



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

ZONING BOARD OF APPEALS

Meeting Minutes

7:00 P.M., August 10, 2017

Kyrouz Auditorium, City Hall

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

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

Continued Business:

75 Atlantic Road:

Horace Turner, Architect submitted a letter to the board withdrawing his application without prejudice at this time. Mr. Nimon motioned to accept the withdrawal and Mr. Wright seconded the motion.

10 Woodward Avenue:

Matt Palmer returns to the board after marking the area as requested at the last hearing. He provided new site plans to the board including the remarked garage area. He was able to pull the structure back another four feet, which places the garage five feet from the boundary line. The board was pleased with the changes. It was determined that a height variance is not required for this application therefore it was not included in the vote.

No one spoke in favor or against the application.

Vote of the board: Approved

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

New Business:

12 Arlington Street:

Attorney John Cunningham presents before the board with one owner and the architect for the project. This property has two principle dwellings on it and the petitioner would like to connect these buildings to create a one family dwelling. All neighbors were notified of the application whether by abutter notice or advertisement and some signed a petition of support. There was a letter submitted by a direct abutter requesting restrictions if the application is granted. The request to restrict the construction to certain times of the year will be taken under consideration by the board but the request to restrict further expansion of the structures was struck down as out of order.

Holly Clay, 546 Washington Street on behalf of the historical committee asked if this is a historical property will there be demolition.

Mr. Cunningham indicated the structures are being connected and does not anticipate any demolition.

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

Vote of the board: Approved

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

7 Birch Grove Heights:

Attorney Joel Favazza presents on behalf of the client and was asked by a board member to explain the difference between this application and the one prior, which was withdrawn without prejudice. The original application was withdrawn due to concerns of the board when asking to put an apartment with a bathroom in an accessory structure i.e.; a garage. Attorney Favazza indicated that this application will have an expiration date on it. The applicant spoke with many people, architects, designers, city employees in an effort to try to come up with a way to get the space they need; this was the solution they came up with after exhausting all creative solutions.

Attorney Favazza emphasized that there is not going to be another structure, they are trying to use the buildings they have on their property, a renovation, by adding the two bedrooms and a bath it creates the space that needed to accommodate the number of people living there comfortably. This application “comes with a “10 year expiration date”, in ten years the applicant would reappear before the board, the rooms would be removed or the owner would reappear before this board and state that it is still not a second apartment and whether they are continuing to use it or it has been decommissioned. This would be on file in the Building Department as part of the conditions of the board decision.

Mr. Parisi asked if this could this be done via ownership instead of time, a use variance that would expire upon change of ownership. Mr. Nimon asked why that would be different. In addition, even if the board can why would it be any different for another family interested in buying this home further down the road given the added rooms.

Speaking in Favor:

James & Amy Sacks, Five Birch Oak Heights, immediate abutters, they have no issue with this project.

No one spoke in opposition.

Mr. Nimon spoke to the issue of precedent, what this leads to down the road; while sympathetic to the situation, this creates a slippery slope in the future. How is this different from the situation in East Gloucester? Detached garage, family overcrowding in the home, wanting to expand to an accessory structure, the concern is precedent now and in the future. The request is understandable on the applicant's side, but precedent is important. Mr. Parisi stated by putting in a stop guard the board may be able to prevent it in the future. But, at this time, there is an existing building, it isn't being going to be utilized as a whole other unit.

Mr. Wright asked what the special permit request is for and Attorney Favazza clarified it falls under Section 9, 40A, 2.3.7, line 21 – Accessory use otherwise not customarily allowed.

Mr. Gardner stated he has mixed emotions, he feels this has put everyone in a tough situation by coming back before the board. This application was previously withdrawn due to a sense that the board was not in favor of the request yet; here it is again, almost the same request as previously, why? When do you come to the point that one is throwing out the zoning ordinance for one family. It does not take too long for a kitchen to get in there, a microwave. It becomes a seasonal rental. You are putting in a bathroom, what prevents the next person and so on down the line from coming before this board.

Attorney Favazza indicated that if the board has the ability to allow the use of an existing building, to allow expansion to allow a family to stay together on their own property this is not a bad precedent. Sometimes people need a little help and this board has the rare instance to help them. He does not anticipate many people lining up to do this if this request is granted.

Mr. Nimon spoke of the density issue, feeling potentially people expand to a certain level and then cannot tolerate it and they move when they have pushed past what they have for room. Its part of the process as time passes and families grow. This will allow the density of the property to grow from a one family home, to a two family to a three family home.

Mr. Wright suggested closing the record and think about it, continue the hearing for two weeks so research can be done and a decision will be reached at that time.

