

Town of Ipswich
ZONING BOARD OF APPEALS

Meeting Minutes
July 15, 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 July 15, 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.

Chair Robert Gambale called out the names of members to establish their remote presence Benjamin Fierro, Lewis Vlahos, Rob Clocker, Elliot Posada and new associate member Julia O'Leary all acknowledged.

Also, Administrative Assistant Marie Rodgers.

This meeting was video recorded by ICAM

Citizen Queries: There were none.

Chair welcomed newest member Julia O'Leary as an associate member to the Board.

Announcement:

Chair announced the applicant's request to continue to the August 19, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing; **17 James Road**, Timothy & Kathryn Tolios 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 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, May, June 2021)

Documents and exhibits used by the Appeals Board: email from Timothy Tolios requesting to continue to the August 19, 2021 meeting dated 7.6.2021

Chair announced the applicant's request to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing; **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 and June 2021)

Documents and exhibits used by the Appeals Board: email dated Wed 7/14/2021 11:54 AM from Larry Graham requesting to continue to September meeting.

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; January, February, March, April, May, June and special meeting on July 12, 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:05 p.m. Attorney Paul Haverty MHP consultant for the Board was present and Attorney Paul Ross for the applicant.

Discussion took place regarding peer review for the storm water design, basement layout plans, all units will remain as three bedroom units in perpetuity. The draft decision was discussed.

Next month's meeting will include TEC review and water issues with Vicki Halmen, Water and Waste Water Director.

Chair recognized Cheryl Ferris, 1 Blasidell Terrace who questioned and confirmed that construction hours were typical and no activity on Sunday, except in an emergency. Parking of construction vehicles off the road; no dumpster and no sheds to be built on the property.

Chair recognized Julia O'Leary who said she had no comments.

Chair recognized Ted Spinale 27 Pleasant Street spoke to removal of trees, location of utilities pole and expressed his concern with remarks of "a project of this size" as if it's a small impact, with minimal disruption to the neighborhood.

Kathleen Spinale 27 Pleasant St asked about the waivers for setbacks for patio's and driveways; setbacks apply only to structures. She requested the condo docs restricting outside storage; she expressed concerns for the lack of stamped certified stamped plans for landscaping; she asked for restrictions on potential buildout for future protection for everyone in the neighborhood.

The Board, Attorney Haverty and Attorney Ross discussed a date for a special meeting. August 12, 2021 was set.

MOTION:

Mr. Fierro moved to continue the public hearing to the August 12, 2021 a special meeting at 7:00 p.m. in room A Town hall, unless otherwise posted. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: draft decision in email dated 7.14.2021

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.B.2 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. (Continued from June 2021)

Chairman Gambale read the legal notice and opened the public hearing at 8:20 p.m. ZBA Member Lewis Vlahos recused himself.

The Petitioner and Ken Savoie of Savoie Nolan Architect were not present. Chair tabled the public hearing and moved on to the next hearing.

Documents and exhibits used by the Appeals Board; Petition and associated documents.

23-25 Jeffreys Neck Road, David and Patti Ganley request a Special Permits and/or Variances pursuant, but not necessarily limited to Sections XI.J., XI.K, II.B and Footnotes 2 and 26 of the Table of Dimensional and Density Regulations to reduce the right side yard setback by no more than 50% of the required, by creating a new lot line no closer than 20-feet from the existing dwelling at 25 Jeffreys Neck Road. Property located at Assessor's Map 31B, Lots 006 and 006C in the Rural Residential A (RRA) Zoning District. (Continued from June 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 9:22 p.m. Petitioners were present represented by Larry Graham from HL Graham, Associates, Inc. and Attorney Rich Kallman.

Mr. Graham reviewed past presentations and the current proposal. He reviewed the history of lot creations and proximity to the wetland resource area.

The Board discussed and reviewed footnote 26 of the Table of Dimensional and Density Regulations. The Board reviewed emails from Ethan Parson, Director of Planning and Development and Glenn Gibbs, former Director of Planning and Development.

The Board discussed applicability of the bylaws; both newly created lots will comply with frontage and width and a second house could be built on the other lot. This leaves the current house on lot 25 requiring relief for the side yard setback, to the proposed new lot line.

