

Town of Ipswich

ZONING BOARD OF APPEALS

Meeting Minutes April 29, 2021 @ 7:00 p.m.

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Local News, a newspaper of general circulation; the Ipswich Zoning Board of Appeals held a meeting on Thursday April 29, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, in accordance with the Governor's 3.12.20 Order suspending provisions of the Open Meeting Law to promote public health and safety and social distancing during the public health emergency. Members tuned in were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Rob Clocker and new member Elliot Posada. Also, Administrative Assistant Marie Rodgers.

Citizen Queries: There were none.

Continued Public Hearing:

23-25 Jeffreys Neck Road, David and Patti Ganley and Ben and Meg Ganley request two Special Permits and/or Variances pursuant, but not necessarily limited to, Sections XI.J., XI.K, II.B.3. and Table of Dimensional and Density Regulations Footnote 2, to reduce the right side yard setback from the existing dwelling at 25 Jeffreys Neck Road and to reduce the left side yard setback from a proposed dwelling at 23 Jeffreys Neck Road, both from a proposed common division/property line between the dwellings and both by no more than 50% of the required. In addition, Ben and Meg Ganley request a third Special Permit and/or Variance pursuant, but not necessarily limited to, Sections XI.J., XI.K. and Table of Dimensional and Density Regulations Footnote 2 to reduce the front yard setback from a proposed dwelling at 23 Jeffreys Neck Road by no more than 10% of the required. Property located at Assessor's Map 31B, Lots 006 and 006C in the Rural Residential A (RRA) Zoning District. (Continued from November 2020; and January, February and March 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 9:48 p.m.

The Petitioners were present and represented by Larry Graham of HL Graham Associates. He explained the Petitioners decided to postpone their early stage building plans and withdrew their request for relief for the side yard and front yard setback for a proposed dwelling #23. He reviewed revisions in the plan dated 4/8/2021; reduction of the side yard setback of twenty feet by no more than 50 % under footnote 2 from the existing dwelling to the proposed property line as shown in plans dated 4/8/21.

Chairman Gambale clarified the relief would allow for the lot line to get closer to the structure. He disagreed with that move, and opined that the bylaw was not intended to extent the entire lot line. It would make the existing dwelling more non-conforming.

Discussion took place concerning the required upland under the bylaw, the existing non-conformity of the structure on the lot, became non-conforming with changes in the bylaw. The Board reviewed footnote 2 section VI Table of Dimensional & Density the pre-existing non-conforming structure with an inadequate setback of thirty one feet

Mr. Fierro reviewed the Special permit criteria and applicant is seeking relief to be in compliance for the Planning Board to approve an ANR to create two lots from three.

Discussion took place concerning process and procedure; this Petition would require all four votes for an approval, and require a super majority; three of four votes would only be a majority. In response to Mr. Graham's query, a fifth member who previously sat in on this petition has left the Board.

Mr. Graham consulted his client regarding the options and agreed to withdraw the petition and will refile, advertise start over with the new member could vote. The Petitioner agreed.

On behalf of his client Mr. Graham requested the Board withdraw the petition.

MOTION:

Mr. Fierro moved the Board, at the request of the Petitioner to withdraw the Petition without prejudice. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Supplement Information from Graham Associates, INC dated 4/8/2021

25 Pleasant Street, Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct eight (8) age-restricted for-sale dwelling units of which 25% (2 units) would be subsidized for low to moderate income use. (Map 41B Lot 043) (Continued from August 2018; all of 2019; all of 2020; January, February 2021 meeting)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:32 p.m. Attorney Paul Haverty MHP consultant for the Board was present.

Attorney Paul Ross was present to represent the applicant. He reviewed the recent submittals (hereby incorporated by reference)

Storm water design will address run off from the roof and hard scape to underground infiltration systems or rain gardens depending on the site. The engineers design is pending and landscape will be resubmitted depending storm water design.

Chair Gambale initiated discussion concerning the size of plantings proposed five to six feet at time of planting, expecting twelve inches of growth a year.

A photometric plan was submitted and lights were discussed. A story pole has flag set for top of ridge and a second flag is set to show the height of the eve line. Attorney Ross polled the members for the view of the false gable facing Blaisdell Street majority opined without dormer and facing Pleasant Street with a gable.

