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**ZONING BOARD OF APPEALS  
Ipswich, Massachusetts**

**Meeting Minutes  
April 18, 2019**

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Chronicle, a newspaper of general circulation, the Ipswich Zoning Board of Appeals held meeting on Thursday April 18, 2019 in Room A at 7:30 p.m., Town Hall, 25 Green Street, Ipswich, MA. Members attending were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton and Robert Clocker. Also present Marie Rodgers Recording Secretary. Associate member Kathleen Gallanar was absent. This meeting was recorded by ICAM.

**Citizen Queries:** there were none.

**Announcements:**

Chairman announced the continuation of **Kieran McAllen**, Comprehensive Permit at **30 and 34 Town Farm Road and 17 Locust Road**. Applicant requested to continue to the May 16, 2019 meeting in an email dated 4/17/19 (hereby incorporated by reference)

Chairman announced the continuation of **Essex Pastures, LLC** Comprehensive Permit at 26 Essex Road (Assessor's Map 54A, Lot 14A) 36 Essex Road (Map 54C, Lot 22); 38 Essex Road (Map 54C, Lot 22A) 42 Essex Road, (Map 54C, Lot 23) and 44 Essex Road (Map 54C, Lot 24).

Applicant requested to continue to the May 16, 2019 meeting in an email dated 4.10.19. (hereby incorporated by reference)

**25 Pleasant Street** (Map 41B Lot 043) **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. (continued from the August, September October, and November 2018; January, February, and March meetings)

Chairman Gambale read the legal ad and re-opened the public hearing at 7:42 p.m.

The Petitioner Karl Mayer and his Attorney Paul Ross were present.

Attorney Ross submitted revised landscape architectural plans, roof and façade providing three options designs for the Board to consider. Due to technical difficulties with projecting the plans on the screen, the slide show moved the roof façade study discussion detail to next month's meeting.

Attorney Ross reviewed that since the site visit last fall, the periphery of the property and the location of the driveway were staked out and marked. He described changes to the landscape plan, providing for a hardscape patio, with benches around the perimeter; trees saved; solid screening fence six-foot PVC to provide solid screening and dogwood trees planted to provide screening above the six foot line of sight.

The landscape plan was the only plan to be shown on the overhead screen.

Discussion followed and the Board agreed that more vegetation will provide more sound proofing, and evergreen trees would be better at preventing light pollution.

Attorney Ross identified four areas for snow stockpiling. He said the dumpster has been replaced with trash bins to eliminate the issue of truck radius and backing out, and they would limit trash removal to daylight hours only to address noise issue.

Discussion took place regarding the issue of where the property ends and street begins. Attorney Ross located the edge of pavement on town owned land and the location of sidewalks. The applicant's traffic engineer will provide comments to TEC peer reviewer and sight lines will be addressed. It's unsure if TEC will attend the meeting in May.

Attorney Ross reviewed the redesign of the portico architectural detail to cover the entry way, replaced with a small roof overhang of one foot. (it was 5.6-feet.) He requested guidance regarding roof and façade study in order to proceed in the right direction. Mr. Clocker suggested adding more detail to the facades, and to show architectural details on the elevation plans. Attorney Ross said the intent was only to address mass.

Discussion followed and the Board requested additional detail, which can be viewed on the screen.

Attorney Ross initiated discussion about coordinating a work session, as the Board has done with other projects. Paul Haverty MHP Consultant, who was not present, will be consulted regarding this process.

Discussion moved on to mechanical units; mini split units, individual heat pumps are proposed; mitigating noise, and locations were discussed.

The Board suggested the issue of roof lines need more work. The design of parking in front of the building was questioned, as it is not in keeping with the surrounding neighborhood. Options were discussed.

The Board suggested reduction of massing, by pulling buildings forward, providing a façade along Pleasant Street; as long as, the sight line on the corner is not compromised.

Attorney indicated that he had lighting plans and photo metrics; he will submit them next week.

Chair opened discussion to the audience.

Ted Spinale, 27 Pleasant Street, expressed his concerns for headlights going right at his house when cars go up Pleasant Street and when cars take a right into the property. He said there's an incline and the headlights will go right at his house. He related his conversation with an arborist who explained the root structure of maple trees being two times the size of the tree canopy; they're located eight to twelve feet from his garage and he's concerned about issues of stability when the lot is under construction.

He continued to raise concerns about noise pollution from the location of the nine a/c units He also raised issues with regarding to parking by the residents of the project.

Kathleen Spinale, 27 Pleasant Street, agreed with her husband and said a six foot fence and eight foot trees will not hide a twenty-five foot building. She suggested tall conifers that grow up and not out and provide screening year round.

