



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., December 14, 2017
Kyrouz Auditorium, City Hall

Board Members Present: Francis S. Wright, Chairman
David B. Gardner, Vice Chairman
Joseph Parisi, III
Sage Walcott
Alternates: Kris Howard
Adria Reimer-Nicholosi

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

New Business:

Mr. Wright proposes a different way of conducting meetings; the vote will be called by seniority. The Clerk will call the roll, and the Chair will vote last.

Old Business:

None

Continued Business:

33 Commercial Street: The petitioner submitted a request to withdraw the application, without prejudice. Mr. Parisi motioned to accept the withdrawal and Mr. Gardner seconded the motion.

Continued Hearings:

952 Washington Street: Continued to January 11, 2018.

8 Aileen Terrace: Attorney Nathaniel Stevens introduced Attorney Michael O'Neil, who will be before the board this evening on behalf of Ms. Snider.

Mr. Wright indicated that there are procedural rules pending regarding submission of information deadlines. These are in review by the City Solicitor. This evening the board will hear the presentations by both sides and the hearing will be closed to further comment and submissions. Mr. Gardner motioned to close the public hearing after presentations and Mr. Parisi seconded.

Attorney Michael O'Neill addressed the board; Ms. Snider has been responsive to her neighbors concerns, there is a new proposal with revised plans to present to the board this evening, the garage is closer to the applicant residence; further away from Mr. Alvarez's property and home. It is 7 feet closer to Ms. Snider's house. Windows are removed from the side of the structure facing Mr. Alvarez's

property and home. This revised proposal is consistent with the neighborhood in which nearly all homes have a garage on the property.

No one spoke in support of the application this evening.

Attorney David Mack representing Mr. James Alvarez of 7 Aileen Terrace indicated that the revised plan does not address a structure of this size in this location. It does not fit the character of the neighborhood, as Mr. O'Neill stated. While design is one component of the neighborhood, it is not the only component. While a building looks nice or like other buildings in the area, it does not mean it fits the character of the neighborhood. Mr. Wright asked where in the Gloucester Zoning Ordinance character is indicated as an argument. Mr. Mack quoted Section 3.1.6 which addresses height. While Ms. Sniders team has revised her plans, during the time between these meetings his firm has proposed other structures where she can have the same size, height and dimensions, in two other locations on her property. The only zoning relief that would be needed with these locations and that his client would support is that the structure would need to be between the main house and the street, which Attorney Mack indicated is in keeping with the character of this particular neighborhood.

Speaking in opposition:

Attorney Damon Seligson of DiNicola, Seligson & Upton, Boston, Ma on behalf of abutters Jack & Anne Haley, when a new person moves to a neighborhood they move into a scheme that exists. His client was denied a permit when he wanted to expand his garage and change the pitch line. He was also told not to apply to Zoning because the scheme does not allow it. That request was much less than what is requested in this application. This board cannot act arbitrarily, cannot act in a whimsical way and if they look at that denial which suggests there is a scheme in place, this is a request to violate that scheme and he requests that the board deny this permit.

Eban Moulton, 126 Eastern Point Blvd. A resident since 1988. Mr. Moulton has seen houses renovated over the years in this neighborhood. A 24' garage pushed toward the ocean is the wrong idea and he should not have to look at it when he walks by or is boating on the point.

Attorney Mack returned to the podium, he would like to submit a copy of the slides relative to the PowerPoint presentation he was going to give which Chairman Wright accepted.

Attorney O'Neill, in rebuttal, stated the proposal before the board this evening was submitted to Attorney Mack approximately one month ago. As well, Attorney Mack spoke to proposals that require variances; this is something that cannot be assumed. He forgets that he has heard no objection from the yacht club, which is a direct abutter, and they could certainly object to the issue of density but they have not. As to the statement made by Mr. Haley's attorney, they found no formal denial to renovate his garage and they are not clear whether the garage in this application is visible to either Mr. Haley or Mr. Moulton.

Mr. Parisi motioned to close the public hearing and Mr. Gardner seconded the motion.

Continued to January 11, 2018 at which time the board will render a decision.

