

Approved: 9.16.2021

Distributed: 9.20.2021

Town of Ipswich

ZONING BOARD OF APPEALS

Meeting Minutes August 19, 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 August 19, 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.

Chair Robert Gambale established the remote presence of members Benjamin Fierro, Lewis Vlahos, Rob Clocker, Elliot Posada and associate member Julia O'Leary. Also, Administrative Assistant Marie Rodgers.

This meeting was video recorded by ICAM

Citizen Queries: There were none.

Announcements:

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)

Mr. Gambale moved to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing. Mr. Posada seconded, the motion passed with a roll call vote.

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.

Chair announced the applicant's request to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing; **12 Fowlers Lane**, Harrison Gilliss requests an appeal of the Building Inspector's decision and cease and desist order for the installation of previously permitted new fence, along the property line between 12 and 8 Fowlers Lane pursuant to XI.G and II.B or in the alternative request a Special Permit pursuant to XI.J and VI.B Table of Dimensional and Density Regulations to finish installation of an 8-foot fence, for 170 linear feet located on Assessors map 30B lot 042 in the Rural Residential A (RRA) Zoning District. Mr. Gambale moved to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing. Mr. Posada seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: email dated 8.17.2021 from Adam Costa, Esq for the Petitioner.

Chair announced the applicant's request to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing; **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, and August 12, 2021) Mr. Gambale moved to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing. Mr. Posada seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: email dated 8.19.21 Extension of time to September 23, 2021 and continuation request to September 16, 2021. 8.19.21 email from Paul Nordberg, 19 Pleasant Street, Ipswich.

Chair recognized Kathleen Spinale, 27 Pleasant St who asked when the applicant continued and complained that the applicant continues on a regular basis. The Chair spoke to the process and importance of conducting all activities in a public forum.

Continued Public Hearing:

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 and July 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:05 p.m.

The Petitioner was present and the supplemental plans and drawings from Hutton Design were discussed. The addition to enlarge the bedroom. It will be no closer than twenty feet to the left side yard setback. The siding will match the existing home. The Board discussed the non-conformity of all the setbacks.

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

MOTION:

Mr. Fierro moved that the Board find the structure is preexisting non-conforming structure.

Mr. Posada seconded. The motion passed unanimously with a roll call vote.

The Board reviewed criteria under section VI.J special permits.

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 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 left yard setback no closer than 20-feet to construct an addition as referenced in plans titled Tolios Residence #17 James Road 5 pages of plans by Hutton Home Design dated 8.11.21. Mr. Posada seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: Supplemental drawings dated 8.11.2021 from Besty Hutton, Hutton Home Design; Plot Plan #17 James Road by Donohoe Survey, Inc dated 7.27.2021 proposed by Hutton Home Design 8.11.21.

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 and July 2021)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:37 p.m. ZBA Member Lewis Vlahos recused himself.

The Petitioner were present, represented by Ken Savoie, Savoie Nolan Architects. The two-family structure is detached from the rest of the project, it contained an accessory apartment, which was never permitted. The structure burned in April of 2020. The Building Inspector/Zoning officer asked the Petitioner for a finding from the ZBA to rebuild as a two family. It would be razed and rebuilt in the same footprint. It will be separate from the other buildings and it would not be a part of the affordable components. The property contains multifamily components; the Petitioner confirmed the tax bill is for one property. It was noted that accessory apartments are not allowed in two families.

Discussion ensued and the bylaw cited. The Building Inspector/Zoning officer was not present to clarify and lengthy conversation took place discussing what finding the Building Inspector was looking for.

The eleven studio apartments and two 1-bedroom units would all qualify as affordable units. The ZBA decision will be subject to a regulatory agreement with the town and DHCD.

Discussion continued regarding the opinion of the Building Inspector/Zoning officer, who could issued a building permit for a two family by right. According the Mr. Savoie, the Building Inspector/Zoning officer was uncertain how to proceed.

The Board suggested going back to the Building Inspector/Zoning Officer for a building permit for the two family, withdraw that request from the ZBA and return for the rest of the proposal. Process and procedures were contemplated.

Mr. Savoie expressed his frustration with the process; the Building Inspector/Zoning officer should provide the Board with a report for clarity. What is the basis for the ZBA to act?

Mr. Clocker suggested the Board discuss the findings for reconstruction after a fire of a preexisting non-conforming two family structure. The Petitioner can show the minutes to Building Inspector/Zoning officer.

MOTION:

Mr. Clocker moved the Board find the pre-existing two family structure with an illegal accessory apartment, is in fact a legally pre-existing two family dwelling. Ms. O'Leary seconded. The motion passed with a roll call vote. Fierro, yes; Clocker, yes; Posada, yes; O'Leary; yes and Chair Gambale, yes.

The suggestion and vote were appreciated by Mr. Savoie, he requested to continue to the September meeting.

The Board will anticipate the parameters of a regulatory agreement.

MOTION:

Mr. Gambale moved to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing. Mr. Fierro seconded, the motion passed with a roll call vote.

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

8:45 p.m. Chair recognized Linda Alexson 19 Juniper St – Select Board member, who asked about the affordable component of the 2 and 4 Winter Street. Preceding discussion were reviewed for her edification.

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. (Continued from June and July 2021)

Chairman Gambale read the legal notice and re-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. Discussion took place regarding the Supplemental Documentation submitted by the Petitioner.

