



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 P.M., May 10, 2018
Kyrouz Auditorium, City Hall

Board Members Present: David B. Gardner, Chairman
Joseph Parisi, III, Vice Chairman
Sage Walcott

Alternates: Kris Howard
Adria Reimer-Nicholosi

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

Previous meeting minutes of April 12, 2018 submitted for review. Mr. Howard motioned to accept the minutes as written and Mr. Parisi seconded the motion.

Old Business: Reminder of Site visit at 116 East Main Street at 9:00 a.m. on Saturday, May 12, 2018.

New Business: The Chair appointed Kristopher Howard as a Board Member to fulfill the term vacated by Francis S. Wright.

Continued Business:

5 Cleveland St: Attorney Mark Nestor presents for the applicant, AB Trinity Realty LLC seeking a special permit for storage and repair of automobiles to operate a livery service. The board received a packet with photographs for review 48 hours prior to the meeting; they were also provided to Attorney Joel Quick who is representing opposing abutters. Attorney Nestor reviewed the information before the board. The property is zoned as General Industrial; it, straddles Residential on Cleveland and Arthur St and then goes to Commercial on Sargent & Cleveland St. There are 39 trains scheduled on weekdays from 4:00 a.m. to 1:00 a.m. and 14 trains scheduled on weekends from 4:00 a.m. to 1:00 a.m. The property consists of .25 acres of land. There will be no cabs parked off the property; two shifts operate; the first shift is from 4:00 a.m. to 3:00 p.m. and the second shift from 3:00 p.m. to 1:00 a.m.

The only vehicles serviced on the property would be the cabs; there would be no other vehicle repairs. When operational the garage doors will remain closed to minimize noise. No smoking, idling or congregating etc. would be allowed by the livery service.

Special Permit factors to consider under 1.8.3 reviewed by Attorney Nestor as well he outlined the services provided by Gloucester Taxi to the community, it is a passive entity, and there would be no machinery operation and no public access. The impact on traffic flow on Cleveland Street would be negligible as there is already much commercial and residential traffic in this area.

Attorney Nestor received a petition about two hours ago from Attorney Quick and he objects due to lack of time to read and react to it and requests the board not to consider it, as it is procedurally inappropriate. If the board does consider it, he will address it in his rebuttal.

Mr. Parisi asked if this livery service were to only run the service and not do repairs to automobiles would this permit request be different and whether or not the Licensing Commission has a role in this. Attorney Nestor indicated that there is no role for Licensing Commission regarding location only cab and requirements of a livery service. Mr. Sanborn indicated that the Licensing Commission does also have to approve the location. Mr. Sanborn clarified the ordinance and inclusion of the Licensing Commission.

Mr. Gardner asked to clarify there are ten vehicles with shift change two times daily 4:00 a.m. to 3:00 p.m. and 3:00 p.m. to 1:00 a.m. then the vehicles are parked. Mr. Sanborn suggested that noise regulations be noted. Mr. Gardner asked when work on vehicles would be performed. Attorney Nestor replied “no work would be done on premises between 1am & 8am.. When asked how long the building has been there the response was it is a newly constructed building on what was previously a vacant lot. There is a 6-foot tall chain-link fence on Cleveland St side.

Mr. Parisi clarified the number of cabs would be 10 and that is what they are licensed for. As well there are three livery vehicles licensed.

No one spoke in favor of the application.

Speaking in opposition:

Attorney Joel Quick for James & Robin Sabinelli direct abutters to the property. A letter submitted in April stated this is not an appropriate place for this use. It is a small lot; he would like a site visit by the board. It is not an appropriate location for this use; there are houses all around it on small lots, many families and children, he asked for a show of hands of people in opposition, the chairperson indicated yes he would request that after his presentation.

Attorney Quick stated he felt this was an incomplete application. A site plan was not submitted; there is no representation of parking areas etc. that should be shown on site plan, nothing is known about the other tenant/occupant of the property, as there is no floor plan for the building. He questioned where employees would congregate at beginning and end of shifts; how will the business be conducted on a daily basis, is there enough office space to perform these duties. Will drivers be congregating outside during shift changes? Where is signage going to be?

