



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

ZONING BOARD OF APPEALS
Meeting Minutes
7:00 PM, August 9, 2018
Kyrouz Auditorium, City Hall

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

Alternates: Adria Reimer-Nicholosi
Michele Harrison

The Chairman called the meeting at 7:00 pm.

Approval of Minutes:

None.

Old Business:

Petition of Simon Paddock, 65 Mt. Pleasant Avenue- the office location in the initial plans has changed to the rear of the house, with all other aspects of the application remaining the same.

The Board felt it to be a minor change and allowed the alteration of the plans.

New Business:

None.

Continued Hearings:

116 East Main Street

This hearing was originally heard on 4/26/2018, but was continued several times so that the Petitioner could negotiate with the neighbors.

Salvatore Frontiero, Esq. of Frontiero Law Office, P.C., with offices at 46 Middle Street, Gloucester, representing the Petitioner, Bevilacqua Co., Inc.

Relief requested:

- 1) Variance for front yard setback
- 2) Variance for rear yard setback
- 3) Variance for side yard setback

Attorney Frontiero discussed the several changes that had been made to the proposed plan, eliminating the need for many of the original requests for relief. The only relief now needed were variances for front, rear and side yard setbacks in order to allow the Petitioner to appear before the City Council for additional relief.

Dan Ottenheimer, of Mill River Consulting, addressed the Board, letting the members know that the proposal now consisted of two structures, each with four units, instead of the original three-structure proposal. He also noted that there would be a recreational area behind the units so that it would be hidden from the street. Mr. Ottenheimer also stated that the plan now proposed a completely separate entrance on East Main Street from the original proposal, which was to share an entrance with Richdale's next door, as this was a big concern for neighbors.

The architect for the project, Bill Nolan, then spoke about the design of the structures, and his efforts to design units that fit in with Gloucester's aesthetic. Mr. Nolan discussed the efforts to appease the neighbors (i.e. reducing the height, eliminating two of the three originally proposed balconies).

Mr. Ottenheimer then spoke further about the Petitioner's attempt to work with the neighbors, noting that the original plan had proposed three buildings with a total of ten units, and was now down to two buildings and a total of eight units. Further he stated that the buildings would be set back from East Main Street by 65', which was also changed due to neighborhood concerns.

In Favor:

Rob Russell, of 40 Rockport Road, Gloucester, spoke in support of the project as a whole, noting that it would be beneficial to the City.

Joel Favazza, Esq., of Seaside Legal Services, with offices at 123 Main Street, Suite 301, Gloucester. Attorney Favazza represents the seller of the property, Son, LLC, and stated that the property had been on the market for over one year, and the Petitioner's offer was by far the best to date. Further, Attorney Favazza noted that the only serious offers were residential developers with far more intrusive plans than the Petitioner's.

Greg Sacker, of 50 Pleasant Street, Gloucester, stated that he was in support of the project and happy that the property wasn't going to be another failing restaurant. Mr. Sacker noted that he drives by the property multiple times per week and it is an eyesore to the East Gloucester neighborhood. He also commended the Petitioner for making the efforts to please the surrounding residents.

Mark Prenus, of 86 Witham Street, Gloucester, stated that he was happy that the property wouldn't be another failed business, and felt it was good for the City to have the additional housing.

Judy Conlin, of 40 Rockport Road, Gloucester, stated that she was strongly in favor of the project and thought the new architectural design was tasteful and appropriate for the neighborhood.

Opposition:

Brenda Maloy, of 43 Rocky Neck Avenue, Gloucester, was concerned about the precedent that a project of this scale would set for the City. Ms. Maloy stated that if a lot can only fit three units, then it should only be allowed to have three units, not eight units, as is proposed.

Mary Ann Boucher, of 93 Mt. Pleasant Avenue, Gloucester, stated that she agreed with the comments made by Ms. Maloy and thought this project would cause a domino effect throughout the City. Ms. Boucher also argued that the people who spoke in favor of the project are not from East Gloucester, and so wouldn't be as affected by the project.

Maria Valenti, of 103 East Main Street, Gloucester, stated that she has lived on East Main Street for twenty-five years. She also felt that this project was not in line with the City's Housing Production Plan, as it would not be providing the affordable housing that is so necessary in the City. Ms. Valenti also argued that the project would cause more flooding across East Main Street than already exists and increase the water rates. Lastly, Ms. Valenti stated that she had no problem with the design of the proposed buildings but felt that it did not fit in with the neighborhood character that currently exists.