Paul Nordberg, 19 Pleasant Street, questioned when the Board will address the materials he submitted. Chair said he has his letters. Mr. Nordberg indicated he would prefer to speak to his letter with the slides he submitted at a time when they can be shown.

Cheryl Beaker, 20 Pleasant Street, lives across the street and expressed her concerns about parking. She related the issue of cars not stopping and rolling right through the stop sign at the corner. She has videotaped cars not even slowing down to stop and now the new development will have eight more cars pulling out and cars park right on the corner.

Robert Ferris, 1 Blaisdell Terrace, expressed his concerns regarding parking details and he refuted the idea of elder friendly housing when only two units will be accessible.

Ken Savoie, spoke on behalf of the Design Review Board (DRB) and said that when the applicant came before DRB to discuss the project. He said the DBR suggested to the applicant to create two buildings, with four units each that would be more appropriate for the neighborhood. He strongly encouraged consideration of that design.

Attorney Ross said he didn't remember that being presented and he would like to look at it. The rendition will be redistributed.

Chairman Gambale explained the decision will have conditions which will require funds to ensure survival of plants in the landscape plan. An additional condition will be placement of a stop sign at the end of the driveway of the development.

Mr. Fierro read a letter from Deb Chanby, dated September 23, 2018; Mr. Clocker read a letter from Alicia McGuire, Blaisdell Terrace Unit 3. (both expressing objecting to the proposal - hereby incorporated by reference)

Chairman continued the public hearing to the May 16, 2019 meeting at 7:30 p.m. in room A.

*Documents and exhibits used by the Appeals Board:* Revised architectural drawings with coordination changes Roof and Façade study options to improve project optics from the street. Improved dumpster solution Revised site plan with minor changes; Traffic sight line analysis drawing for cars approaching the Blaisdell Terrace stop sign including analysis of parked vehicles in our parking lot. Email dated 4/9/19 from Alicia McGuire Attardo, 6 Blaisdell Terrace Unit 3.

**6 Cameron Avenue.** (Assessor's Map 31D Lot 68A) **Carole Douglas Hall** requests a special permit and/or variance pursuant to Sections II B –XI.J. XI.K and Footnote 2 to the Table of Dimensional and Density Regulations in section VI to reduce the front yard setback from existing 21-feet to 1-foot and to reduce the left side yard setback from 31-feet to 8.5-feet, to construct a two-story addition. (continued from the January 17, 2019 meeting)

**6 Cameron Avenue.** (Assessor's Map 31D Lot 68A). **Carole Douglas Hall** requests a special permit to construct an accessory apartment pursuant to sections IX.J & XI.J in a single family dwelling. (continued from the January 17, 2019 meeting)  
Chairman Gambale read the legal ad and opened the public hearing at 8:50 p.m.

The Petitioner was present with her architect Dan Bates, and represented by Attorney Rich Kallman who spoke to three unusual aspects of the project, it's a small lot in the RRA district; the house is turned sideways on the lot; and frontage on Cameron Ave ends at her driveway. The strip of land abutting the property was thought to be owned by the Town, but with further investigation, there was never an official taking and the last owner, who created all the lots in the area, was named Hull from 1930's. The Petitioner researched extensively and could not find any relation.

The Petitioner spoke at length about herself, her home, her journey and rationale for requested relief.

The Board discussed zoning, the building envelope and the by right buildable area available on the lot and questioned why the structure has to be located in the proposed location within one foot from the lot line. Petitioner spoke to the disrepair of the home on the north east side and the architect spoke to the location of the open kitchen sunroom in the interior of the house. Purchasing the strip of land is not an option as the resolution of ownership would take years in land court.

Discussion followed regarding the issue of Town easements for utilities and the location of the existing building.

The Board discussed the relief requested. Board members express their view that the side setback is not as much of a concern, but that the reduction of the front setback to one foot is a concern, the by right building extends into the other side of the house.

Petition of support signed by ten abutters was submitted into the record.

Attorney Kallman requested to withdraw the application and come back with new plans.

Chairman Gambale suggested, that he change his request to continue to the May meeting. Maybe the architect can reconfigure and come up with new design that won't need setback relief.

Attorney Kallman requested the public hearing be continued. The Board continued the public hearing to the May 16, 2019 meeting in room A at 7:30 p.m.