He also questioned whether Section 5.19 is applicable in this situation; he submits that looking at the use table, Section 2.3.4.11, which the application was filed under; it points to Section 5.21. Section 2.3.4.11 is “motor vehicle service, fueling, storage and repair”. Section 2.3.4.10 “motor vehicle sales & rental” also points to Section 5.21, which is for residential common driveways. He is uncertain why these point to something regarding residential common driveways and respectfully suggests it should be pointing to 5.19, location of motor vehicle services. This section is very clear, there are no

exceptions, the entrance must be located 25 feet from a residential property, and this must reflect on a site plan of which there is not one with the application. As well, he feels there needs to be a site plan review, he bases this on Section 5.8.2 of the Gloucester Zoning Ordinance. In November of 2016, there was a site plan review by the Planning Board, which indicated installation of a sidewalk was required in front of the building. To date, there is no sidewalk in front of the building and he presented photographs showing such.

Attorney Quick then addressed the criteria the board needs to look at in order to decide if the use is proper. There will be a shift change at 3:00 p.m., when kids are walking home from school, the gate makes terrible noise when opening and closing. What time will it open and close 1:00 a.m. or 2:00 a.m.? The trains start at 5:00 a.m. and stop at midnight, not at the times previously stated by Attorney Nestor. This is the only “quiet” time” residents have and with the addition of the gate noise, this time will be decreased. The social and economic criteria was addressed by Attorney Nestor this evening but not in the application. Attorney Quick feels the neighborhood character will be disrupted, this will be creating a new nuisance in the neighborhood. He encouraged the board to do a site visit and as well, send to the planning board for site review and site visit; if the board does consider this application this evening he encourages them consider not allowing use in this location.

The Chair asked for a show of hands of those in opposition as requested earlier by Attorney Quick there was a show of hands as follows: 13 total: 5 on Cleveland, 5 on Arthur St, 1 on Sargent St and 2 on streets not directly abutting.

Rob Benjamin of AB Trinity, owner of the building, came forward and stated his landscaping company is the other occupant of the building. He wanted to direct his statement to Gloucester Taxi and the residents of the area as well as the board. Mr. Benjamin is aware of the concerns of neighbors regarding the possible effects on the neighborhood; he reassured the neighbors he would not tolerate any negative effects on the neighborhood and stated, should this application be granted he will offer a one-year lease to the livery service. If he feels there are valid negative issues he retains the right not to renew the lease after the one year trial period. He will treat this neighborhood as his own as he spends a significant amount of his time there as well.

No one spoke in favor of the application.

Speaking in opposition:

Carla Delaporta, 9 Cleveland St, a direct abutter to the property. She stated Mr. Benjamin is an extraordinary neighbor and if he says he will do something, he will do it. That being said, she has concerns, which have been voiced directly to Mr. Benjamin and she is seeing an enormous outburst of opposition from neighbors she holds in great esteem. She has struggled with her ability to be as neutral as possible in this situation, knowing she had purchased property next to an Industrial/Commercial property. This is about the livery service and them not being a good fit with the neighborhood, she trusts Mr. Benjamin, she does not trust the livery service with anything, she recalled a visit from someone representing the taxi company and the duplicity involved in that visit and the statements made during that visit. There is no straight answer to opening and closing hours. If the bars in town do not close until 1:00 a.m. how can the taxi company close at 1:00 a.m., they would still be out taking people home from the bars.

She then read a list of concerns from abutter at 11 Cleveland St, Patrick Barry, who was out of town and unable to attend the meeting: His concerns included, traffic issues including the fact that traffic is

heavy already. Limited parking already for neighbors; taxis coming and going all day and night. Taxis parking where neighbors park, children going to and leaving school and the playground. As well, at the corner of Cleveland & Arthur Streets, the residents have lost four parking spaces to make way for wide turns required by tractor-trailer trucks coming and going.

Melissa Miller, 11-H Cleveland St, there is a bus stop in front of her house that drops off at 3:00 p.m. and also concerns when children get out of school around 2:00-2:30 and will be walking up the street. She wondered where the employees of the company would park given the loss of parking as previously noted.

In rebuttal Attorney Nestor returned to the podium; he reiterated; 5 Cleveland St is an industrial area surrounded on two sides by industrial areas. The area is already heavily trafficked. He noted there is a train that goes through Gloucester at 1:14 a.m. on its way to Rockport; there is another that leaves Rockport at 4:55 a.m. heading toward Gloucester, the gate goes up and down each time these trains pass by. His understanding is that a site plan was not required as the general public is not being served at this site. Two years ago, when before the planning board, they indicated if there is a drain, a sidewalk is not required. There is a drain, hence no sidewalk. In answer to where working drivers would park most drivers are dropped off, no cars to park.

Mr. Parisi stated his initial concern is where will everything fit, the space inside the building cannot accommodate 10 vehicles parked inside. There needs to be an accounting of where 13 vehicles will park, he is not thrilled with the thought of them all against the neighbors fence. Would it be four in front, four to the back and four between fence & garage, two spots designated in front and the livery vehicles will be inside. Would there be at eight vehicles against the fence that runs along abutting properties. The noise of starting vehicles, doors opening and closing, talk, etc. is a concern. If livery vehicles are the only ones inside, is garage door electric or manual. How is communication between vehicle and dispatch handled; each vehicle has a radio. If a vehicle is there, calls will be coming over radio if running. Conditions considered include restriction to vehicles owned by corporation worked on and stored there, no idling, no work on company vehicles after 8:00 p.m.

Mr. Gardner feels the issue is the property abuts a residential area and many people have appeared tonight in opposition. It is an appropriate use of the property but would require draconian restrictions on the property and also an issuance of a 1-year special permit with requirement to have applicant return in a year to see if conditions are followed, etc. subject to renewal after the one-year period.

Mr. Howard agreed another meeting would be a good idea; the opposition attorney made good points.

Building Inspector had reviewed and discussed with Planning Director and felt that a Site Plan was not required at that time.

Mr. Parisi would like to see a site plan that is more up to date than the one provided in the application, it should account for parking of the 13 vehicles. Attorney Nestor had no issue with that and agreed to provide one.

Mr. Parisi moved to continue the hearing to June 14, 2018, seconded by Mr. Howard.

Vote of the board: Continued to June 14, 2018 hearing.

New Hearings:

4 Lands' End Ln: Horace Turner, Architect presents for the applicants, requesting a special permit to expand and convert the home to a two family dwelling. The applicant's family comes from California and this will afford them a place to stay and create a living space for long-term care in the future.

No one spoke in favor of the application.

No one spoke in opposition to the application.

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

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

Vote of the board: Approved

15 Pearl St: Christian C. Fisher, principal of Ten Gates Development. Reviewed ownership of the property, the type of property and zoning thereof. He spoke of the need for affordable housing near transportation/train. He introduced Lynne Sweet of LDS Consulting to go over the project.

Ms. Sweet reviewed the 40B process and as well, where Ten Gates stands in the process. Received Mayoral support and has meet with planning department to review plans. Seven rental units, all studio units, with community space and laundry on first floor. Existing out buildings removed and area landscaped. Will generate income for the city. Four of the seven units will be "affordable"; 40B only requires two. They will be requesting Veterans preference for the four units as well as to grant a 70% local preference from DHCD.

Mr. Gardner asked about the cost of rental, how \$1,400 monthly is considered affordable. The rent of the units would be much less; starting at \$950 for an affordable unit. This would not include utilities. Would the number of people per unit be restricted? The intention is to have units occupied by one person per unit.

Ten Gates is proposing two tandem parking spaces on-site for a small fee per month, there is on-street parking available.

Mr. Sanborn asked about the rents, is Ten Gates expecting to use Section 8 funding or is this self-funded? The financing for the property is coming from a bank loan at 1.5 million dollars and CPA funds have been requested to cover the rest of the costs. There is no project-based subsidy but the hope is that lower income applicants will come.

