



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

ZONING BOARD OF APPEALS  
Meeting Minutes  
7:00 P.M., July 27, 2017  
Kyrouz Auditorium, City Hall

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

Alternate: Kris Howard

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

Meeting minutes of June 29 & July 13, 2017 submitted for review. Mr. Nimon made a motion to accept the minutes and Mr. Parisi seconded.

**Old Business:**

None

**Continued Business:**

**8 Wonson Street:**

Frank Zeeger and Susan Berardi present this evening. The home requires major renovations and they know this will block views of neighbors and abutters, and they made sure all were notified. Approximately 30 people were notified and signed a letter in favor of the petition. There will be a Family room, porch with deck on top, a master bedroom with full and half bath on first floor. All of this will be handicap accessible. On the second floor, there are currently two bedrooms, bath and closets. The plan is to have two larger bedrooms, bathroom and closets. There will be a new stairway not located in the middle of the house. On the garage, a dormer would be added on the left side and it will be used as an exercise room or perhaps office space. Mr. Wright asked for clarification of the dormer on the garage and was reassured this would only be for exercising or an office, the applicants are very aware it cannot be a bedroom.

Speaking in favor:

Gary Griffis, 13 Wonson St, both he and his spouse support the project it is nicely done.

Speaking in opposition: No one.

Mr. Gardner motioned to approve the application and Mr. Nimon seconded the motion. Approved

Assenting Votes: Mr. Wright, Mr. Gardner, Mr. Parisi, Mr. Nimon & Mr. Howard

### **75 Atlantic Road:**

Mr. Gardner recuses himself. Horace Turner, Architect returns before the board. At the last meeting, the board asked that the two positions of the shed be staked with different colors showing the two orientations discussed, for comparison. There was a small change in that a blue tarp wall was used for perspective.

Joseph Militello, Vice President of J Barrett Co, Realtor said that the proposed application would limit obstruction of the view of the course vs what the board is asking. From a marketing point of view, a view of the golf course is very beneficial. With the cabana placed as the board suggested, it would block the view; it diminishes the value of the property.

There was a long conversation about the position of the structure; proposed placement versus where the board suggested, a review of the property and activities going on at this. It is difficult to view due to construction that is now occurring at the site.

Mr. Wright motioned to continue the hearing to August 10, 2017 and Mr. Nimon seconded the motion.

### **New Business:**

#### **28 Sleepy Hollow Road:**

Attorney Deborah Eliason presents with applicant and her fiancé, the project architect is present as well. Applicant has owned the home for approximately 20 years; the second story will cover approximately half of the house, the part of the home furthest from the beach. The footprint will not change; the change will be in the height of the structure. The combined families are growing and need additional room for family visits. Mr. Nimon asked if the board had approved any other height exceptions in that neighborhood and the answer was, no. All of the immediate neighbors were notified of the project. To date there does not seem to be any opposition voiced via email, letter or personal appearance this evening. Mr. Wright asked how high the ceilings on the second floor would be and why; what is the purpose of it being up so high. The architect responded that there will be access from the master bedroom to the roof deck and wanted to add as many windows as possible. The ceiling at its peak is approximately 12-14 feet at the ridge height. This breaks up the façade and maintains the same pitch throughout the house. Mr. Sanborn asked about FEMA elevations and flood elevations is "19" and in order to get all the structure including sonar tubes it drove the elevation up above the average grade. The existing first floor complies with the FEMA flood zones. Mr. Gardner questioned the need for such height, it is a big house, and he asked whether it could be "pulled down" a bit. It would not affect living style; it is more of a design situation, to seem less large in mass. The board must also take into consideration requests later down the road from someone behind the home that now wants to go up higher to afford them a view as well.

Mr. Nimon feels the home design is very nice but has great concern about precedent by granting a height exception.

No one spoke in favor of the application and no one spoke against it.

