

Town of Ipswich

ZONING BOARD OF APPEALS

Meeting Minutes

June 17, 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 June 17, 2021 at 7:00 p.m. remotely via Zoom Video Conferencing, in accordance with the Governor's amended Order 6/16/2021 suspending provisions of the Open Meeting Law (G.L. c. 30A, § 20) expired on June 15, 2021 to promote public health and safety and social distancing during the public health emergency. Members present were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Rob Clocker and Elliot Posada. Also, Administrative Assistant Marie Rodgers.

ICAM video recorded this meeting.

Citizen Queries: There were none.

Chair announced the Petitioners request to ***withdraw*** the Petition for 35 Mineral Street, Stacy Mannheim & Ross Cromarty requests a Special Permits and/or Variances 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 and rear yard setbacks to reconstruct an existing **shed** (64 S.F. in area) by no more than 50% of the required setback. Property located at Assessors Map 30D, Lot 37 in the In Town Residential (IR) Zoning District.

Chair announced the Petitioner's request to continue to the September 16, 2021 meeting for **16 Chattanooga Road**, Hamdi Kozlu requests a Special Permit and/or Variance pursuant, but not necessarily limited to, X.I.J, X.I.K., VI.F and Table of Dimensional and Density Regulations Footnote 2 to reduce the left side yard setback from a proposed detached garage (559 S.F. in area) by no more than 50% of the required setback. Property located at Assessors Map 23D, Lot 002 in the Rural Residential B (RRB) Zoning District. (Continued from Nov. 2020; January, February and March, April, May, June, July and August 2021)

Continued Public Hearing:

25 Pleasant Street, Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct four (4) for-sale dwelling units of which 25% (1 unit) 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) Attorney Paul Haverty MHP consultant for the Board was not present.

Chairman Gambale read the legal notice and re-opened the public hearing at 7:05 p.m. Attorney Paul Ross was present representing the applicant. He summarized his letter dated June 10, 2021.

The Town's Water and Wastewater Director Vickie Halmen has requested the Board to hire peer reviewer that knows the zoning with respect to the water protection area bylaws and MS4 State storm water standards.

The Board and Attorney Ross discussed previous firms and additional fund requested to cover peer review. Attorney Ross agreed to provide an additional \$2,500 for peer review. *(Note: On 7.19.2021 a \$1,500 ck was submitted and deposited)*

Discussion was held concerning comments from DPW. Chair Gambale will speak with DPW director concerning handicapped ramp access to sidewalks; initial installation of lawn areas and watering methods and the revised site plan, revised hip roof design; lighting location and landscape planting overlay.

Chair recognized Kathleen Spinale, 27 Pleasant Street spoke in favor of the roof design and fence; she pointed out that TEC peer review did not mention the water supply protection zone in the first review and the request from the last meeting for floor plans were not provided.

Chair Gambale indicated that Water and Wastewater Director Vicki Halmen has requested an independent peer review under the water protection area. He asked Attorney Ross to provide floor plans.

Chair recognized Ted Spinale, 27 Pleasant Street who initiated discussion concerning mechanicals kept in the interior roof. Attorney Ross indicated that there will be an outside condenser unit located outdoors in the corner, as it's not an appropriate size for the roof. Mr. Spinale expressed his concerns for noise and any mitigation would be appreciated. Attorney Ross agreed to fence it in.

Julia O'Leary 23 Pleasant St spoke in favor of the roof design and various drought resistance plantings.

Chery Ferris 1 Blasidell Terrace suggested evergreens for more privacy. She initiated discussion concerning snow storage; she requested the Board review more carefully.

Ted Spinale, 27 Pleasant Street asked about a management company; operations will be a decision of the collective owners.

Attorney Ross will provide additional funds and Extension of time one week past the July 15, 2021 meeting.

MOTION:

Chair Gambale moved to continue the public hearing to the July 1, 2021 meeting at 7:00 p.m. in room A Town hall, unless otherwise posted. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: June 2, 2021 dated May 17, 2021 Architectural Site Plan 11' x14"; June 2, 2021 dated April 29, 2021 Stormwater BMP Operation/Maintenance Manual & Erosion & Sedimentation Control prepared by Cyprus Design, Inc.; June 2, 2021 – photo Four, Six and Eight Food Solid Vinyl PVC Privacy Fence stamped in 5.28.21; June 2, 2021 Drainage Site Plan sheet 1 of 1 dated 4.29.21; June 3, 2021 email comments from Frank Ventimiglia Public Works director; June 9, 2021 email comments from Vicki Halmen requesting storm water engineering; June 10, 2021 hard copies: Waiver requested 19 pages; Front Elevation of Bldg B from Pleasant St and from Street corner; Landscape plan catalog cuts; Landscape photos of flowering pear, arborvitae, rhododendron and low height planting bed mixture.; Landscape Planting Overlay dated 6-9-2021; Architectural Site Plan revised dated 6-9-2021; Front Elevation unit A and unit B dated 8/7/2020 scale 3/16" = 1' - Hip roof design; June 16, 2021 email comments from Vicki Halmen requesting storm water engineering.