The type of soils trigger the wetlands and limit the location of a structure; the shape is not unique, but is not found in the district; soils are not shared by other lots in the area; the lot is legally preexisting, the use is allowed and would meet all the setbacks.

The Board received several emails from abutters. Chair Gambale read the paragraph of protest, with names and address.

Christina & James Belbute, 49 Topsfield Rd; Linda Mulvihill, 47 Topsfield Rd; Daniel McParland 45 Topsfield Rd; Peter Mathey 43 Topsfield Rd; Alexa Sotis 43 Topsfield Rd; Stephen & Kathleen & Sandra & Joseph Colameta 44 Topsfield Rd; Charles & Pamela Wilcox, 5 Farley Ave; Suzanne Hally 40 Topsfield Rd; Melinda Booy 38 Topsfield Rd; Margaret Saquet 53 Topsfield Rd; Stephen Colameta, 44 Topsfield Rd; Goldman 36 Topsfield Rd; Falcione 34 Topsfield Rd.

Chair recognized abutter Christine Belbute, 49 Topsfield Road and ask she read her letter into the record. (hereby incorporated by reference)

Chair recognized abutter Suzanne Halley 40 Topsfield Rd spoke to the wetlands as not unique, they affecting her property and suggested there's more wetlands on other properties (her basement is wet and often floods)

Vincent Falcione 34 Topsfield Road spoke to the lack of sightlines exiting from driveways; the proposed house would be directly in front of his and asked for a site line analysis; he asked for police and DPW to comment; his home is twenty feet back and he still gets snow from the ploughs; visibility is a huge issue this close to the street.

Mr. Fierro noted that if the average setback was 12-feet, the applicant could build as a matter of right. He observed that most of the homes in the general district do not comply with the 20-foot setbacks.

Discussion ensued concerning backing out of the driveway and potential for a hammer-head turn.

The proposal will be reviewed by the Conservation Commission for an Order of Conditions and if approved, it would be safe to presume one condition will be the removal of the invasive Japanese knot-weed.

Discussion continued regarding bylaw section regarding average setbacks and calculations used to determine a twelve foot setback on average. A ten foot setback would eliminate a porch. The Board requested documentation with definitive numbers for the average setbacks and a detailed plan showing the proposed driveway accommodating a hammer head turn. The public safety issues need to be addressed.

The Petitioner will return with a revised plans with the porch and without the porch and driveway options addressing safety.

MOTION:

Mr. Gambale moved to continue to the September 16, 2021 meeting at 7:00 p.m. remotely via Zoom Video Conferencing. Mr. Fierro seconded, the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: Supplemental information email from Kathryn Falcione, 34 Topsfield Rd dated 7.15.2021; email Suzanne Hally, 40 Topsfield Rd dated 7.19.2021; Christina Belbute, 49 Topsfield Rd; email from Carrie Ann Cole date 8/19/21 and 8 pages of abutters opposition with signatures.

146 High Street, I.D. Sign Group Inc. Debra Collins for Ipswich Plaza LLC requests a Special Permits and/or Variances pursuant, but not necessarily limited to Sections XI.J., XI.K VI.B and VIII signs, to install a secondary wall mounted sign

(30.5-inches tall x 26-inches wide) on Shaw's Supermarket, located on Assessors Map 30A Lot 003 0 in the Highway Business Zoning District (HB)

Chairman Gambale read the legal notice and opened the public hearing at 10:12 p.m.

Jamie Fisher, Sales Associate was present representing the Petitioner for ID Sign Group Inc.

The proposal is for an additional wall mounted sign (30.5" tall by 26" wide) to be located on the front façade just left of the existing sign. The sign is in response to the COVID health crises and will promote contactless grocery shopping service. The same branded sign is being installed in all the Shaw's markets regionally.

Discussion took place regarding the description of the specifications of the sign. It was noted there are way finding signs in the parking lot. Relief is requested from the Bylaw VIII Table A (one sign per business) A previous ZBA decision dated March 2007 was allude to.

Discussion took place concerning the level of brightness compared to the existing sign. Mr. Fisher provided a solution and suggested a dimmer be installed so that the brightness could be adjusted to match that of the existing sign.

The Board reviewed the sign findings.

MOTION:

Mr. Fierro moved the Board find the proposal is in compliance with this section VIII- 4. a-f. Mr. Posada seconded, the motion passed with a roll call vote.

Special Permit criteria was reviewed: the proposed sign will allow patrons contactless grocery shopping service; no adverse effects to the town and; the proposal will promote public health and safety and social distancing; parking was not applicable; the existing utilities are adequate; the additional sign will be compatible with the existing sign allowed in the highway business district; the small sign will have no negative impacts.

MOTION:

Mr. Fierro moved the Board find the proposal 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 special permit as requested by the Petitioner under section VIII of the Ipswich Protective Zoning Bylaw to install a second wall sign, to be internally illuminated as shown on materials submitted by ID signs dated 6/25/2021, subject to the condition the sign will be installed with a dimmer to allow consistency with the brightness of the existing sign, with a review, by ZBA members, thirty days after installation. Mr. Posada seconded, the motion passed with a roll call vote.

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

Approval of Minutes:

MOTION:

Mr. Gambale moved to accept minutes for July 12, Special Meeting minutes and July 15, 2021 with edits. Mr. Fierro 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 by the Board on September 16, 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.