Mr. Nimon motioned to approve the application and Mr. Parisi seconded the motion. Approved

Assenting votes: Mr. Nimon, Mr. Parisi, Mr. Gardner, Mr. Howard & Mr. Wright.

## **12 Souther Road:**

Attorney Joel Favazza presents with the applicant and his family. He asked to first address an order of “housekeeping” and disclosed that the applicant is a trustee of the property and, therefore, the application was not properly signed. This minor issue will be corrected. As well, he noted that there was a prior ZBA decision included in the packet the board members received, there was a corollary added approximately 6 months later, the permission granted was under a plan that the existing home would be renovated but when project started it was discovered the structure must come down and be rebuilt. This was addressed and the knock down and rebuild received approval. As well, a neighborhood discussion was held; the applicant met with all of the neighbors, except for one and as a result of these conversations there have been two minor alterations. Firstly, they no longer are requesting a left side yard variance; the staircase will be addressed differently. Secondly, windows along the rear of the building, facing the closest abutters, have been reduced in size and placed at a higher elevation; this will allow sunlight into the rooms yet, you cannot see into or out of the rooms.

The lot is undersized, just over 12,000 square feet, there is penetration into the right yard setback that is not being increased and the same for the rear yard setbacks. Both of these are replications of the structure that was there before. Mr. Wright asked Attorney Favazza to point out the intrusions, the rear yard is obvious but the others need clarification. At this point a second floor would be added to the rear half of the house and add a rear staircase bump out.

The intent of the owner is to retire to this property and they would like to add a little space to accommodate both themselves, kids, grandchildren and friends. They have been in this neighborhood for a very long time owning not only this property on Souther Road, but also a property on Atlantic Road and have recently purchased a property on Beach Road. This family has been in the area for longer than many of the surrounding neighbors.

The finished height of the building will be 29 feet above grade, highlighting average grade for the fact that the property sits, basically, at the bottom of a hill. The two nearest abutters to the rear, their property is approximately 15 feet up with elevations of approximately 55 feet of one house and 70 feet to two other homes.

Photographs taken at the property by Attorney Favazza were provided; these include pictures of the roof deck, greenery and trees, as well as what can be seen of the abutting homes.

Speaking in favor:

Steven McMann, 44 Lexington Ave, he has had a relationship for over 20 years, meeting first in the Metro West area and continuing this relationship as they moved to this area. The Morgan's are positive community contributors and their family is growing. We give them our full support in this endeavor.

Vincent Orlando, 93 Atlantic Rd, have been friends since 1980 when the Morgan's moved here. He speaks on behalf of Mary Ellen Burnham 120 Bass Ave, Michael Orlando 8 Thatcher Rd as well. They

all support this project and this family in their project so the whole family can enjoy it. He is a wonderful asset to the City of Gloucester.

Ken Steiner, 37 Beacon St, has known them for 25 years, they are very good people, very responsible people and he supports this project.

Betsy Works, 15 Briar Rd, the Morgan's have done a great job with a small house and lovely landscaping thus adding much to the neighborhood and it will be a lovely addition and help them gather the family together without being crowded together in a tiny house.

Henriette McNiff, 7 Tragabigzanda Rd she and her husband feel that the Morgan's are a great asset to the community and give their full support to them in this project.

Dennis Morgan, 12 Souther Road, the applicant. He wanted to correct a statement made previously by his attorney in that he has been at this property for 37 years. He spoke of his upcoming plans for retirement and the gift of grandchildren, thus the need for the addition to accommodate a growing family. They are only asking to go up, no other expansion and he appreciates the consideration of the board.

Speaking in opposition:

Attorney Mark Nestor for Martin Delvecchio of 11 Tragabigzanda Rd., stated for the record he was sorry for the delay in providing this opposition but was trying to obtain copies of meeting minutes from the 2004 meetings, which, unfortunately are not available.