101 Western Avenue:

Mr. Gardner recuses himself. Attorney Deborah Eliason presents to the board with the owner, seeking a special permit for an alteration of a non-conforming structure, a special permit to allow lesser off street parking spaces as well as a change in use permit. There will be no interior or exterior changes to the property. There will be dimensional changes to the front, side and rear yard setbacks.

The first floor of the building is currently office space and the second and third floors are used as a residence. In 1997, a special permit was granted to change the use from all residential to office. The owner is selling the building and the potential buyer wants the second and third floor for residential purposes. The sale is contingent on this. There have been several permits issued over the years including a permit to subdivide the lot in 1986. In 2006, a special permit was granted; the third floor was expanded and a deck added. Section 4.1.1, Section A, states a requirement of one parking space for one residential unit, which already exists on site.

No one spoke in favor of the application.

Brenda Waslick, 6 Perkins Rd, Opened by stating that at the last meeting a parking question was posed that shows that Mr. Maybury is out of touch with the neighborhood, as he did not even know the name of Perkins Road. For over 5 years, he has rented an illegal apartment without regard for any of the laws of the City of Gloucester. Perkins Road has been designated a private road for over 30 years; residents adhere to a cooperative resident sticker parking system; spaces are marked on the sidewalk. Five "No Parking" signs are posted; since Mr. Maybury purchased the property, he has been reminded many times by neighbors and maintains it does not exist. Residents need to balance their daily needs with encroachment this included events held on Stacy Boulevard, Stage Fort Park, the local pizza shop at the corner of Perkins Road, tourists that choose to ignore the No Parking signs. This includes renters in the illegal apartment. She also noted that this apartment has also been advertised as a Bed & Breakfast.

Patty Naggs, 10 Perkins Rd, 20-year resident, she seconds what Brenda Waslick stated; parking is a very critical issue for this small street.

Paul Ciaramitaro, 11 Perkins Rd, parking is a constant issue, a war, between football games and events at the high school and events on the Boulevard. There are problems all the time down there.

Linda Rose, 3 Perkins Road, she has asked people renting the apartment in 101 Western to move out of her assigned spot and been given attitude and told "too bad". She provided the board with photographs of what Perkins Road looks like; it shows the numbered parking spaces as well.

Nancy Adams, 8 Perkins Road parking is too difficult as it is; as well, it is a one-way road, which makes parking harder.

Diane Gillis, 9 Perkins Road, she agrees with the previous speakers that parking is a big problem in the neighborhood. This is a nice community of people that work together to take care of their road.

Attorney Eliason in rebuttal took a moment to review the photographs submitted by Ms. Rose. She stated there is no denying there is a parking issue on Perkins Rd, perhaps much of it is from the business, which will reduce with the change to less offices on the first floor and one residence above. Applicant and the potential buyer, who is present this evening as well, are willing to agree there is to be no parking on Perkins Rd.

Mr. Sanborn asked about the offices, how many are there on the first floor. Are there six different businesses or six offices used by one business? He believes when originally permitted it was for Mr. Maybury's business use, not as rentals to other businesses. The question was then asked if Attorney Eliason knows how Perkins Road is zoned, she believes it is as a private way but does not know if it is by an Association. Mr. Sanborn indicated there have been assigned parking spaces down there for 50 years.

No discussion by the board.

Vote of the board: Granted

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

Voting in opposition: Mr. Wright

New Business:

7-11 Gould Ct:

Attorney Wilhelmina Sheedy presents to the board for the applicant. The application is to confirm/change a two family use to a three family use so that all proper permits are in place. Mr. Sanborn gave a background regarding City Council and Zoning Board of Appeals decisions for this property and in general, that are unclear or missing from this time-period. It cannot be verified if this dwelling was ever approved as a three family unit. Mr. Wright suggests a condition that the empty lot between the two structures cannot be built up and Mr. Sanborn suggested merging the lots together into one property. This property was recently purchased by the applicant, in 1989 a special permit and variances were granted to the property to convert the property from a two to a three family use; however unable to find that decision in City Council records. There would be no changes to property outside, there are seven parking spaces available, two parking spaces per unit are required and this is a three unit building.

