

Town of Ipswich
ZONING BOARD OF APPEALS

Meeting Minutes

May 20, 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 May 20, 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:

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; and January 2021 meeting February, March and April 2021)

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. Attorney Ross spoke to upcoming documents and reports for the June meeting. He reviewed the recent site visit; the solid fencing along the abutters at 27 Pleasant Street; new plantings of arborvitae will be shown in landscape plan to be submitted; the strip of town land to remain grass with granite curb; the height of a retaining wall between the two buildings will be four to four and one half feet. The Board suggested a mansard roof or hip roof, discussion ensued; the two buildings may have a different look.

The Chair recognized Kathleen Spinale, 27 Pleasant Street who spoke in favor of a mansard style roof, the house previously on the lot had a mansard roof. She spoke to the fencing continuing along the entire lot line, to the back of the property; she expressed concerns about tree damage and asked for floor plans.

Chair Gambale asked Attorney Ross to provide floor plans.

Ted Spinale, 27 Pleasant Street suggested to remove trees and replace with new trees along the lot line; he indicated he was in favor of the mansard roof.

Julie O'Leary 23 Pleasant Street expressed her delight, saying the process is making a better project; the mansard roof is a good idea, she likes the flowering trees. Discussion took place regarding the light pole.

Paul Nordberg 19 Pleasant Street spoke to the process for further review of the storm water by town's engineer Vickie Halmen.

As there were no further comments Attorney Ross requested to continue to the June meeting and will provide an extension of the 180 days past the June 17, 2021 meeting. Mr. Haverty opined extensions month by month were acceptable.

MOTION:

Chair Gambale moved to continue the public hearing to the June 17, 2021 meeting at 7:00 p.m. via Zoom, unless otherwise posted. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

1 Bowdoin Road, Charles Clapp Esq. request a Variance and/or Special Permit pursuant, but not necessarily limited to Sections, XI.J, XI.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 and April 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:58 p.m. The Petitioner was present represented by his attorney Charles Clapp.

In response to comments made at the last meeting, whereby the Petitioner claimed that he may own half the road. The Petitioner commented there is no precedence for owner ship midway to private Bowdoin Road; his project meets the neighbors support; he perceives his 70-foot wide lot to be a hardship, he has no desire for future gain, he plans to remain in his home the rest of his life and his kids will inherit the home. He spoke to the existing balconies too shallow to sit and his fight to control mosquitoes; the current decks are for air flow and esthetics.

The Board determined a variance would be required and concluded there was no unique soils, shape or topography. The Board historically has had to apply the regulations and cannot ignore the law.

Attorney Clapp cited case law for dimensional variances, the courts have found a lesser standard for hardship can be applied.

Attorney Clapp argued when its dimensional relief the threshold for variance is lower when the relief is minimal. Gambale spoke to the RRB district with it variations in elevations, the lot is not unique and mosquitoes and midges plague the entire Neck area.

Attorney Clapp argued the narrow lot, with a 30-foot house on 1/3 acre we do meet criteria for shape. He assured the Board it would not be setting precedent, there are letters of support from neighbors, the point of the public hearing is to vet objections and no one has objected, they would agree to a deed restriction, they would agree to limit future growth. Petitioner reiterated there was no objection from the neighbors, they want the Board to grant, so they can get away from the bugs, too; and they will be invited over his house, to do so.

In response to the locus map shown on the screen the Board agreed the lack of uniqueness of size and shape of the petitioner's lot. The Board determined lack of hardship.

There were no objections from abutters or others.

MOTION: Mr. Fierro moved to close the public hearing. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board deny the Petitioner's request for a variance as set forth in his petition. Mr. Gambale seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documentation. Donohoe Survey, Inc PROPOSED PORCH EXTENSION 1 Bowdoin Road dated 2/11/2021; Support from 2 -4-6-8-10 and 12 Bowdoin Rd, 2 Clark Rd, Donohoe Survey dated 2/11/21 titled Proposed porch extension; 2nd floor plan A2; elevation A3; existing 2nd floor plan EX2; existing east elevation EX3;

New Public Hearings Continued from April 29, 2021:

8 Sunset Drive, Ryan McShera for Jeffrey Fraser requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K., VI.F and Table of Dimensional and Density Regulations Footnote 2 to reduce the right side yard setback for an addition (2,288 square feet) by no more than 50% of the required setback and rear yard setback by 19.7 feet. Property is shown on the Assessors Map 52B Lot 49 in the Rural Residential A (RRA) Zoning District. (Continued from April 29, 2021)

Chairman Gambale read the legal notice and opened the public hearing at 9:36 p.m.