*Documents and exhibits used by the Appeals Board:* Petition and associated documents. Letter from Rich Kallman dated April 11, 2019; MEMO dated March 12, 2019 re Accessory Apartment; letter titled Significance of Survey; email from George Hall to Ethan Parsons dated January 29, 2019; sketch of land along Cameron Ave and property owned by Gibbs, no date; sheet showing architectural drawings ELEVATIONS Bates Design Collaborative dated 09/12/16; First Floor Dimension Plans Bates Design Collaborative dated 09/12/16.

Via USB 5 pages titled COVER SITE PLAN; FIRST FLOOR PLAN; DIMENSION PLANS; LOFT PLAN; ELEVATIONS; NEIGHBORHOOD PLAN; Letters of support Petition signed 21 Newmarch St, 12 Nabby's Point Rd, 25 Newmarch St dated 1/4/2019 and 14 Nabby's Point Rd dated 3/22/2019.

**44 High Street.** (Assessor's Map 30D Lot 33) **Ryan McShera, Red Barn Architecture** requests a special permit and/or variance pursuant to sections XI.J and XI.K and II.B.3, footnote 2 to the Table of Dimensional and Density Regulations in section VI for attaching a two story addition to the primary structure, all within existing setbacks. (continued from the January, February and March 2019 meetings)

Chairman Gambale read the legal ad and re-opened the public hearing at 9:38 p.m.

The Petitioners were present represented by their architect Ryan McShera, Red Barn Architecture.

The Board concurred that the site visit was helpful to see the property and understand the history and the structures involved.

Discussion took place regarding the verification of the soil conditions at the rear of the barn provided in a letter from William H. Mitchell, Jr., Clean Soil dated 4.2.2019. Photos were provided showing location of soil borings and results of an organic surface layer with anthropogenic or urban fill materials.

Discussion continued as to the suggestions of the structural engineer to use the new addition to anchor the old barn.

Chair read letter of support from 39, 42 and 44 High St.

Discussion continued regarding setback of the existing barn is 2.4 feet, the proposed addition would be 2.6 feet from the lot line the addition is garage no closer than the existing front yard setback.

The Petitioner decided to keep the 20-foot setback on the side yard.

In response to Mr. Clocker's query, the structural engineer is aware that part of the barn will be used as a garage. Gordon Harris is aware, as well.

Discussion was held concerning the topography. A geologist determined that the soils are compromising the support beneath the back portion of the barn. The recommendation of a structural engineer supported the argument that the constructing the new addition to anchor the leaning barn would be the most economical and viable option for the owners to keep the barn standing up.

Mr. Fierro led the Board in review of the Variance criteria. The Petitioner retained a structural engineer, soils substantial soil conditions and history of the barn; attached, it will create a new non-conformity on the side setback will be 2.6 feet to for the existing barn. History character of structure barn is significant Mr. Gordon opine one of the oldest in Ipswich.

There was no testimony in opposition. Letters of support were submitted from Weingartner, 42 High Street, Boynton, 39-41 High Street and Thibault III, 46 High Street.

The Board found that the alteration serves the needs of the community by enhancing the value of the property, that the use would improve function of the home and maintain the integrity of the barn, would not have a detrimental fiscal impact upon the town, that there would be no negative impacts.

**MOTION:**

**Mr. Fierro moved the Board make the findings, Mr. Vlahos seconded, the motion passed with a roll call vote. Gayton, yes; Vlahos, yes; Fierro, yes; Clocker, yes; and Gambale, yes.**

**MOTION:**

**Mr. Fierro moved to close the public hearing, Mr. Vlahos second the motion passed unanimously.**

**MOTION:**

**Mr. Fierro moved the Board grant the request made by the Petitioner for a Variance pursuant to Section IV and XI.K**

of the zoning bylaws to reduce the right side setback to no closer than 2.4 feet to construct an addition as shown on plan titled **Madinger & Rauscher Residence Addition/Renovation, 44 High Street, Ipswich, MA** prepared by **Red Barn Architects** dated 12/18/18; revised 3/7/19 on site plan 17 pages; including letters from **Red Barn Architect, Clean Soils** and letter from **Construction Engineering Services** dated 4.15.19 signed **John S. O'Connell, P.E.** and photos taken by **Gordon Harris**. **Mr. Vlahos** seconded, the motion passed with a roll call vote: **Gayton, yes; Vlahos, yes; Fierro, yes; Clocker, yes; and Gambale, yes.**

*Documents and exhibits used by the Appeals Board:*

Email from Edward Rauscher dated 4/3/2019; opinion and photos from Gordon Harris resident and Author of Historic Ipswich that the barn dates to the Goodhue ownership, mid to late 18th Century, possibly, one of the oldest in Ipswich; letter from Red Barn Architecture, Ryan McShera dated 4.11.19; letter from Clean Soils, William Mitchell dated 4.2.1; photo of soil boring dated 4.01.19; email from Arthur J. Thibault III dated 4.2.19.