The Board reviewed findings for ZBA to grant relief.

MOTION:

Mr. Fierro moved the Board make the finding that this legally pre-existing non-conforming structure and the Board has the authority to consider the Petitioner's request under footnote 2. Mr. Vlahos seconded. Motion passed with a vote four votes in favor and one abstaining. Chair took a roll call vote: Mr. Fierro, yes; Mr. Clocker, yes; Mr. Posada, yes; and Mr. Gambale, abstained.

The Board then reviewed the criteria for the granting of a special permit as set forth in Section XI. J. 2

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria in section XI.J. Mr. Vlahos seconded. Motion passed with a vote four votes in favor and one abstaining. Chair took a roll call vote: Mr. Fierro, yes; Mr. Clocker, yes; Mr. Posada, yes; and Mr. Gambale, abstained.

Chair asked if there were any abutters or interested parties, there was no indication from anyone.

MOTION:

Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from the provisions of the Protective Zoning Bylaw under footnote 2 in section VI Table of Dimensional and Density regulations and section XI.J special permits to reduce the right side setback no closer than 20-feet from the existing dwelling at 25 Jeffrey's Neck Road in accordance with plans titled PERMIT PLAN prepared for Jeffrey's Neck Road Realty Trust 23/25/27 Jeffrey's Neck Road dated May 25, 2021. Mr. Vlahos seconded. Motion passed with a vote four votes in favor and one abstaining. Chair took a roll call vote: Mr. Fierro, yes; Mr. Clocker, yes; Mr. Posada, yes; and Mr. Gambale, abstained.

Documents and exhibits used by the Appeals Board: Petition and associated documents and plan examples; email dated 3/17/21 from Larry Graham with an email dated 3.16.2021 from Glenn Gibbs formerly Director of Planning and Development; email dated 7.15.2021 from Ethan Parson, currently Director of Planning and Development.

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 rear yard setback to construct a new garage (576 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. (Continued from June 2021)

Chairman Gambale read the legal notice and opened the public hearing at 9:09 p.m.
Voting member will be Mr. Vlahos, Mr. Fierro, Mr. Clocker, Mr. Posada and Mr. Gambale.

The Petitioner was present represented by Attorney Richard Kallman who described the lot as shallow, comprising 4,361 square feet, with no garage. The house was built in 1823. If, relief for the garage is granted, the shed on the lot will be removed.

The Board discussed the non-conforming dwelling, the non-conforming setbacks. The size of the new garage was in question, the plan show the size as 22' x 22' and the application has 24' x 24'. The Petitioner confirmed it would be 22' x 22'. No lighting proposed. The Board suggested any future lighting on the garage be casting downward on the lower portion of the garage; asphalt shingle roof, glazed windows. No water service only electricity.

Chair asked if there were any abutters or interested parties – there were no indications from anyone.

MOTION:

Mr. Fierro moved the Board make the finding that the application proposal qualifies under footnote 2 for the legally pre-existing non-conforming front and side setbacks and the Board has the authority to grant a special permit under footnote 2 section VI. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

The Board reviewed the criteria for granting a special permit, led by Mr. Fierro:

MOTION:

Mr. Fierro moved the Board make the findings as set forth. 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 from the Provisions of the Protective Zoning Bylaw section VI Table of Dimensional and Density regulations footnote 2 section XI.J for special permits to construct a accessory structure- garage 22'x22' - 484 in area no closer than five feet from the rear lot line subject to the conditions, there will be no water service extended to the structure; as show on plans titled **PROPOSED ACCESSORY STRUUCTURES #35 Mineral St property of Stacy B. Mannheim & Ross S Cromarty dated 5/21/2021 Donohoe Survey, Inc. and page titled NEW BARN ELEVATIONS A201; NEW BARN SECTIONS A301; NEW BARN PLANS A101. No date.**

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

New Public Hearings for July 15, 2021

3 Manning Street, Charles Clapp, Esq. requests a Special Permits and/or Variances pursuant, but not necessarily limited to Sections XI.J., XI.K, II.B.1 (a) and IIB.2.(a) to renovate and provide additional (3rd) living unit by adding front and rear dormers within the existing footprint of the three family home located at Assessors Map 42A, Lot 256 in the In Town Residential (IR) Zoning District. Chairman Gambale read the legal notice and opened the public hearing at 9:09 p.m.