Mr. Gardner motioned to continue the meeting to August 24, 2017 and Mr. Nimon seconded it.

9 Squam Rock Road:

John Olson, Architect presents before the board with the applicants, requesting a special permit to demolish an existing conforming house and replace it with a new conforming house and a variance to relocate an existing accessory structure, a garage.

Mr. Wright noted the accessory building is in the setback zone, the architect indicated that the 15-foot setback was not noted on the plan. Topography of the lot is erratic and there is a shared driveway, this dictated where the garage is. While it is a shame to see an old Annisquam house go away the design for the new home is very nice. The height of the home will increase by 4 feet, still under the 30 foot height restriction.

A letter of support from a neighbor was submitted by Mr. Olson and added to the file.

No one spoke in opposition.

Vote of the board: Granted

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

1037-R Washington Street:

The applicant returns before the board after previously being granted a special permit to raise and renovate an existing structure as the structure was depressed into the ground,. He returned to ask the board, shortly after the final decision, if it could be razed. The board said he would need to speak with the building inspector who told him it needed to go back through the ZBA process. The plans have changed slightly since last year; this application adds shed roof dormers on both sides of the gable roof. This would be the only change, no change to footprint or height is going to happen.

Mr. Parisi asked for clarification of the dormers and confirmed the application contains the current dormer plans.

No one spoke in favor or in opposition.

Vote of the board: Granted

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

37 Hodgkins Street:

The applicant presents before the board requesting variances to erect a 9-foot fence along her property line. Her neighbors have installed a large swimming pool in their backyard, her land slants slightly and her deck is almost level now with her 6-foot fence, the pool is almost as equally high which makes it feel very close to her property and by adding 3 feet to the fence a feeling of privacy would be afforded the applicant.

Bernie Battle and spouse, Allison, 6 Kirk Rd, abutting neighbor to the applicant stated her house is significantly higher and she can look down on their yard and home. They applied for a variance for a pool last year to which the applicant objected and they installed a different pool due to that objection. Their issue with the fence is that there are multiple fences on the properties, and this is not necessary. The height of the fence puts his property at risk come stormy weather should it fall in his direction, someone could be hurt and property damaged. He feels there could be other alternatives than a 9-foot fence.

Mr. Parisi indicated he feels this is more of a neighborhood dispute; the same neighbor was here when the pool variance was before the board and had concerns that the pool railing would block her view of the Mill River and now she wants to add three feet to her fence. Ms. Coughlin stated it was more about the big pool, with a deck and with a railing all around it and having to look at it from her deck.

Mr. Parisi pointed out there are no plans for a fence in the application, adding three feet to a six-foot fence is not necessarily safe; is this a new 9-foot fence being installed? Ms. Coughlin indicated she has a good carpenter that can do this. It would be easy for him to add three feet to the existing fence.

Mr. Wright stated that a building permit would be required for this fence and the building inspector will write into that permit what structural requirements there will be for a fence of this height.

Vote of the board: Granted with conditions.

Assenting votes: Mr. Gardner, Mr. Nimon, Mr. Walcott & Mr. Wright.

Dissenting votes: Mr. Parisi.

491 Essex Avenue:

Drew Hale presents before the board for a special permit for height exception. This house will be as the previous homes he has presented before the board to when seeking a permit. He has received a permit for the foundation and begun on work it. The previous units A&B are now under sales agreements.

Mr. Nimon stated his concern with the height of the building adjacent to this structure. It is a tall building and he has concerns that it will dwarf the other building and that there will be overshadowing.

Drew indicated there is a recent change not reflected in these plans that moves the deck to face the backyard for privacy reasons and understands the concerns Mr. Nimon voiced.

Vote of the board: Granted

Assenting votes: Mr. Parisi, Mr. Gardner, Mr. Walcott, Mr. Howard

Dissenting votes: Mr. Nimon

273 Western Avenue:

Peter de Bernardo of Gibraltar Pools presents this evening with the applicants; this will be an above ground pool, 12 x 24 in size. On the property, there is only one flat grassy area available to put this pool. There will be a safety ledge around the pool as well as a deck.

Mr. Parisi noted the hardship in the topography of the lot as well as the right of way that goes through, there is also a family hardship and he feels granting this application is appropriate.

Vote of the board: Granted

Assenting votes: Mr. Gardner, Mr. Walcott, Mr. Nimon, Mr. Parisi and Mr. Wright.

A motion to adjourn was made at 9:00 p.m. by Mr. Parisi and seconded by Mr. Gardner.

Adjourned.