



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

ZONING BOARD OF APPEALS

Meeting Minutes
7:00 P.M., October 26, 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

Alternates: Kris Howard
Adria Reimer-Nicholosi

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

Previous meeting minutes of September 28, 2017 submitted for review, Mr. Nimon motioned and Mr. Howard seconded to accept as amended.

Continued Business:

742 Washington Street: Mr. Wright recuses himself. Mr. Gardner assumed the Chair. Attorney Deborah Eliason. A request to reopen the hearing approved by the Chair. The major issue raised by abutters is the issue of view. The special permit request is for a height of 32 feet, the applicants are willing to reduce the height to 30 feet, which is the allowed height in the City Ordinance. The roof will now be peaked instead of rectangular. The applicant also proposes to add vegetative screening for privacy in backyard of abutters.

No one spoke in favor of the application.

Speaking in opposition:

Paul Hadley and Dianne Papas 4 Old Farm Lane, owner's 740-740R Washington St, who reiterated that this would impede the views of their home. There is plenty of room on the "other side" next to a vacant lot, why could they not expand in that direction? As well, additional photographs provided to the board for review.

Richard & Shelley Vassallo, pending owners of 740 Washington St. also spoke to the board regarding their concerns about the blocking of the views from the home that they are going to purchase and asked several questions regarding zoning and setbacks, could the structure be moved to the “other side”.

Attorney Eliason stepped back to the podium and indicated that the step system for sewer is located on the side of the property that abuts the vacant lot therefore, they could not expand in that direction without moving the system. Mr. Nimon asked if it was movable; the City would have to grant permission first and as well, it would be another significant cost to a plan to raze and rebuild a home and require a variance.

Mr. Parisi voiced his support of the application given the compromise of reducing the height to 30 feet, the applicant has the right to continue the setback to 1 foot should they choose and they did not, lot coverage is only 16% of the lot versus the 25% allowed in the City Ordinance.

Mr. Nimon indicated again, he feels it is an issue of neighborhood and what makes up a neighborhood; he stated he might vote against the application.

Mr. Gardner agreed with Mr. Parisi’s statements, the FEMA requirements are being complied with and the applicants were still willing to compromise and come down to 30 feet in height. Mr. Walcott agreed with Mr. Gardner and Mr. Parisi, as did Mr. Howard.

Vote of the board: Granted

Voting in favor: Mr. Parisi, Mr. Gardner, Mr. Walcott, Mr. Howard

Opposed: Mr. Nimon

8 Aileen Terrace:

Attorney Nathaniel Stevens presents before the board for the applicant who is also present this evening with her partner. This is a total revitalization plan of a neglected property; the project has been going on for approximately one year. Also present this evening on behalf of the applicant are David Clough, Builder; Douglas Cook, Landscape Design; Daniel Ottenheimer, Mill River Consulting; Daniel Reynolds, Daniel Reynolds Design Collaborative, LLC.

Attorney Stevens provided a PowerPoint presentation to the board with comparative information of other homes in Gloucester including homes on Eastern Point Boulevard with garages such as the one proposed in the application. Mr. Wright asked why not pull the garage back to the property line and be able to go up to 30 feet without needing to be before the board. He confirmed with Mr. Sanborn this can be done with an accessory building. There is ledge that comes up through the ground in many parts of the property, which constrains the area in which a garage could be erected without having to blast and remove that ledge; there is also a leach field on the property negating use of that area as well.

Much of the opposition to this project stems from the issue of perceived loss of view. Mr. Stevens reviewed photographs from abutter’s homes as well as the subject property. There is significant tree and vegetative growth around the properties and much of this is in the view that is in question. A deed restriction recently filed restricts the entire property to five bedrooms on the property. There is a half bath proposed for this project; the proposed structure would not have a bedroom in it. Mr. Wright asked Mr. Stevens if the septic system were updated/upgraded would the owner be able to add more

bedrooms and the answer was yes, however, it would be a difficult project to undertake, nor is it their intent to do so.

Mr. Stevens addressed the complaints and concerns of overcrowding on the lot with the addition of this structure. He pointed out that lot coverage is no more than 5.7% including the proposed garage which is approximately 2.6% less than the neighboring properties.

Mr. Gardner asked if he had, in fact, seen a plan that attached the garage to the home and Attorney Stevens replied that there had been a set of plans with that layout on them however; it was not a feasible design given the topography in that area. Mr. Wright asked about the setbacks for water and sewer; Mr. Ottenheimer replied under septic rules the setback is 10 feet for both the septic and the sand filter; the leach field has a setback of 20 feet. Mr. Ottenheimer then reviewed slides that show the view corridor from 3 and 7 Aileen Terrace across 8 Aileen Terrace, these views show the view prior to the structure in the application being erected and also superimposed the view percentage after the construction of the accessory structure.

No one spoke in favor of the application.

Speaking in opposition, Attorney David Mack, representing James Alvarez of 7 Aileen Terrace. Attorney Mack also gave a PowerPoint presentation with comparison and contrast of homes in Gloucester and the Eastern Point Boulevard area. The question posed is why the garage is where it is. Attorney Mack presented photographs from 7 Aileen Terrace looking out at 8 Aileen Terrace with a superimposed structure representing the structure in question and the impression of the change in their view once the garage is constructed. He indicated the application is duplicitous and the applicant is merely constructing a garage so that she can add living space on the second floor.