Going back to the April 2004 Special Permit application, Mr. Morgan came before the board because he wanted to put a second story on a two-bedroom house, which previously was considered a carriage house at that location. The board expressed concerns at that time about allowing the second story and suggested there was further conversation with the neighbors, this resulted in doubling the size of the footprint and double the size of the building from approximately 970 to 1973 s/f that passed the board 4-1. Mr. Delvecchio raised concerns about the deck and noise to which Mr. Morgan indicated there would not be parties there as he was looking to retire shortly. In November 2004 Mr. Morgan returned before the board because, at that time it was determined that the house was not salvageable. A demolition permit was obtained, the structure torn down, and when the Building Inspector, Mr. Sanborn was notified a cease and desist order was issued because what was being done did not comply with the conditions of the special permit, it was also determined there were variances required that were not requested before. Mr. Morgan returned before the board asked for the variances and indicated he was now building a new structure as opposed to renovating the old one. Mr. Delvecchio appeared and did not oppose it. The board allowed this by a vote of 5-0. That is the building sitting on this site, today. Therefore, in 2004 the board advised Mr. Morgan that they did not envision approving a second story. Now we are in 2017 and Mr. Morgan has already doubled the size of the existing house, and is now back in front of the board seeking to increase the house 50% by putting on a second story.

A compromise was attained in 2004 in expanding the size of the house without increasing the height, now the applicant is before the board to try to break this compromise and there are only two abutters that are truly impacted by this height request, my client Mr. Delvechhio and another neighbor. Mr. Nimon interjected at this point that the board Attorney Nestor is indicating approved or disapproved this petition are no longer sitting members of the board sans one member. Attorney Nestor acknowledge this statement as so.

Mr. Delvecchio has issues with shading and as well, privacy problems. The 50% increase in mass is beneficial to Mr. Morgan and no one else. The deck has recently become a “party zone”; his client is less than 22 feet away and has to listen to this. When this came before the board in 2004, a promise was made that it would not be a spot for partying and loud noise, which it has now turned into.

Martin Delvechhio 11 Tragabigzanda Rd, Mr. Favazza is incorrect stating the house sits 5 feet inside the rear setback and that is not correct. It is 15 feet, which means a substantial portion of the addition falls within the setback. Mr. Morgan had many character witnesses speaking in his favor; none of those people can see this house. The original compromise of the roof deck, Mr. Delvecchio agreed to it as long as it did not extend to the rear half of the roof; yet you can see by the photos where this deck is. Mr. Delvecchio insists this was part of the condition of the special permit although it was not written into the decision. He also states he is the one neighbor that refused to meet with Attorney Favazza and Mr. Morgan. He already knew what was going on and had hired Attorney Nestor as representation. His children’s bedrooms are on the second floor; his son’s room is positioned so if he looks out the windows he can look in to the proposed second floor. Mr. Delvecchio also clarified that recently there are fewer parties on the deck, when he called Mr. Morgan they would stop, recently there has not been as much as he feels his sons are not going there as often. He also questioned whether the home is being rented out when the owners are not there. He stated, “We are the neighborhood” no one else but Maureen Quarta and he are the neighborhood because they are not affected by this structure.

Maureen Quarta, 4 Souther Rd provided a photo from her kitchen window of the view she will lose if the height request is allowed. This house is her biggest investment and this is going to take away her view and pleasure of living there.

Attorney Favazza in rebuttal stated the arguments he heard in opposition were about view. Even if view was an issue, he would like to point out, these two homes sit 15 feet up above the Morgan house, and there is an approximate 270 to 300 degree ocean view from atop that hill. Mr. Delvecchio stated this is right in front of his home. This is not true; it is behind and down the hill from his home. Even the photos provided by him and his attorney show that the view is a peekaboo view through the trees. As to concerns for privacy and the noise from the deck, it would seem beneficial to add the second story, which solves, not exacerbates the problem. As well, the concept that an agreement was worked out by the neighbors in 2004 is untrue. Mr. Delvecchio is on the record speaking in opposition on both nights this application before the board. This house is small in comparison to the neighbors’ homes; it is down the hill as well. Adding several hundred square feet to half of the house is certainly not detrimental to the neighborhood.