The Petitioner was present to explain his proposal to reduce the rear yard setback from 50.8-feet to 31.1 –feet where 30-feet is required, to construct an addition to an existing nonconforming building, located on a nonconforming lot for a single family home built prior to the adoption of the Ipswich Zoning Bylaw. The right yard setback would be reduce by 50% from 39.4 feet to 20.8-feet. The lot does not meet the minimum dimensional criteria for lot size, frontage or width. The existing home does not comply with dimensional requirements of the front yard setback on both left and right side of the building.

The Board found the existing non-conforming building is eligible for relief with a special permit from this Board. The Board discussed whether relief could be granted pursuant to Section II. B. 2.

There were no objections from abutters or others. The Board reviewed the criteria.

MOTION:

Mr. Fierro moved that the Board make the findings 1-6 as set forth in section XI.J for the special permit criteria. Mr. Vlahos seconded. The motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from the provisions of Ipswich Protective Zoning Bylaw Section VI, Table of Dimensional and Density Regulations to reduce the right yard setback no closer than 20-feet for the purpose to construct an addition subject to the minimum of five feet distance from the primary structure to the shed and stair overhand pediment be less than 24-inches as well as the overhang on the garage be less than 24-inches as referenced in plans titled Fraser Residence 8 Sunset Drive dared 3/22/2021. Mr. Posada seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application.

Chair asked the Board members for an end time; the consensus was to stop the meeting at 10:30 p.m.

17 James Road, Timothy & Kathryn Tolios requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K., VI.F and Table of Dimensional and Density Regulations Footnote 2 to reduce the left side yard setback for an addition to expand a bedroom by no more than 50% of the required setback. Property is shown on the Assessors Map 28A Lot 69 in the Rural Residential A (RRA) Zoning District. (Continued from April 29, 2021)

Chairman Gambale read the legal notice and opened the public hearing at 9:02 p.m. The Petitioner was present to explain their proposal to expand their bedroom and reduce the left side yard setback.

The Board reviewed the deficiency in the existing setbacks, rendering the house legally existing non-conforming.

MOTION:

Chair Gambale moved the Board find the structure is non-conforming. Mr. Fierro seconded, the motion passed with a roll call vote.

Discussion ensued regarding how the addition would look.

The Board found the need for more information to determine whether it will be compatible with the neighborhood, the siding, and location of windows. The Petitioner indicated there will be no change to the look, he plans to upgrade the siding for the whole house, and the addition would match in color. The Board found it needed more detail. The Petitioner agreed to provide additional information and requested to continue to the June meeting.

MOTION:

Mr. Fierro moved to continue the public hearing to the June 17, 2021 meeting at 7:00 p.m. via Zoom, unless otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application.

2 Roberts Road, Elisabeth Cox requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, X.I.K., VI.F and Table of Dimensional and Density Regulations Footnote 2 to reduce the left and right side yard setback for an addition of a pool and deck by no more than 50% of the required setback. Property is shown on the Assessors Map 28A Lot 69 in the Rural Residential A (RRA) Zoning District. (Continued from April 29, 2021)

Chairman Gambale read the legal notice and opened the public hearing at 9:15 p.m. The Petitioner and her husband were present to explain their proposal for an above ground pool.

The Board and the Petitioners discussed the size of the pool and deck area and determined lot coverage was not an issue.

The Board discussed existing setbacks, the lot is a corner lot with two fronts and two sides, no rear and deficient in front setbacks (27-feet on Roberts Road rather than the required 50-feet)

MOTION:

Mr. Gambale moved the Board find the structure is non-conforming. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

The Board and the petitioners discussed the location of the pool and deck and setbacks thereto. An accessory structure setback in RRA is 20-feet and can be reduced 50% to ten-feet. Screening was discussed at length. The 8-foot stockade fence will be maintained, the large tree in the corner will remain and the petitioners agreed to plantings along the fence. No one spoke in objection.

The Board reviewed the criteria for granting a special permit.

MOTION:

Mr. Fierro moved the Board find that the applicant has met all the criteria under XI.J. 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 to reduce the right side yard setback no closer than ten-feet for the installation of swimming pool and deck in accordance with two pages of hand drawn plans subject to screening along Charlotte Road intersection of two side lot lines to add screening for the deck and relief to both side lot lines no closer than ten-feet; plantings along Charlotte Road end of property within the front end setback of Charlotte Road. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application.