No discussion by the board.

No one in support or opposition.

Mr. Parisi recalled the previous appearance before the board and feels this is merely paperwork; housekeeping if you will.

Vote of the board: Granted

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

28 Wolf Hill Rd:

Attorney John Cunningham presents before the board, one of the applicants is also present. The same footprint will be used with a new entry area added. The height of the home will increase; however, it will remain under the city height standard. The applicants have met with as many neighbors as possible. Letters of support have been emailed. A garage at the front of the lot is non-conforming; this will be repaired but it will not be removed.

Mr. Wright asked if there was a position as to whether this is an increase in non-conformity and Attorney Cunningham indicated, it could be as the building will be taller and bigger but the footprint will remain the same.

No one in favor or opposition.

Vote of the board: Granted

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

5 Hillside Ct:

Attorney Sal Frontiero presents before the board with Sean Griffin buyer of the property and the current owner, Anita Wolovik. Mr. Wright asked if this is one of the lots involved in a recent ZBA decision and the response was, “no it is not”, it is part of a large purchase but not one of the lots recently combined. The lot lines remain the same, no changes. The existing structure will be razed. A new structure will be built in its place and there would be no change in the footprint.

Photographs of existing conditions presented for board review as well as plans for the proposed changes. The lot is non-conforming in several respects, the topography is steeply sloped and there is significant ledge toward the back. The applicant also wants to place a shed at the rear of the property as noted on the plans provided. Mr. Wright reviewed the plan with Attorney Frontiero to confirm that the board is looking at the correct orientation of the plans. Mr. Sanborn asked why not asking for a front-yard setback variance if the building is getting closer to the frontage. If moving the building closer to the frontage it changes the lot width and would need to request the setback. Discussion ensued regarding whether Deadrick applies in this instance.

No one spoke in opposition.

Speaking in favor: Anita Wolovik, 15 Hillside Ct, when she purchased the property she was seeking buyers that would keep the character of the property and area; she supports this project completely.

Vote of the board: Approved

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

1 School St:

Attorney Mark Nestor presents this evening for the applicant. The request is for a special permit to convert an existing basement storage area into a studio apartment and variance/special permit for relief from a requirement to add off street parking. Mr. Wright asked where occupants park their vehicles now. The response is that most of the residents do not own cars.

Mr. Parisi asked for clarification, the request is to go from 25 to 26 units and the application states 20. Attorney Nestor stated that is an error in the application.

No one spoke in favor or in opposition.

Vote of the board: Approved

Voting in favor: Mr. Gardner, Mr. Parisi, Mr. Walcott, Ms. Reimer, Mr. Wright

51 Nashua Ave:

Attorney Mark Glovsky presents before the board this evening, the owners are not present. Jonathan Poore, Architect is also present. The property was purchased in 2001; it had been renovated in 1989, and was mostly used as a seasonal home. In 2016, fire from an electrical failure destroyed the lower level and construction in coastal flood zones is limited by FEMA.

The neighbors were notified and many have provided letters of support for the project.

No one spoke in favor or opposition.

Mr. Sanborn asked about the basement in the new addition, where will the basement floor be, Jonathan Poore replied it is outside the flood zone level as required by FEMA; they do not know the depth they will go to, yet.

Vote of the board: Approved

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

After reading the required Executive Session preamble, Chair Francis S. Wright stated, "I hereby announce that the roll call vote for Executive Session is 6 in favor 0 opposed. We shall now convene into Executive Session and will not reconvene as public meeting has ended."

The Executive Session was convened at 9:22 p.m. and was ended at 9:37 p.m. by roll call vote. No other motions were entertained during the Executive Session.

By unanimous consent, the Zoning Board of Appeals voted to adjourn Executive Session and reopen the public hearing in the Kyrouz Auditorium.

Roll call: Mr. Gardner, Mr. Parisi, Mr. Walcott, Ms. Reimer, Mr. Howard, Mr. Wright

Mr. Parisi motioned to adjourn the public meeting and Mr. Howard seconded.

Meeting adjourned 9:40 p.m.