Reverend Richard Emanuel, of 149-153 East Main Street, Gloucester, proposed that the Petitioner withdraw its application without prejudice. He felt that the lot should have three units on it and not eight. Reverend Emanuel stated that a project of this magnitude would have serious ramifications if approved and promoted an unwarranted change in gentrification.

Amanda Nash, of 8 Exchange Street, Gloucester, stated that she was not necessarily opposed, but had reservations about the project. Ms. Nash requested that in exchange for the approval of the variance requests that the Petitioner be mandated to add an additional affordable unit in one of the buildings.

Linda Amero, of 3 Stanwood Terrace, Gloucester, stated that the reason why tourists come to our City is because of its unique and beautiful characteristics and not because it is full of cookie-cutter condos everywhere. Ms. Amero felt that the design did not fit in with the neighborhood, and that the units would be too expensive for the average person/family to afford.

Ellen Solomon, of 8 Haskell Street, Gloucester, stated that she was opposed to the project for reasons already stated by others. She further argued that traffic in East Gloucester is already bad enough and this would only make it worse. She suggested that a traffic study be conducted prior to the approval of this project.

Dorothy Batchelder, of 14 Pilot's Hill, Gloucester, stated that she was the primary abutter to the property and was very concerned that her property lines would be infringed upon should the Board approve the project. Ms. Batchelder also wrote a letter in opposition, which was made a part of the record.

Keith Trefry, of 8 Davis Street and 139 East Main Street, Gloucester, stated that he thought the project was "too many, too big," and that if the lot is supposed to fit three units, it should only be allowed to have three units.

The Board noted that there was a total of seventeen people in opposition at the hearing.

Rebuttal:

- 1) Attorney Frontiero responded to the precedent argument by stating that each application before the Board is to be analyzed separately, as each individual property is unique.
- 2) The Zoning Ordinance allows up to a three-family dwelling on a 10,000 square foot lot, and the project before us will be eight units on a 30,000 square foot lot.
- 3) Attorney Frontiero noted that the Petitioner was being portrayed as greedy with the size of the project, when in fact he was taking a very large risk. There was also talk about the affordability of the units, and Attorney Frontiero noted that the market affordability in the City was no fault of the Petitioner.
- 4) Concerns about gentrification and traffic are up to the City Council to determine and are not in front of the present Board. Attorney Frontiero also noted that the amount of traffic caused by the project will be far less than if the property remained commercial. He also stated that there were to be twenty-three parking spaces for eight units, so there should be no concern about off-street/guest parking.
- 5) In response to the main abutter's concern regarding her property being encroached upon, Attorney Frontiero assured her and the Board that he was asking for variances and there would be no encroachment on anyone else's property.

Discussion by the Board:

- 1) The Board felt that the neighbors' concerns had been addressed quite thoroughly with the revised plans (i.e. building height, density, parking, traffic, vegetation, closeness to the street, etc.) and that the Petitioner had made significant efforts to work with and please the neighbors.
- 2) The Board also felt that with the revised plans the project would be an improvement to the City and provide necessary housing stock.
- 3) The topography of the lot clearly proves to be a hardship, warranting the requested variances.

- 4) Letters of support, written by Diana Fey and the Cape Ann Local Housing Committee, were read into the record.
- 5) A letter of opposition, written by Dorothy Batchelder, was also read into the record.

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Board Members Voting (In Order):

In Favor → Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, and David Gardner

New Hearings:

31 Beachcroft Road

Robert L. Visnick, Esq., of Cape Ann Law, with offices at 11 School Street, Rockport, representing Petitioners, Evan and Margaret Starbard.

Relief Requested:

- 1) Special permit to alter/expand a non-conforming structure/use
- 2) Variance for side yard setback

Attorney Robert Visnick requested that the Board grant a special permit to alter/expand a non-conforming structure/use and variance for a side yard setback to ratify and confirm an already existing porch extension. The Applicants received a building permit for the demolition and reconstruction of their porch in the same footprint that had already existed on the property. However, there was confusion as to where the property setback lines began since the Petitioners own two adjoining lots, separated by a right of way, which they believed they could include in the setback calculations. Therefore, the construction crew built the porch 2-3' further into the setback than the original structure had been, inadvertently violating the Zoning Ordinance. Attorney Visnick explained that this had not been a malicious act, but in fact was an innocent mistake on the Petitioners' behalf. Attorney Visnick argued that there would be a substantial financial hardship placed on the Petitioners should they be required to remove the structure as it now stands.

