and the owner of the establishment, Deodata Braga present to the board. This is a request to modify a previous outdoor seating request, sufficient buffer by sidewalk and parking, not increasing traffic flow, already a busy area, no different from what is existing there now. To access outdoor seating one must pass through the restaurant, there is no entry/access from the sidewalk, there will be parking, and a municipal lot is nearby. In addition, this request will cover a temporary extension of premise, three times annually, to participate in City Block Parties; these changes will accommodate the requirements for this annual event.

The Building Inspector, Bill Sanborn asked about emergency exits for the outside area, this would need to be added, patrons cannot reenter a building during an emergency, and he must check occupancy load to assure egress is not blocked.

Kris Howard asked if, when approving something like this does it have to have a building permit to install fencing and seating. Yes, changing means of egress and providing outside seating as part of the restaurant. Also required to go back to Licensing Board as they sell alcohol and serve it outside and get approval for that as well.

Speaking in favor: Barry Pett, 45 Middle Street. Mr. Pett is a direct abutter to the property, he stated that every project Mr. Braga works on is top notch, and he always has done it "just right". Mr. Braga came and spoke to all the neighbors and always tries to do things the right way. He will also be going to the Licensing Board hearing to speak. He gives his full support to this project.

Mr. Parisi made a motion to approve the application and Mr. Nimon seconded this.

Vote of the board: Approved. Assenting votes: Kris Howard, Joseph Parisi, David Gardner, Sage Walcott and Francis Wright.

34 Mansfield Street: Mr. Gardner recuses himself. Attorney Sal Frontiero presents with the applicant who purchased the home in 1996 as an investment property with the belief it was a legal three family use. This property is up for sale and the buyer requested documentation that it is a legal three family. It appeared from the assessor's records and other building department files that the conversion from a two family to a three family home occurred sometime in the mid-seventies. Mr. Wright questioned how many apartments were in the building as there are quite a few doors; the additional doors are secondary means of egress for the three apartments in the building.

Bill Sanborn spoke of a long conversation he had previously with Attorney Frontiero about this issue, the 3.2.1 ordinance, three family dwellings fall under the two family dwelling ordinance and now grandfathered; this means all that is required now is one special permit for use, and a variance for lot area per dwelling.

Mr. Nimon motioned to approve the application and Mr. Walcott seconded it.

Vote of the board: Approved. Assenting votes: Michael Nimon, Sage Walcott, Joseph Parisi, Kris Howard, Francis Wright.

Board Discussion:

Mr. Sanborn asked if representation for ZBA applicants should be in the required open meeting advertisement. Conversation ensued regarding this question, the feeling of many board members is it sends a message that the applicant needs an attorney to appear before the board, and this is not so. As well, it can appear to be free advertising for lawyers. After much discussion the decision was made not to list the name of attorney or other representative in the advertisement, it will strictly be applicant name and address.

David Gardner brought up the fact that Mr. Braga, who is the owner of the establishment, did not sign the application for 52 Main Street. Hereafter, if the owner name is not on the application and the owner has not signed it, the Building Inspector will reject it.

A motion to adjourn was made by Mr. Parisi, Mr. Nimon seconded the motion.

Meeting adjourned at 9:10 p.m.