Email dated 4.16.19 Red Barn Architecture, Ryan McShera with letter from Construction Engineering Services dated 4.15.19 signed John S. O'Connell, P.E.

**31 Pleasant Street.** (Assessor's Map 41B Lot 22) **Gerald A Gould** request a special permits and/or variances pursuant to sections XI.J, IX.J and XI.K and II.B.3, to construct an accessory apartment in a single family dwelling, to extend non-conformity and reduce the current 20-foot setback frontage along Ryan Ave to 9-feet and allow the entry door to face Ryan Ave.

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

The Petitioners were present and presented photos facing Ryan Ave; the house is on the corner of Ryan Ave and Brownville Ave; small corner area gives it the Pleasant Street address.

The Petitioner spoke to an old garage/accessory structure in the yard that they propose to take down.

The proposal is to build a garage (Designed by GeoBarns) with an accessory apartment above, he spoke to design, roof line, parking for two cars and location and concealing the entry door. The siding will be vertical pine looking like a barn structure, the roof will be dark metal. The porch connector exterior look has not been decided.

Chair initiated discussion regarding structures on the lot; the Petitioner indicated his preference is to reduce the existing structure and to use it as a shed.

Discussion followed regarding the configuration of the addition with a separate entrance on back, the garage will be for the owners' only. Common wall connector requirement. Petitioner indicated that when speaking to the Building Inspector he assumed the mud room would qualify for the common wall connector

Chair reference the ten signatures from neighbors in favor; he noted that 37 abutters were noticed.

Discussion took place regarding the design keeping the look of a single family dwelling and the access to accessory apartment and design options.

The garage becomes the primary structure via the mudroom and the accessory apartment will have a shared floor ceiling connector.

The mud room can become a shared entry, instead of the entrance on side facing Ryan Ave, placing it on the upper side of Ryan, and eliminate the need for a variance. The Petitioner indicated that could be done.

The Board expressed difficulty reading the hand-drawn plans.

Revised plans were discussed and continuation to next month's meeting, with revised plans. Setback relief was discussed, opportunity to clear up the drawings. The Petitioner wanted some feedback on possibility of relief for setbacks.

Chair opened it up comments: Mr. Paul Nordberg, 19 Pleasant St hasn't seen the plans, however, currently, the corner is not built up and is open. He hoped the Petitioner would add to his house in such a way that old silver maple could be preserved along with the beautiful view in back and keep some space open.

Spinale, 27 Pleasant Street, is a direct neighbor. He said he's not opposed to the addition, but he expressed concerns about future home owners obtaining a permit for the current garage and make it another accessory apartment. Chair noted that the Board can condition the special permit, and prevent the accessory structure from being converted to living space.

Mr. Clocker suggested the Board provide some guidance regarding relief requested from the front yard setback, down to nine feet, from the required twenty feet.

Larry Graham HL Graham Associates spoke with no preference on the project, but spoke to a lot bounded by more than one street. Discussion followed between Mr. Graham and the Board regarding interpretation of the bylaws.

Mr. Clocker spoke to the challenge of granting relief from front yard setback, which is currently in conformance, reducing the front yard setback is creating a non-conformity.

Mr. Savoie spoke with no preference on the project, but suggested that if the Petitioner can meet the average setback on either side of his property, he can reduce his by right.

Chairman announced the Petitioner requested to continue to the next regularly scheduled meeting on May 16, 2019 in room A, at 7:30 p.m.

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

**33 Greens Point Road.** (Map 22 Lot 8A)**Greens Point Investment Trust, Frederick H. Ebinger III, Trustee** requests a Variance pursuant to section XI.K to reconstruct and expand a preexisting non-conforming dwelling pursuant to the Table of Dimensional and Density Regulations in section VI to reduce right side south from 28' 9" to 23' 8" and right side south-east from 26' 7" to 22' 7".

Chairman Gambale read the legal ad and opened the public hearing at 10:45 p.m.

The Petitioner was present, represented by Attorney Rich Kallman and Larry Graham, HL Graham Associates.

Petitioner was before the Board last fall to divide the lot and

The lot was previously 25 acres (boat yard since 1986) and two years ago was divided into three lots, with an ANR by the Planning Board. A commercial building on one lot and single family dwellings on the other two lots. The proposal is to demolish the existing building and construct a larger building not on the same footprint. Larry Graham was hired to upgrade the septic systems. The house at 33 Green's Point Road has been vacant for years; the proposal is to replace it with a 42' X36' Morton style building for residence above and storage below. The Board denied that request and now the Petitioner has reduced the size of the proposed dwelling to 30'x42'.