Mr. Gardner asked if Mr. Morgan lives there, no he does not it is not his primary house, nor ever used as a rental property. The family only uses the home; they are primarily here from Memorial Day through Labor Day, and it will be used more and more until retirement.

Mr. Nimon indicated he would like another look; to go inside neighboring homes if allowed, to see the views that are being discussed, Mr. Gardner heartily agreed. Mr. Wright asked Attorney Favazza to put up a visual aid on the home to help the board with the height requested during the site visit. This will be arranged for August 12, 2017 at 9:00 a.m. Attorney Favazza also signed a waiver of time for the hearing.

Mr. Sanborn reminded the Chairman that if the board goes to the site as a group it is considered a public meeting, which requires minutes as well. Mr. Wright then advised the clerk she will be required

to attend as well. A conversation was held whether the meeting should be closed at this time or continued. The record will remain open until the second hearing in August on the 24<sup>th</sup>.

### **10 Woodward Avenue:**

Mathew Palmer of MMP Construction presents this evening on behalf of the applicant. He is seeking a special permit and a variance to place the garage at the road and move the house. This home was donated to the Fire Department previously to use for practice drills. The existing structure encroaches on the property line by several feet and they would like to turn it so it is no longer encroaching. The front right corner of the existing home would be maintained. Mr. Nimon indicated he has an issue with the house being so close to the road. It was pointed out that the plan he had did not include the garage, plans were provided and clarified for the board. Mr. Gardner asked about the width of the road in that specific area, stating it is already rather tight down there. If the city were to come in later and want to widen the road that would almost be impossible.

The placement of the garage is due to substantial ledge and rock on the property, the topography makes it difficult. They are trying to contain costs by not having to blast, hence the location of the garage. Mr. Palmer and the board went over the site plan with Mr. Sanborn and discussed the topography and height due to ledge. Mr. Palmer was asked to go back to the site and stake it after the discussion, indicating both height and grade. The board will go by and view this and the hearing will be continued to August 24, 2017. There will be an edit to the advertisement in the local paper indicating a variance for the garage.

### **26 Gee Avenue:**

The petitioner and his spouse appear before the board to request a side yard setback variance for a pool shed and in-ground swimming pool, which will be level with the ground, not raised. Mr. Sanborn clarified that if the pool is completely below ground, below the existing grade, a variance is not needed. Therefore, the request is for the shed only, which will be on the eastern side lot line, abutting the applicant's in-laws property.

Mr. Gardner stated he went by the site and they are literally in the middle of nowhere and no one would even be able to see this shed. It is a very wooded and out of the way place. Looking at the Site Plan it appears there is not any other place to put it on their own property, as neighbors own most of the land surrounding the home

No one spoke in favor of the application and no one spoke against it.

Mr. Parisi motioned to approve the application and Mr. Howard seconded it.

Assenting Votes: Mr. Parisi, Mr. Howard, Mr. Nimon, Mr. Gardner & Mr. Wright

### **6 Perkins Peak:**

Attorney Joel Favazza present with applicants who are looking to expand their two family home so their daughter and her two very young children may move in to live with them after recently losing her spouse. They would put an addition on the rear of the house, nullifying the in-law type apartment in

the basement, which originally made the home a two-family house. The topography of the lot dictated where the addition was placed as there is a significant drop in grade from the front to the back.

Mr. Wright asked if the owners have spoken with their neighbors about this and the answer was yes and they are supportive of the project.

No one spoke for or against this application.

Mr. Howard motioned to approve the application and Mr. Nimon seconded the motion.

Assenting votes: Mr. Howard, Mr. Parisi, Mr. Gardner, Mr. Nimon & Mr. Wright.

Mr. Parisi motioned to adjourn and Mr. Gardner seconded the motion.

Meeting adjourned at 9:33 p.m.