Mr. Wright asked Attorney Mack to explain to him why he said, in one of the letters sent by his law firm, that the City of Gloucester Zoning Ordinance “implicitly prohibits second garages on a property”. Attorney Mack indicated that is not clear to him there is room on both sides and acknowledges that is not the focus of the argument. He feels that based on the height restriction the applicant falls short of their burden.

Attorney Mack indicated this proposal is unprecedented in Eastern Point. As well, it will greatly affect Mr. Alvarez’s personal use and enjoyment of his property and greatly diminish his privacy, the privacy and imposition of the building is what affects him most. Attorney Mack also suggested approval of this application would open a “Pandora’s Box” in this neighborhood. He stated that Aileen Terrace is unique and should be considered its own neighborhood, not the outer reaching homes on Eastern Point. It is congested; the structures are closer to the street where the lots narrow and there are no multi-story accessory structures located in view corridors.

Most of Mr. Alvarez’s living space is located on the side of the house that faces the applicant’s property, Mr. Wright asked “what if there were no windows on that side” and Attorney Mack indicated that would be better but the large structure would still be imposing and impose on Mr. Alvarez’s privacy. Mr. Wright reminded Attorney Mack that he himself acknowledged that the garage is not going to affect his view. As well, Attorney Mack indicated the view of passersby; pedestrians on Eastern Point Boulevard would also lose the view across 7 Aileen Terrace.

John Harden, Architect, comes before the board as an architectural consultant for Mr. Alvarez’s opposition. He spoke to the form and definition of the neighborhood in question; he indicated that it

dictates the shape of the lots, which are triangular; the usage of these yards inverted if you will, with the “front yard” being behind the homes to afford spectacular views of the ocean.

Structures near the water are intentionally low; the zoning ordinance asks for that so views are not impacted. There are structures of this nature on Mr. Alvarez’s property as well as the property at 8 Aileen Terrace and another property abutting the opposite side of 7 Aileen Terrace near the water and they are all low if not visible at all when looking toward the ocean. If you look at the placement of the garage being discussed it is over 2.5 times the height described in the Ordinance. During Mr. Harden’s presentation, he referenced a Site Plan for the property dated April 2016. Attorney Stevens objected to this indicating the plans are not relevant to the application before the board. The board noted the objection and Mr. Harden continued his presentation.

Also speaking in opposition:

Ann Haley, 5 Aileen Terrace, not against a garage, against the placement of the garage.

Patricia Freeman, 7 Aileen Terrace is also against the placement of the garage as it is a terrible disruption of the view. It is also a loss of privacy.

Attorney Stevens returned in rebuttal and stated that there were several miss-statements, which he addressed.

Mr. Gardner asked whether the old garage was going to stay where it is or be demolished and the answer was there is no plan to remove it. Mr. Gardner then asked if there was any consideration of putting the garage on the application where the garage on the property is now; it would impede flow to the property given the narrowness of the entrance of the driveway especially access for emergency vehicles. Mr. Wright asked why they did not move the garage closer to the house thereby negating the need for relief from the zoning board.

Mr. Wright motioned to continue the meeting to December 14, 2017 so the board can digest all of the paperwork and letters submitted regarding this application and Mr. Gardner seconded the motion and encouraged both sides to sit down and have a meaningful conversation in an effort to reach a compromise that both sides can live with.

Vote of the board: Continued to December 14, 2017.

New Business:

732 Washington Street:

Mr. Wright recused himself. Mr. Gardner assumed the Chair. Attorney Deborah Eliason presents before the board with architect Robert Henneman. The applicant grew up in this home, his parents purchased it in the early 1960’s; his elderly parents have moved and he has purchased the home to keep it in the family. He would like to modernize and renovate the home to accommodate extended visits from his parents. There was conversation with the board regarding setbacks, non-conformities and the requests on the application. Robert Henneman, Architect for this project reviewed the plans for this renovation and answered questions from the board.

No one spoke in opposition of the application

Five letters of support received for the application.

Vote of the board: Granted.

Voting in favor: Mr. Nimon, Mr. Walcott, Mr. Parisi, Ms. Reimer-Nicholosi, Mr. Gardner

101 Western Avenue:

Mr. Gardner recuses. Attorney Eliason presents before the board with the owner, Richard Maybury for a change in use application. Members of the audience waiting for this hearing invited to stand behind the board to view the presentation. There are no changes to interior or exterior of the structure; the change of use request requires the need for this application. The present permitted use is for six offices yet at this time the first floor being used for offices; the second and third floor are being used as one residential dwelling, which is inconsistent with the current permit. The building is for sale and the owner wants to bring the structure into compliance with zoning.

A conversation was held and it was determined that this application would need to be re-advertised as the description previously advertised does not cover what is being requested in the application.

Mr. Wright motioned to continue the hearing to December 14, 2017 and properly advertise the application, Mr. Gardner seconded.

Vote of the board: Continued to December 14, 2017.

Board Discussion:

Discussion of Rules of Procedure continued to next meeting.

Mr. Nimon motioned to adjourn and Ms. Reimer-Nicholosi seconded.

Adjourned at 10:05 p.m.