411 Linebrook Road, Dustin Rantala requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, X.I.K., VI.F and Table of Dimensional and Density Regulations Footnote 2 to reduce the right side yard setback for the addition of a barn by no more than 50% of the required setback. Property is shown on the Assessors Map 37B Lot 21 in the Rural Residential A (RRA) Zoning District. (Continued from April 29, 2021)

Chairman Gambale read the legal notice and opened the public hearing at 9:48 p.m. The Petitioner was present to explain their proposal for an addition to their barn. Discussion took place between the Board and petitioners regarding the location of the addition, distance additional relief from the side yard setback. Direct abutter at 411 Linebrook Road Louis Lemanski questioned the additional relief to get closer to the lot line and suggested alternatives. The Board asked for additional information floor plan and photos all sides of the barn. Mr. Lemanski and the petitioners agreed to allow ZBA members on their property.

The Petitioners requested to continue to the June 17, 2021 meeting.

MOTION:

Chair Gambale moved to continue the public hearing to the June 17, 2021 meeting at 7:00 p.m. via Zoom, unless otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documents; ZBA decision from 1988 w/plan of land dated 8/5/80; emails from Louis Lemanski, 411 Linebrook Road dated 4.28.21 and 4.30.21; email and inspection letter from ACO Megan Sousa dated May 3, 2021

New Public Hearings scheduled for May 20, 2021 continued from April 2021.

32 Broadway Ave, Ryan Turner requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, and XI.K - VI.F and Table of Dimensional and Density Regulations. Also, II B. 3 to reduce the right side yard setback from the existing 8-feet to proposed 5-feet which 50% of the required 10-feet to construct a new back porch and stairs into the back yard. Property is shown on the Assessors Map 41B Lot 108 in the In Town (IR) Residential Zoning District.

Chairman Gambale read the legal notice and opened the public hearing at 10:15 p.m. The Petitioner was present to explain the relief requested to demolish and re-construct (seven) stairs and (5'x8') landing. It is the second egress for the house and is unsafe. Currently, it does not meet the setback requirements. The homeowner would like the stairs to face the back yard, instead of the front of the house.

The lot does not meet the minimum dimensional criteria for lot size or width. The existing home does not comply with dimensional requirements of the front yard setback on both left and right side of the building.

MOTION:

Mr. Fierro moved the Board find the structure is non-conforming. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Discussion continued concerning drawings showing the distances of the existing structure and proposed; the Petitioner indicated that he is confident that there is ten-feet. The decision will be condition that a revised correct plan be submitted.

There were no abutters or others speaking for or against the proposal.

Board reviewed the special permit criteria.

MOTION:

Mr. Fierro moved find the proposal meets all the criteria under XI.J. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant the petition as requested for a special permit to reduce the right side yard setback no closer than five-feet for the construction of stairs and landing, subject to the petitioner submitted a modified plan showing the side setback for both existing and proposed stairs and landing. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application.

The time was 10:31 p.m. the Board agreed to end the meeting and continue the rest of the petitions.

7 Fifth Street, Vincent & Julie Martineau requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K, VI.F and Table of Dimensional and Density Regulations. Also, II B. 3 to reduce the rear yard setback from existing 21-feet to proposed 15-feet to construct an addition less than 50% of the required 20-foot setback. Property is shown on the Assessors Map 41D Lot 016 in the In Town (IR) Residential Zoning District.

Chairman Gambale read the legal notice and moved to continue the public hearing to June 17, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, or otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

2 and 4 Winter Street, Winter Street Realty Corp. Kevin Babineau, requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K.,II.B Non-conforming Uses and Structures, II.B2 change to another non-conforming use; II.B.2 Extension of a non-conforming structure/use and II.B.3d.5 Reconstruction of a fire damaged non-conforming structure, for renovation and expansion of the existing 11 room motel rooming house into a 13 unit multifamily residential building with 11 efficiency units and 2 one bedroom units. Property is shown on the Assessors Map 41D Lot 067 in the Industrial (I) Zoning District.

Chairman Gambale read the legal notice and moved to continue the public hearing to June 17, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, or otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

231 High Street, Joseph & Sonali Suslak, requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K for relief of the left side yard from existing 52.6-foot setback to proposed 40-foot no more than 50% of the required setback of to construct an attached garage and additional living space. Property is shown on the Assessors Map 20D Lot 030 in the Rural Residential A (RRA) Zoning District.

Chairman Gambale read the legal notice and moved to continue the public hearing to June 17, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, or otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

246 High Street, Dimitri Aggelakis requests a Special Permit and/or Variance pursuant, but not necessarily limited to Sections, XI.J, XI.K and V. Use Regulations to expand existing non-conforming business by providing service of beer and wine underneath the existing seasonal tent. Property is shown on the Assessors Map 20D Lot 0061 in the Rural Residential A (RRA) Zoning District.

Chairman Gambale read the legal notice and moved to continue the public hearing to June 17, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, or otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Approval of Minutes:

Chair Gambale moved to accept minutes as submitted for 4.22.21 4.29.21 and 5.5.21. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:35 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved on June 17, 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.