Voting member will be Mr. Vlahos, Mr. Fierro, Mr. Clocker, Mr. Posada and Mr. Gambale.

Attorney Clapp was present representing the Petitioner. He explained the proposal to renovate the third floor attic space into additional living area by adding front and rear dormers, all within the existing footprint of the structure. The three dwelling units will be reconfigured and all with three bedrooms. There is adequate parking with each unit having a minimum of two parking spaces. The house currently has municipal water, sewer and electric services.

The Board reviewed findings.

MOTION:

Mr. Fierro move the Board find the proposal that the proposed addition will not be substantially more detrimental to the neighborhood than the existing structure. Mr. Gambale seconded. The motion passed with a roll call vote.

The Board reviewed the criteria for granting a special permit.

MOTION:

Mr. Fierro moved the board find the proposal meets the criteria. Mr. Vlahos seconded, the motion passed with a roll call vote.

There were no objections from abutters or others.

MOTION:

Mr. Fierro moved the Board grant the special permit as requested from the provisions of the Protective Zoning Bylaw section XI.J special permits to make alterations to a pre-existing non-conforming structure for relief to expand the existing three family use, to make alterations and reconstruct in accordance with plans dated 6/18/2021 and titled House 21-36 -3 Manning Street Ipswich, Mass Sabatini

Development, LLC 34 Whitehall Circle, Beverly Mass 25 pages included in the application. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

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

At 10:02 p.m. Chair announced the meeting will end at 10:30 p.m.

0 Topsfield Road, Lot 38 SWIRL Realty Trust and Roger LeBlanc requests a Special Permits and/or Variances pursuant, but not necessarily limited to Sections XI.J., XI.K footnote 1 to the Table of Dimensional and Density Regulations for relief from the front yard setback to 8-feet, greater than 50% of the required 20-foot minimum setback to construct a single family structure on property located on Assessors Map 41D Lot 193 in the In Town Residential (IR) Zoning District. Chairman Gambale read the legal notice and opened the public hearing at 10:02 p.m.

Voting member will be Mr. Fierro, Mr. Clocker, Mr. Posada, Ms. O'Leary and Mr. Gambale.

Sarah Winderlin, Swirl Realty Trust and Roger LeBlanc were present to explain the history of the lot created in 1920's and unaltered except for the 1946 layout of Topsfield Road. The hardship is the now required 65-foot no build zone for the protected resource area to the rear of the neighboring lot, leaving more than half of the lot unbuildable. Lots developed before 2014 were required 40-foot no-build.

The proposed house would be an affordable rental with a footprint of 645-square feet. Using footnote 1 in the table of Dimensional and density regulations, measuring 250-feet each direction, the average front setback is 13.8 feet. The request is 8-feet from the front setback. A front porch would be consistent with the neighborhood. No deck proposed, due to wetlands located to the rear; property will pitch front to back to allow runoff to the wetlands. Review by the Conservation Commission will be required for the treatment of impervious surfaces and infiltration of roof runoff.

The Board discussed applicability of the bylaws, location of wetlands and conditions impacting this lot. The Petitioner stressed the hardship is the how the wetlands uniquely affect this lot.

MOTION: Mr. Gambale moved to continue the public hearing to the regularly scheduled meeting set for August 19, 2021 via Zoom at 7:00 p.m. Mr. Posada seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documentation. Email dated 7.15.2021 from Vincent and Kathryn Falcione, 34 Topsfield Rd; email dated 7.19.2021 from Suzanne Hally, 40 Topsfield Rd;

Chair Gambale moved to continue to the public hearing for 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. (Continued from June 2021) **to the 8/19/2021 meeting, at 7:00 p.m. via Zoom conferencing. Mr. Fierro seconded, the motion passed unanimously with a roll call vote.**

Approval of Minutes:

Mr. Fierro moved to accept minutes for 6.17.2021 as amended. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:55 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved on 8.19.2021 with minor edits.

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.