Hearings Continued from May 20, 2021:

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, and May 20, 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 8:08 p.m. The Petitioner was present to explain the proposal for an addition to their barn. Discussion took place between the Board and petitioners regarding commercial use horse farm vs. keeping horses for personal use. The Petitioner owns one horse; the other horse belongs to her friend. She was unaware of the bylaws for commercial use; she said she was not paid. She has given notice and her friend horse will be gone by the end of July. She plans to purchase a second horse.

Chair related his observations on his visit to the property one month ago, odors were noticed from the street. More recently when he visited the abutting property, home of Lewis Lemanski 409 Linebrook Road, no odors were detected. The property slopes up from the Petitioner's, the patio located at the rear of the house overlooks the barn and the manure dumpster. Mr. Lemanski requested a privacy fence.

Discussion was held between the Board and the Petitioners concerning screening, location of lot lines and design details for the addition. There will be no windows, only a Dutch door and the siding will match the existing barn.

Mr. Fierro led the Board in review of the findings; discussion was held between the Board and the Petitioners concerning inconsistencies of setbacks on the application and plans submitted.

The Board requires valid measurements to make determinations and decisions. It was noted that the existing garage is too close to the front setback. A ZBA decision dated 1983 was cited.

MOTION:

Mr. Fierro moved the Board find the lot is unusual in shape and qualifies under footnote 2 for relief under section VI Table of Dimensional and Density regulations in the bylaw. Mr. Vlahos seconded the motion passed with a roll call vote.

Special Permit criteria was reviewed: the proposal will provide added space for the horses; no adverse effects to the town and; the proposal will increase the assessed value of the property; parking was not applicable; the existing utilities are adequate; the addition will be compatible with the existing barn keeping horses in RRA district is allowed; the small addition will have no negative impacts.

MOTION:

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

MOTION:

Mr. Fierro moved the Board grant the Petitioners request to reduce the right side setback to no closer than 15-feet for the construction of a 12' x 12' addition to the existing barn as referenced on 8 pages homeowners application, the siding will match the existing siding, one Dutch door and no windows, with plan dated

12/10/2018 review stamp by the Health Department; subject to the condition that the applicant shall install a eight foot fence along the property line to screen the dumpster at a minimum of twenty feet long; and follow BMP's for horse farm management. Mr. Vlahos seconded, the motion passed 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

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 opened the public hearing at 9:06 p.m. Ken Savoie of Savoie Nolan Architect was present representing the Petitioners.

Discussion took place regarding the front porch addition of 10-feet could be done by right and the rear enclosure of the vestibule no closer than 15-feet to the rear property line is insignificant.

MOTION

Mr. Fierro moved the Board find the front porch is non-conforming due to in adequate front setback. Mr. Vlahos seconded, the motion passed with a roll call vote.

Mr. Fierro led the Board in review of the criteria for Special Permit for side setback relief from 21-feet to 15-feet, where 20-feet is required.

MOTION:

Mr. Fierro moved the Board find the proposal has met the criteria to grant a special permit. Mr. Vlahos seconded, the motion passed with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant the special permit as requested by the Petitioner for relief under the Protective Zoning Bylaws to construct an addition and reduce the rear yard setback no closer than 15-feet where 20-foot setback is required, in accordance with ten pages of plans submitted, Proposed Addition to and Renovations of the Martineau Residence 7 Fifth Street, Ipswich, MA dated 3/13/2021. Mr. Vlahos seconded, the motion passed 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, X.I.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 opened the public hearing at 9:22 p.m. Ken Savoie of Savoie Nolan Architect was present representing the Petitioner who was present as well.

Discussion took place scheduling a site visit. The request has lots of moving parts complex and involved.

Mr. Savoie explained the request by the Building Inspector for the Board to confirm the reconstructed as a two family, after a fire. The fire took place on 4/17/2020; reconstruction can be done up to two years after a fire. The total number of units and property is all under one ownership.

History of the property was discussed. The Petitioner explained the family has owned the property for a hundred years and his grandfather ran the show. The motel activity was in 1980 and it is separate from the two family. The permit file in the building department is extensive and, it is unclear what the buildings are classified. In order to qualify for financing to renovate the Petitioner is trying move forward.

It was agreed that a site visit would help clarify the request.

The Board and the Petitioner scheduled a **site visit for July 10, 2021 @ 9:00 a.m.** on site Winter Street.

MOTION:

Mr. Gambale moved to continue the public hearing to July 15, 2021 at 7:00 p.m. via Zoom. Mr. Vlahos seconded, the motion passed 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 opened the public hearing at 9:43 p.m. Ken Savoie of Savoie Nolan Architect was present representing the Petitioner who was present as well.

Ken Savoie related the location of the property, set back from the rest of the homes along High Street; the lot is 'L' shaped.