Pavers were discussed. Attorney Ross assured the Board the storm water management system will be in compliance with well head district requirements.

The Board would like to see more mature trees along the fence line and numbers assigned to the waiver list in a word document. Attorney Ross will submit a complete package when the storm water design and mirror the application that was submitted in July of 2018.

Chair recognized Kathleen and Ted Spinale, 27 Pleasant Street; Julie and Dan O'Leary, 23 Pleasant Street; Paul Nordberg, 19 Pleasant St was recognized and deferred to Timothy Corrigan , 16 pleasant Street; Laura Smith, 86 Little Neck Road.

A partial list of concerns were about size of trees, story pole, definition of rain gardens, stakes identifying corners of buildings; amount of open space, unit size, enforcement of the final decision by the building inspector, creating a no parking zone; water regulations, density reduction.

Attorney Ross requested to continue to the May 20, 2021 meeting and granted an Extension of Time to May 27, 2021.

The Board discussed scheduling a site visit for Saturday May 8th @ 9:00 a.m. on site.

Documents submitted: Requested Waivers 20pgs; Revised Front building Elevations; New Landscape Design Plan; Landscape and Site Improvements Sample Photos; Photometric Lighting analysis; revised wall sconce Catalog cut sheet. April 27, 2021 email from Vicki Halmen re waivers; April 27, 2021 email from Vicki Halmen re water supply protection districts; April 28, 2021 email from Karl Mayer with copy of the Front of building B without the false gable and patio pavers.

66 Labor-In-Vain Road, Miranda M. Updike, Trustee of the Mary P. Weatherall Realty Trust requests a Variance pursuant, but not necessarily limited to, Section VI - Dimensional and Density Regulations for area relief to allow the creation of lot having less than the one acre minimum required per Section VI. Property located at Assessor's Map 43B, Lot 2A in the Rural Residence (RRA) Zoning District. (Continued from January, February and March 2021) Chairman Gambale read the legal notice and re-opened the public hearing at 8:37 p.m.

Attorney Chris J. Thornton was tuned in and spoke to his letter submitted dated February 4, 2021. The Board discussed and agreed to grant the request to withdraw the petition.

MOTION:

Mr. Fierro moved the Board grant the Petitioner's request to withdraw his petition. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board Requested by Chris J. Thornton, Esq. in an email dated 3.15.2021

New Public Hearings Continued from March 18, 2021:

178 Argilla Road, Marlin & Allison Shearer request a Special Permit and/or Variance pursuant, but not necessarily limited to, Sections XI.J, XI.K and IX.J to construct an accessory apartment in a single family dwelling. (Assessor's Map 44, Lot 3), located in Rural Residence (RRA) Zoning District. (Continued March 18, 2021)

Chairman Gambale read the legal notice and opened the public hearing at 8:48 p.m. The Petitioners were tuned in. Plans were reviewed. The front door to the proposed accessory apartment is existing.

The Petitioners were present to explain their proposal to convert an existing au pair suite to an accessory apartment. The dwelling is an existing single-family home. The 2.228 acres lot is in the RRA District. The proposed accessory apartment would consist of two floors for a total of approximately 880 square feet in area. There is an existing separate entrance in the front of the house that will be used solely for access to the apartment. A second means of egress will have to be created at the rear of the home. A three-bedroom septic system currently serves the dwelling.

There were no objections or comments from members of the public.

The Petitioners then agreed to all seventeen conditions as set forth in the Zoning Protective Bylaw IX J. relative to Accessory Apartments. No commercial use is allowed; no Airbnb.

The Board found that it could grant the relief sought pursuant to Section IX J. to grant a special permit for the alteration of an existing single-family dwelling to include an accessory apartment, as the dwelling was located in a residential district.

At the recommendations and direction of the building inspector, the Petitioners will abide to the one hour fire separation wall between the existing home and the apartment and will provide a second egress.