Mr. Graham spoke at length about going before the Conservation Commission previously to install a tight tank and more recently with a NOI to raze the existing house.

The ICC acted on plans in which there was a mistake, they should have drawn off of elevation ten of the ACEC, with the up gradient of wet land lines constraints, and it became a tighter lot. Mr. Graham drew a 30'x 42' structure against abutter properties but would need a variance from the ZBA – ICC was okay with the plan before the Board.

Need relief on the side setback to the south of the lot. Attorney Kallman added that the relief requested was much less than the last time around, it was brought on by the ACEC line on one corner, it is an unusual feature of this lot.

Chair with regards to hardship, how this is not self-created hardship. Attorney Kallman said Larry had to work with what was on the ground, the location of the driveway and septic system on the ground he did the best he could. 8A has an existing house.

Discussion followed concerning the size of the proposed building, the size of the lots and existing dwellings on other lots, and controlling factors. Options of reducing the size of the building or rotating the building. The location of the wetlands line. If the structure can be reduce four feet on one side and five feet on the other side it could be built by right. Attorney Kallman says petitioner did the best he could base on what he had to work with, looking for another modest house, unique in the relation of the ACEC to the topography.

Chair indicated that he's not leaning towards granting. The existing house is completely within the setbacks seems to argue that it is a buildable lot. If, a Morton building was not used, then a custom house could be built within setbacks.

Mr. Fierro recapped the ZBA granted a Variance previously, so the lots now are conforming lots; couldn't find uniqueness in shape, soil or topography and wetlands are not unique in this area. Nothing has changed since this request was before the Board previously.

Attorney Kallman requested to withdraw the petition.

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

**188 High Street.** (Assessor's Map 30A Lots 011A, 011B, 011, 010A) **Russell Bolles** requests a special permit pursuant to XI.J and II.B.2 and VI.B of the Table of Dimensional and Density Regulations to construct a 16' x 16' (256 S.F.) addition.

Chairman Gambale read the legal ad and opened the public hearing at 11:05 p.m.

The Petitioner's son-in-law and co-owner Mike Duval was present, with his architect, Ken Savoie of Savoie Architects. The Bottle Shop is a retail liquor store that comprises a single story metal building measures 4,000 sq. ft. At its nearest point on its left side, the existing building is approximately 26 feet from the front setback property line. The Petitioner seeks to construct a one-story vestibule on the right side of the building. The proposed vestibule will have a front setback of 42 feet. The right side set back would be reduced from 78.8 –feet to 63.5-feet. All other building setback and areas requirements are met.

Discussion followed regarding zoning, the existing commercial building is a legally pre-existing nonconforming structure, as it does not meet the current minimum front yard setback; increasing the setback would not make it more non-conforming.

Discussion took place concerning the design, parking, handicapped access and more or less substantially detrimental to the neighborhood.

**MOTION:**

**Mr. Fierro led the Board in review of the special permit criteria and moved the Board make the findings under Section XI. J. 2 and that the benefit to the Town outweighs the adverse effects of the proposal and that the Petitioner's application was sufficiently detailed and credible to show that the proposal meets the intent of the bylaw. Mr. Vlahos seconded, the motion passed with a roll call vote, Gayton, yes; Vlahos, yes; Fierro, yes; Clocker, yes; and Gambale, yes.**

**MOTION:**

Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from the provisions of the Zoning bylaw pursuant to XI.J and II.B.2 to alter the existing structure to construct an entry vestibule as shown on plan titled Addition and Renovation to Ipswich Bottle Shop dated 3.13.19 from Savoie Nolan Architects LLC. dated 2/13/2019 subject to a second handicapped parking space be designated to the far right and handicapped ramp as shown on plan A3 may be altered, setback for the vestibule no closer than five feet from the north corner (front right) of the existing building. Mr. Vlahos seconded, the motion passed with a roll call vote. Gayton, yes; Vlahos, yes; Fierro, yes; Clocker, yes; and Gambale, yes.

Documents and exhibits used by the Appeals Board: Petition and associated documents. Plans titled Addition and Renovation to Ipswich Bottle Shop dated 3.13.19 from Savoie Nolan Architects LLC.

The Board tabled approval of the 3.21.19 meeting minutes.

**Adjourn** -

**Motion:** Mr. Clocker moved to adjourn, and Ms. Gayton seconded. The motion carried unanimously to adjourn at 11:28 p.m.

Respectfully submitted,

Marie Rodgers

These minutes were approved with edits on May 16, 2019

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.