Attorney Visnick then made mention of the ten letters of support that were submitted with the application from the surrounding neighbors, and stated that the additional 2-3', while it was more non-conforming, was not substantially more detrimental.

In Favor

Two sets of neighbors, both living on Beachcroft Road, spoke in favor of the Petitioners' application stating that they felt the Petitioners were doing great things with the property and had no issues with the existing porch.

Opposition:

None.

Discussion by the Board:

- 1) The Board felt that the standard to be applied was that the application must be viewed as if the porch hadn't already been built, but instead, as if the Petitioners were before the Board for the first time requesting the additional setback relief, as opposed to asking for the relief after the fact

- 2) The Board felt that requiring the tear down of the existing porch would be a financial hardship on the Petitioners, and additionally the lot shape and size would make it difficult to put the porch anywhere else on the property

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Board Members Voting (In Order):

In favor → Michael Nimon, Joseph Parisi, Kris Howard, Michele Harrison, and David Gardner

Adria Reimer-Nicholosi recused herself from the matter.

10 Joseph's Way

John LeVie, a contractor with offices at 49 Parker Street, Gloucester, representing Petitioners, Michael and Marny Powers.

Relief Requested:

- 1) Special Permit to alter/expand a non-conforming structure or use

The Petitioners are requesting a special permit to alter/expand a non-conforming use/structure so that they may demolish the existing structure on the property and reconstruct anew to include space for their aging in-laws in the home. The new structure would be further from the street and would bring the property 4' closer to meeting the side setback requirements.

In Favor:

None.

Opposition

Judy Cavagnaro, of 8 Joseph's Way, Gloucester, the direct abutter to the property stated that she wasn't necessarily in opposition of the project, but was concerned about blasting in the area, as her home is approximately 6' away from the proposed structure. Ms. Cavagnaro also stated that she had not heard directly from her neighbors about the project, nor did she see any plans, and so would like to know more about the proposal before the application were voted on.

Eugene Limone, of 6 Joseph's Way, Gloucester, stated that he was also worried about the project, given that the road had just recently been replaced, and he wouldn't want it ripped up again for this project. He also stated that the parking situation on the street was very tight and this would only exacerbate the issue.

Discussion by the Board:

- 1) The Board felt strongly that Mrs. Cavagnaro should be more informed about the project before the application went any further, and suggested to Mr. LeVie that she be privy to the plans
- 2) The Board also felt that the proposed structure could be moved further away from the neighbor's house, and this should be discussed with the Petitioners

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Decision by the Board:

A motion was made to continue this matter until the August 30, 2018 hearing so that the plans could be revised and shared with the surrounding neighbors.

9 Bertoni Road

Wilhelmina Sheedy, Esq., with offices at 76 Main Street, Rockport, representing Petitioner, Leanora Swekla.

Relief Requested:

- 1) Special Permit for a new use or change in use

Attorney Sheedy stated that the Petitioner was the aging owner of the property, and in order to be able to age in place, would like to convert her single-family home into a two-family residence so that family could live with her on the premises. The house as it exists now is not up to many of the municipal codes, has asbestos on site, and contains very small rooms. The proposed structure would be a tasteful two-story colonial-style home, with only 19.5% lot coverage, which is much less than what is required by the Zoning Ordinance. Additionally, the proposed structure would eliminate the need for a front yard setback, as is the case with the existing structure, as it would be setback much further from the road. Attorney Sheedy also noted that there would be plenty of space for parking on the property and a two-family home would fit in appropriately in the neighborhood. Lastly, Attorney Sheedy presented a petition signed by twelve abutters who were in favor of the project.

In Favor

None.

Opposition

None.

Discussion by the Board:

- 1) The Board felt that the project would in fact be more non-conforming, but not any more detrimental, and met all criteria set forth in the Zoning Ordinance.

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Board Members Voting (In Order):

Kris Howard, Adria Reimer-Nicholosi, Michael Nimon, Joseph Parisi, and Sage Walcott

14 Woodward Avenue

Joel Favazza, Esq., of Seaside Legal Solutions, with offices at 123 Main Street, Suite 301, Gloucester, representing Petitioners, Edward and Eileen O'Connor.