The Board discussed the special permit criteria:

MOTION:

Mr. Fierro moved the Board finds the petition meets criteria in XI.J 2. a and b. Since this is a new petition, Mr. Posada will vote. Mr. Vlahos seconded the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant the Petitioner's request for a special permit for an accessory apartment not to exceed 900 square feet as referenced on plans titled Shearer House 178 Argilla Road; subject to submission of an updated first floor plan identifying a second means of egress. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documentation

123 High Street, Trustees of Currier Park Condominium request three Variances pursuant to, XI.K but not necessarily limited to, Sections VI.A to allow for the creation of a single family lot at 123 High street containing 9,075, where 10,000 SF is required; to allow the creation of a multi-family lot at 2-4-6 Currier Park containing 8,623 SF, where 19,000 SF is required; and to reduce the left side yard setback to four feet, where ten feet is required. (Assessor's Map 30B Lots 9A, 9B, 9C and 9D) located in the Intown Residential (IR) zoning district. (Continued March 18, 2021)

Chairman read the legal notice and opened the public hearing at 8:57 p.m. Attorney Miranda Siemasko was present representing Sacco, Chapman, Mackey for three variances separating the existing multifamily from a single family house. In 1989 the Planning Board granted a special permit for a three unit condominium constructed the single family house has fallen in to disrepair and deteriorate. The expenses are no longer shared equally and the three condominium owners are finding it a hardship dealing with Mr. Korkaris. He owns the single family house stands alone. It has impacted ability to acquire insurance and to market at a fair market price.

Lengthy discussion ensued regarding the condominium association procedures, standard condo documents and the arbitration provisions.

Attorney Siemasko spoke to the building inspector, who insisted that in addition to the four foot no-build, there be an additional six feet. Chairman asked for reasoning for not allowing the sub-division more space even between the single family and the three units, Attorney Siemasko said, Mr. Korkaris is not willing to do that.

Discussion ensued concerning the hardship for variances. The deterioration of the single family seems self created. The three unit owners have no ability to repair Mr. Korkaris property. It has caused significant devaluation of their properties, this situation has no end in sight. Three owners suffer harm from not their doing and they have no ability do take any action to remedy.

Mr. Korkaris was the developer; he owned one large lot. He went to the Planning Board in 1989 and received a special permit for a four unit condominium, with one unit being the house, to utilize the entire lot. The request is the to allow for the creation of a single family lot at 123 High street containing 9,075, where 10,000 SF is required; to allow the creation of a multi-family lot at 2-4-6 Currier Park containing 8,623 SF, where 19,000 SF is required; and to reduce the left side yard setback to four feet, where ten feet is required. Mr. Korkaris does not reside in the single family house.

Attorney Siemasko assured the Board that the owner of the single family has granted permission and agree to the application in its entirety.

Chair advocate for the addition of more land back to the three condominiums.

Procedure was discussed briefly.

MOTION:

Mr. Fierro moved the Board grant the request of the petitioner to grant a variance and to allow for the creation of a single family lot at 123 High street containing 9,075; a variance from section VI Table of Dimensional & Density in the In Town Residential (IR) District. Mr. Posada seconded, the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant the request of the petitioner to grant a variance for relief under section VI Table of Dimensional & Density in the In Town Residential (IR) District to allow the creation of a multi-family lot at 2-4-6 Currier Park containing 8,623 SF, a variance from section. Mr. Posada seconded, the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant relief sought by the petitioner from section VI Table of Dimensional & Density in the In Town Residential (IR) District for a variance to allow the reduction of the left side yard setback to four feet, at 246 Currier Park for multifamily and proposed lot division line for a single family house lot at 123 High Street. Mr. Posada seconded, the motion passed with a four to one vote; Fierro, yes; Vlahos, yes; clocker, yes; Posada, yes; and Gambale, no.

At about 10:00 p.m. the Chair announced this would be the last hearing. He announced the following petitions would be continued to the May 20, 2021 meeting at 7:00 pm. Via Zoom;

8 Sunset Drive,
17 James Road,
2 Roberts Road
411 Linebrook Road,

1 Bowdoin Road, Charles Clapp Esq. request a Variance and/or Special Permit pursuant, but not necessarily limited to Sections, X.I.J, X.I.K., and VI Table of Dimensional and Density Regulations Footnote 2 to reduce the front yard setback of the principal dwelling for the construction of a second floor, screened in porch. (Assessor's Map 15D, Lot 20A), located in Rural Residence B (RRB) zoning district. (Continued March 18, 2021)

Chair Gambale read the legal notice and opened the public hearing at 9:56 p.m.

The Petitioner was present represented by his attorney Charles Clapp who explained the proposal for a second floor screened in porch; encroaching 4-feet into the front setback. 1 Bowdoin is the last house on the dead end road; he described support of the neighborhood and limited impact. The lot is long and narrow, the lot coverage would be 20% no increase in height.