It meets current setbacks for RRA district. The left side is the only place to locate the addition, due to the location of the septic system in the front and the pool in the rear. The 50% reduction of the left side to 20-feet. The Board and Petitioner discussed the unusual nature of the lot with a shared ROW, each house lot owing a portion of the private drive/shared driveway and the shape of the lot. *Frontage is the driveway on High St.*

Mr. Posada related his observation of 231 High St was a mailbox only located in High Street and the driveway went very far back to the property.

MOTION:

Mr. Posada moved the Board find this is an unusual lot for the purpose of the non-conforming determination. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.

Mr. Savoie explained the garage and proposed additional living space in the addition on the left side of the house and the driveway will be relocated.

No abutters or others spoke to the Petition.

Special permit criteria was reviewed by the Board: the proposal will provide additional living space; it will increase the assessed value of the property; provide additional on-site parking; there are adequate utilities; the architectural design of the addition is consistent with the existing dwelling and compatible with other homes in the area; proposal will have no negative impacts.

MOTION:

Mr. Fierro moved the Board finds the applicant has met the criteria as set forth in that section of the bylaw. Mr. Vlahos seconded, the motion passed with a roll call vote.

MOTION:

Mr. Fierro moved that the Board grant the special permit requested by the Petitioner from the provisions of the Ipswich Protective Zoning Bylaw, Table of Dimensional and Density regulations to reduce the left side setback to no closer than 20-feet for the construction of an addition as shown on plans titled Suslak Residence by Savoie Nolan Architects dated 3/19/21. Mr. Vlahos seconded, the motion passed with a roll call vote.

10:00 poll the Board for end time of the meeting; it was agreed for a hard stop for 10:30 p.m.

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 the 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 opened the public hearing at 10:00 p.m. The Petitioners were present represented by Attorney Richard Kallman who indicated he was just retained last week. The Building Inspector wanted the decision to be made in public hearing process to determine the expansion of an existing non-conforming business.

The beer and wine license is under the jurisdiction of the Select Board.

Discussion was regarding the service to elevated deck under a tent; there will be no increase seating; the town has installed no parking signs on both sides of Mile Lane and on Paradise Road, and across the highway.

Lengthy discussion took place regarding the 'use' and whether it was a substantial change in use; it was questioned whether the applicant needed a special permit. No new tent, no new deck area, no increase in seating, no reduction in parking.

Safety was discussed; a permanent fence structure i.e. Jersey barriers to protect patrons. The Petitioner described the existing traffic barriers in front of the tent as well as large planter boxes.

The tent is a temporary structure and the deck is previously existing. Other establishments in town, a rope is sufficient barrier to guide people to an exit and entrance areas where alcohol is served, a rope as proposed is adequate in keeping with standards around town.

The Petitioner spoke to the importance of creating a safe environment for everyone; she related their experience with controlling vehicle traffic flow and foot traffic. The area will be sectioned with an exit and entrance. Employees are TIPS and Safe Serve certified. The tent is seasonal April through November to serve beer and wine on a seasonal basis. BYOB service has existed since 1980's; it will end if/when the license is obtained.

There was no response to the Chairman's call for abutters or neighbors to speak in favor or against.

No abutters or others spoke to the Petition. The Chair noted there were two letters of support submitted to the file. (3 Mile lane and 248 High St)

MOTION:

Mr. Fierro moved the Board find that the proposed substantial extension of use of the serving of beer and wine on a seasonal basis is not substantially more detrimental to the neighborhood than the current non-conforming use. Mr. Vlahos seconded, the motion passed with a unanimous roll call vote.

The Board reviewed the criteria in section XI.J, for special permit led by Mr. Fierro.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria as reviewed. Mr. Vlahos seconded, the motion passed with a roll call vote.

MOTION:

Mr. Fierro moved the Board grant the request of the petitioners for a special permit to expand the non-conforming use to serve beer and wine on a seasonal basis under the existing seasonal tent. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Discussion initiated by Attorney Kallman, some people want to be at the picnic area not under the tent – there are 13 picnic tables use to be under the tent due to COVID we found that some people like to be in the sun. A new tent goes up every year and its 20' shorter than last year. The legal ad advertised as 'service under the tent' – suggested the beer and wine service allowed under the tent. Next year make it 20-feet longer so everyone can receive service.

Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application. Jim Bone email dated 4/12/21. Email from Abutters at 248 High Street and 3 Mile Lane.

At 10:39 p.m. Chair asked that the two final petitions be continued to July meeting.

Chairman Gambale moved to continue the public hearing for **23-25 Jeffrey's Neck Road to July 15, 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

Chairman Gambale moved to continue the public hearing for **5 Mineral Street to July 15 zoom meeting @ 7:00 p.m.** Mr. Fierro seconded, the motion passed with a roll call vote.

Approval of Minutes:

Mr. Fierro moved to accept minutes with edits for 5.19.21 – 5.20.21 – 5.24.21 Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:45 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved with minor edits on July 15, 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.