Architect Mark Dooling stepped forward; he asked if the board had a set of plans prior to his review, all members did have those plans. At rear of building, there will be a bump out where the sheds are now located, these sheds will be removed. The building will be outfitted with sprinklers throughout. The top floor has rooms that have poor headroom; shed dormers will be added to provide the same living space that occurs in the lower floors. The rear stairs will be in the "bumped out area" for a

second means of egress. All windows will be replaced; openings for windows will remain the same. The neighborhood is residential with mixed use.

Mr. Sanborn asked if the building interior would be gutted, yes. Stairs that, at this time, are too narrow will be widened. It is unknown if it is balloon frame structure? Heating system question deferred to Mr. Fisher to answer. Is the bottom floor apartment, handicapped accessible? Yes.

Mr. Sanborn asked if an outside firm would be used as a Code Consultant, the response was, "no". A Code assessment was started by original architect however has not and most likely will not be completed. Mr. Gardner asked if the outside of the building would be replaced, the existing siding is metal, it will be repaired but not replaced. The windows will all be replaced as they are not in good condition.

Lynne Sweet returned and indicated that the building will be fully sprinkled; it will be handicap accessible on the first floor, If this permit is granted there will be a regulatory agreement filed with the registry as well as a deed rider demonstrating the long term affordability of the four units. All seven units will be counted on the City's subsidized inventory even though only four are affordable. She asked if there were any more specific questions regarding the developer or development. There were none.

Ms. Sweet went forward with the waiver list review as well as conditions placed on the project. Mr. Gardner noted there were a number of waivers requested and stated most are self-explanatory, the issues the board may look at initially would be the time issues, on the last 40B application counsel was hired to advise the board. He stated the board would have a discussion regarding the application and determine if there are any questions they need to seek advice on and to cover all the bases.

Mr. Parisi has reviewed the waivers and stated most of the procedural waivers were ones normally granted in a comprehensive permit, he did as procedurally regarding the general waiver request for town fees, do they come from another source as this board cannot spend the City's money. This waiver was not approved with the last 40B.

Gregg Cadematori Planning Director stepped forward; he did not provide written comment, as he knew he would be present for this hearing. This project is very much aligned with the recent housing production plan that was developed and approved by the State last year. The site as shown by the application and confirmation by DHCD of its appropriateness for affordable housing and housing in general has been confirmed. The Mayor's office submitted a letter of support for the application to DHCD during the eligibility part of it and from the perspective of the size of the units and compliment to the housing stock it was widely supported by the administration. This is a fairly simplistic project compared to other construction or renovation projects that have come before the board in the past.

Mr. Gardner spoke of the last 40B project that came before the board and the conditions attached to it, these conditions are for the applicant and the neighbors as appropriate and become incorporated into the final decision.

Speaking in opposition:

Ronnie Roberts, owner of 18 Pearl Street. He stated he was not notified of this hearing, only learning of it due to a sign on 15 Pearl Street stating there was a meeting this evening. His concern is traffic on a

busy two way street. There is no parking available on the street. This is the toughest part of having a business on this street, it is difficult at the least.

Bill Brantley, 25 Pearl St, he parks on the street and he will not let anyone else park there, no one can park there. He is frustrated having to deal with people parking and going into the businesses on his street. Where are they going to put all the construction vehicles when the project starts? He will not cannot deal with it.

Lynne Sweet indicated she would like to discuss where the construction vehicles would park during the process of renovation in relation to Mr. Brantley's concern, Mr. Gardner indicated she would be able to address that at the next public hearing for this application. Ms. Sweet stated that this hearing must be continued to a specific date under Mass General Law and Mr. Gardner indicated he was aware of that and would, of course, do that.

Mr. Parisi asked if Ms. Sweet would be drafting the agreement and she responded, "Yes".

Mr. Parisi motioned to continue the public hearing to June 28 and hold public hearing for board discussion only on June 14, 2018 Mr. Walcott seconded the motion.

A motion to adjourn was made at 9:23 p.m., by Mr. Parisi; Mr. Howard seconded.

Adjourned