Relief Requested:

- 1) Special Permit to alter/expand a non-conforming structure or use; and
- 2) Special Permit for a new use or change in use

Attorney Favazza stated that the Petitioners would like to convert their single-family residence into a two-family residence so that their child and grandchildren could move into the home, somewhat alleviating the high costs of maintaining their home. Attorney Favazza stated that Mr. O'Connor was on disability with a very limited income, and having his child move in to help out with the financial stressors would be very helpful and would prevent the Petitioners from having to sell their home.

There was discussion between Attorney Favazza and David Gardner regarding the very narrow road that the home sits on, and the concerns of causing more traffic. Attorney Favazza stated that the child and grandchildren currently travel to and from the home on a daily basis, as the Petitioners provide childcare for their grandchildren, and that the expansion to the home would not cause anymore traffic than already exists. Attorney Favazza also stated that the Petitioners have plenty of off-street parking as of right, so that would not present to be an issue either.

Discussion by the Board:

- 1) The majority of the Board ultimately felt that the traffic on the road would not be increased by much, if any, and that the Petitioners had more parking than most residents on the road; and
- 2) The Board felt that the lot was big enough for such a modest expansion, and was generally in favor of adding additional housing to already-existing structures

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Board Members Voting (In Order):

In Favor → Michael Nimon, Joseph Parisi, Sage Walcott, and Kris Howard

In Opposition → David Gardner

35 Norwood Heights

Mark Glovsky, Esq. of Glovsky & Glovsky, with offices at 8 Washington Street, Beverly, representing Petitioners, John Curtis Perry and Sarah Hollis Perry.

Relief Requested:

- 1) Special Permit to alter/expand a non-conforming structure or use;
- 2) Variance for front yard setback;
- 3) Variance for rear yard setback; and
- 4) Variance for lot area

Attorney Glovsky stated that the Petitioners propose to divide their existing lot containing 54,394 square feet into two lots. Lot 1 is to contain the existing 4,500 square foot dwelling, and Lot 2 will contain a new 1-bedroom 1,875 square foot cottage connected to the existing non-conforming garage, which is located 6.5' from the lot's frontage. While the proposed Lot 1 will contain well over the 20,000 square foot requirement for lot area, the proposed Lot 2 is to contain only 14,563 square feet. Attorney Glovsky argued that increasing the lot area of Lot 2 would prove to be more complicated, requiring much more relief than the proposed project, including changing the location of the driveway and access to the lots. Attorney Glovsky also argued that keeping the front area of Lot 1 with the larger lot/house made more sense aesthetically.

In Favor

Herbert Wilkins, of 24 Norwood Heights, Gloucester, stated that he has lived across the street from the Petitioners for fifty-one years, and was very much in support of their proposal. Mr. Wilkins felt it was desirable to preserve the old home and also helped limit the opportunities for development in the future.

Jocelyn Ramella, of 21 Norwood Heights, Gloucester, stated that she was present on behalf of herself and her neighbor, Doris Brust, who was 95 years old and unable to attend the hearing personally. Ms. Ramella stated that Ms. Brust would like to see people her age stay in the neighborhood and hoped that the project would go through. Additionally, speaking on her own behalf, Ms. Ramella stated that the Petitioners cared about the neighborhood design and character and were always very respectful of the environment.

John Harington, of 19 Norwood Heights, Gloucester, submitted a letter in support and read it into the record.

Sarah Hollis Perry, of 35 Norwood Heights, Gloucester, spoke on behalf of her application noting that her husband and parents grew up in Annisquam and both she and her husband had hoped to age in place, as their parents did before them. However, because of their age, it has

become difficult to maintain such a large property by themselves and would hope to keep the property for their family. Mrs. Perry also stated that she and her husband were now at the age where they need to down-size and live on a single level home but would also like to remain in their neighborhood.

Opposition

None.

Discussion by the Board:

- 1) The Board was quite concerned and very hesitant to grant the variance for lot area, as the Petitioners had the space available to divide the lots so that both could comply with the lot area requirements;
- 2) The Board was also worried about future subdivisions of the larger lot; and
- 3) The Board was in favor of the project as a whole, but wanted to see a bit more effort in getting the smaller lot closer to the requisite lot area

Board Members Present:

David Gardner, Joseph Parisi, Michael Nimon, Sage Walcott, Kris Howard, Adria Reimer-Nicholosi, and Michele Harrison

Decision by the Board:

A motion was made to continue this matter until the August 30, 2018 hearing so that plans could be revised to get the smaller lot closer to the 20,000 square feet required by the Zoning Ordinance.