Chairman Gambale spoke to ZBA historically has not granted relief for setbacks in RRB district.

Discussion ensued regarding the existing five decks on the house. The Petitioner spoke to his lot shape and inability for he and his wife to sit outside in the summer due to no-see-ums, or biting midges as soon as it gets dark, they are all over the property. The other decks on the house are too small to sit out on. Attorney Clapp cited the hardship is the shape of the lot is long narrow and unique; limited to 30-feet The Board cited the definition for hardship to grant a variance.

Mr. Clocker spoke to the Petitioner's claim that he may own half the road; if he could provide documentation he may not need relief.

The Petitioner requested to continue to the next meeting in order to conduct more research to determine property line extending half way into the roadway.

MOTION:

Chair Gambale moved to grant the Petitioner's request to continue to the public hearing to the 5/20/21 meeting, at 7:00 p.m. via Zoom conferencing. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

2 Warner Road, Thomas & Susan Cornacchio request two Special Permits and/or Variance pursuant, but not necessarily limited to Sections, X.I.J, X.I.K. Also, II B. 2, for relief from the side setback requirement, of no greater than 50% of the required to construct a detached accessory structure greater than 750 square feet (1,708 s.f.) (Assessor's Map 52D Lot 004) located in the Rural Residential A (RRA) Zoning District. (Continued March 18, 2021)
Chairman read the legal notice and opened the public hearing at 10:28 p.m.

The Petitioners were present to explain their request for an accessory barn in excess of 750-square feet to work on antique boats, no commercial use; the neighbors are supportive, it meets all the setback requirements; no bathroom, no water service electricity only. The loft will cover a little more than one half of the space.

The Board discussed the surrounding neighborhood, screening was discussed and the Petitioner agreed to plantings to provide some screening. The barn would be located 65-feet back from Warner Road and there will be no driveway leading up to it.

The Board reviewed the criteria under VI.F.

Motion:

Mr. Fierro moved the Board make the finding the barn meets all the criteria set forth under VI.F a-e. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Discussion was held and review of the criteria under section XI.J Special Permits 2.a and b.

Motion:

Mr. Fierro moved the Board make the finding that it conforms to section XI.J 2. A & B. Mr. Vlahos seconded the motion passed unanimously with a roll call vote.

Discussion took place regarding the required setbacks; after reviewing the plans and assurances from the Petitioner, the Board determined that no setback relief was necessary.

Motion:

Mr. Fierro moved the Board grant the Petitioner's request for relief from the Protective Zoning Bylaw specifically Section VI.F Accessory Structures to construct an accessory barn greater than 750 square feet, no greater than 1,708 square feet and no higher than 30-feet in height; subject to the grass area in front of the garage remain grass, not paved and no driveway, no heat or water to the building electricity only as indicated on plans titled Circle Bard company dated 2/10/21 for Thomas & Susan Cornacchio, 2 Warner Road, Ipswich, MA 01938; the lean-to area shall not be enclosed, and plantings will be planted for screening from Warner Road. Mr. Posada seconded, the motion passed unanimously with a roll call vote.

Approval of Minutes:

Mr. Gambale moved the Board approve meeting minutes from 2/18/21 – 2/25/21 – 2/25/21 executive session – 3/18/21 – 3/25/21 and 4/15/21. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

Chairman Gambale announced the applicant’s request to continue 16 Chattanooga Road, Hamdi Kozlu requests a Special Permit and/or Variance Property located at Assessors Map 23D, Lot 002 in the Rural Residential B (RRB) Zoning District. (Continued from Nov. 2020; January, February, March 2021)

Hearing continued the June 17, 2021 meeting @7:00 p.m. via zoom.

Documents and exhibits used by the Appeals Board: Petition and associated documents; 1.12.2021 –email letter Amy Porter, 15 Chattanooga Road; Thomas J Larson, 14 Chattanooga Rd; Michael Karpa 12 Bunker Hill Rd. Email dated 4.28.2021 from HL Graham request to continue to June 17, 2021 meeting..

Adjourn - It was moved, seconded and unanimously voted to adjourn at 11:11 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved by the Board as submitted on May 20, 2021.

Pursuant to the ‘Open Meeting Law’ the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements