

**ZONING BOARD OF APPEALS
Ipswich, Massachusetts**

**Meeting Minutes
May 16, 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 May 16, 2019 at 7:00 p.m. in Room A, Town Hall, 25 Green Street, Ipswich, MA. Members attending were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton and Robert Clocker. Associate Member Justin Planasch and Marie Rodgers, Administrative Assistant. Also present Barbara Huggins Carboni special counsel for the Board.

This meeting was recorded by ICAM.

Citizen Queries: none

Announcements: Chair welcomed new associate member Justin Planasch.

Chair announced the continuation of the public hearing for the Comprehensive Permit at **30 and 34 Town Farm Road and 17 Locust Road** Also submitted a request to extend the 180-day time limit to September 15, 2019. *Documents and exhibits used by the Appeals Board: email dated 5.16.2019 request to continue to June 20, 2019 meeting signed by Attorney Kallman.*

Chair announced the continuation of the public hearing for the Comprehensive Permit at **25 Pleasant Street** continued from August 2018 through May 2019 meetings) *Documents and exhibits used by the Appeals Board: request to continue to June 20, 2019 meeting signed by Paul Ross; Additionally, an Extension of Time to June 20, 2019.*

Public Hearings:

Essex Pastures, LLC requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income 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). (continued every month from the June 2018 through May 2019 meetings)

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

The Petitioner was present with his Attorney John Smolak, along with their team Andrew Zalewski, Bree Sullivan, Edward Marchant and James Emanuel.

Rob Clocker noted that Cliff Boehmer of Davis Square Architects submitted his peer review comments, in a modified report dated 5.14.2019 based on some of the latest documents submitted.

Attorney Smolak acknowledged receipt of Cliff Boehmer's comments, and will incorporate as the design progresses forward. Two duplex buildings were eliminated in response to Davis Square comments, as well as, an increase in the overhang on the pagoda, there is additional open space, and the 'tot lot' was relocated more centrally in the project.

Andrew Zalewski President MZO described the site entrance, common area, location of the 'tot lot' and gazebo, open space area, sidewalks. The mix used building with retail on the first floor will have ten residential units on each floor; 18 two bedroom units and 2 – one bedroom units. Some will be type 2 handicapped accessible and all units will be handicapped adaptable. He spoke to architectural features, outside detail; all four buildings are virtually identical.

He went on to describe the floor plans, door locations, parking in front and responded to Cliff Boehmer's comments concerning raising the building, to provide privacy for residents on the first floor and the issue with that is it add an additional 13-feet to the handicapped access ramp.

Mr. Zalewski described the mini split heating/cooling systems on the roof as very quiet. Locations of the garages, maintenance building windows facing the street. The town houses will have two bedrooms, with a loft as a third bedroom (the Board questioned the handicapped access to the loft) Mr. Zalewski spoke to the design and said the units would be totally accessible to a handicapped person.

Discussion followed regarding the four building plan with 15-foot space in between; the 33 unit building measures 196-feet in length. The plan is the fourth rendition and the town departments are one plan behind.

Bree Sullivan, Bayside Engineering reviewed the water and sewer; reconfigurations of driveways, the traffic calming measures with two mid-block crossings with texture paint. In response to peer review, the pedestrian walks were connected around the buildings and are ADA compliant; she promised more detail in future renderings.

Ms. Sullivan described a big change on the back of the site, in order to mitigate noise and light between the community and the development, across the entire back paved area there will be a retaining wall, built on a natural berm, 54" in height, a white fence six feet high; the wall will provide additional screening and will address impact of headlights and sound. There will be additional vegetative landscaping.

Ms. Sullivan went on to describe the parking; a future submittal will show the break up the parking with vegetation. Discussion followed regarding the location of surplus parking and calculations. The Board requested additional detail showing the location of residential parking.

Ms. Sullivan spoke at length describing the travel paths configured with sufficient turning radius, using software to determine the dimensions of the town's largest fire truck. The Board will expect further comments from the fire and police department. Chairman recognized resident Helen Weatherall, 44 Fellows Road, who questioned, if the roads could accommodate trucks assisting from other towns.

Attorney Smolak requested that his team be allowed to reach out to fire and police and other town officials for direct back and forth communications. The Board agreed, with the stipulation that as everything is filtered through the ZBA office.

Ms. Sullivan spoke to water usage at 'Powder House Village' (*located at 108-112 County Road, a Comprehensive permit was issued in 2004; comprises 30 rental units*) uses 47 gallons of water per capita, per day. Some metering will be used in the Essex Pastures housing to determine usage and identify leakages. She suggested that resident demand of 44 gallons per day per capita is easily achieved.

Ms. Sullivan calculated that the onsite sewer pump station can handle peak sewage flow. Chair noted that Vickie Halmen, Water & Wastewater Director for the Town of Ipswich will review the calculations.

James Emanuel reviewed the Landscape Plan; 65 evergreen trees proposed on site, planted at a height of 8'-10', at maturity 30' in height; 65 shade trees, planted 12'-15'; 50'-60' tall at maturity. And ornamental flower trees and shrub plantings. All watered with drip irrigation from a well; all grasses and plants will be native and drought resistant. The plan will be modified in accordance with peer review comments.

Keri MacRae, 30 Heartbreak Road asked how many external mini split heating/cooling systems in each building and requested the aggregate decibel levels. Mr. Zalewski responded there will be 33, one for each unit, plus some for the hallways; the aggregate decibel level would be zero.

Mr. Clocker spoke to how much sound is made and the importance of how much noise people will hear off site; he suggested that determination be made by an acoustical engineer.

Keri MacRae, 30 Heartbreak Road, questioned how the onsite irrigation will affect the existing wells. She expressed appreciation for the applicant paying for a new line; in November 2018 there was the question of water pressure, she questioned the impact of the new line tying in with an old line further down towards the Town of Essex.

Chairman asked Ms. MacRae to email her questions and answers could be expedited.

Helen Weatherall, 44 Fellows Road expressed her frustration regarding discussion of trees concealing and softening, instead of making it attractive, instead of hideous. Additionally, she suggested adding contours to soften the landscape, instead of retaining walls.

Mr. Clocker related discussions from the working sessions and addressing the headlight spill with the use of berms and walls.

Helen Weatherall, 44 Fellows Rd shared her support for natural elevations, to soften reverberation of asphalt and concrete; a concrete wall will only exacerbate it.

The Board further discussed how the process works.

Keri MacRae, 30 Heartbreak Road questioned potential issues surrounding Lot H and asked the Board to address the scale of the proposal and issues raised in the letter from IRWA, Police comments and DRB recommendations.

Elaine Ricci, 20 Meadowview Lane opined that the scale is still huge, it's out of character; too big for this neighborhood.

Attorney Barbara Carboni noted that she works with many 40B applications and she is used to seeing a lot more details on the plans. She suggested the Board request an updated waiver list with each new iterations of plans.

Attorney Smolak responded that it would be premature to do so, and a revised waiver list will be provided when the plans are closer to a fixed footprint; final design is still a ways away.

Mr. Fierro and Mr. Clocker spoke to the process, plans are modified, a consensus is reached; the Board will expect more detail when plans are closer to being finalized.

Attorney Smolak indicated that the plans will be revised further and would like to have one on one with town department heads and update the plans in response to comments from town departments, including police and fire, for comments and opportunity to respond to comments.

Mr. Clocker requested more details on scale and resident parking presented in a way we can all understand, provide more details on the retaining wall, and provide visual examples.

Discussion followed concerning the next meeting and extension of the time. Mr. Clocker will not be attending the July meeting, Attorney Smolak said he would provide an extension out to August. Chairman suggested holding a special meeting on July 25th the Board concurred.

Chair continued the public hearing to the June 20th, 2019 meeting, at 7:30 in room A.

Documents and exhibits used by the Appeals Board: May 11, 2019 – Davis Square Architects 5pg peer review; May 13, 2019 – HVAC Decibel Chart Comparison; May 13, 2019 – Auto Turn Fire Truck Plan (Rev.5.9.19); May 13, 2019 – Bayside Technical Memo (5.9.19); May 13, 2019 – Building Sight Lines Section Plan (Rev. 5.9.19); May 13, 2019 – Ltr. ZBA 5.9.19; May 13, 2019 – Mitsubishi Heat Pump Spec Sheet; May 13, 2019 – MZO Architectural Plan Set (Rev.5.9.19); May 13, 2019 – Site Cross Section Plan (Rev. 5.9.19); May 13, 2019 – Updated Site Plan (Rev. 5.9.19); May 14, 2019 - Preliminary Architectural Review Clifford Boehmer Davis Square 6 pgs

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 at. (continued from the January, March and April 18, 2019 meetings)

Chairman Gambale read the legal ad and re-opened the public hearing at 9:40 p.m. The Petitioner and Architect Bates were present. New revised plans were submitted to the Board, which showed an increase the setback to 8-feet.

Chair initiated discussion regarding lot coverage and after a lengthy discussion, it was determined that with new construction the coverage will be just slightly under the 20%.

The Petitioner spoke to the irregularly shaped and narrow lot, and house situated diagonally on the lot; Cameron Ave ends at her yard and in the winter the snow ploughs pile the snow right at her door. The location of the addition is on the side away from her neighbors and on the side where the house received the most solar gain and she relies on for heat in the winter months. A vacant lot separates the new construction from her closes neighbor. She also indicated that the second floor was eliminated in the redesign.

The Board heard from direct abutter at 4 Cameron Ave, Glenn Gibbs who spoke to the ownership of the vacant lot; since 1940's no taxes have been paid, the Town never took legal steps to own it. It can't be sold, because no one knows who owns it. Mr. Gibbs expressed his support for the 8-foot setback.

The Board noted the vacant lot is not a buildable lot; electric utilities and sewer service run beneath the vacant lot.

Mr. Fierro reviewed the bylaw under II.B.3 for lawfully preexisting non-conforming structures.

MOTION: Mr. Fierro moved that the Board make the finding that it may grant relief sought under II Applicability B. Nonconforming Uses and Structures subsection 3, and find that the relief sought will not be more substantially detrimental to the neighborhood than the existing non-conforming structure. Mr. Clocker seconded, the motion passed unanimously.

MOTION: Mr. Fierro moved that the Board find alterations of reconstruction of a dwelling 8-feet from the front setback will not be more substantially detrimental non-conforming in a neighborhood of undersized lots created in 1930's many homes are non-conforming with front setbacks quiet close to setbacks. Find the reduction of the front setback 8-feet from the front property line won't be more detrimental than 20-feet, subject to plan dated 5/20/2019. Mr. Clocker seconded, the motion passed unanimously.

MOTION: Mr. Fierro reviewed the criteria under section XI.J special permits and moved the Board make beneficial substantial improvements of the property, adverse effects are minimal, the property is already non-conforming and addition will be in character with the neighborhood. Mr. Clocker seconded, the motion passed unanimously.

MOTION: Mr. Fierro moved the Board grant the Petitioner request to reduce the front setback no closer than 8-feet to construct an addition on a single family dwelling; and to reduce the side setback to 8-feet in accordance with plans titled BATES DESIGN 5.7.2019. Mr. Clocker seconded, the motion passed unanimously.

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 re-opened the public hearing at 10:15 p.m.

The Petitioner was present with her Architect Dan Bates of Bates Design Collaborative. The Petitioner explained the size would be 890 square feet and entirely handicapped accessible; all clearances are three feet wide. Two separate entrances, no connections to primary structure. Chair review the 17 conditions and the Petitioner stated her understanding of all seventeen conditions.

MOTION: Mr. Clocker led the Board in finding that materials were sufficiently and moved the application meets the criteria for a special permit. Mr. Fierro seconded, the motion passed unanimously.

Mr. Clocker led the Board in review for criteria for a special permit. A single family dwelling on a quiet street, with adequate utilities; a small accessory apartment use neighborhood character, minimal impacts on the natural environment. Social economic needs or community needs improvement of the property; and will provide the need for additional housing, potential fiscal impact, including impact on town services, tax base will increase, there is adequate parking, there are adequate utilities, it is compatibility with neighborhood character and there are no impacts on the natural environment.

MOTION: Mr. Clocker moved the Board find that the proposal meets special permit criteria. Mr. Vlahos seconded, the motion passed unanimously.

MOTION: Mr. Clocker moved the Board grant the special permit as requested by the Petitioner for an accessory apartment in accordance with plans titled Bates Design Collaborative dated 5.7.2019 3 pgs. Mr. Vlahos seconded, the vote was unanimous.

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.

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. (continued from the April meeting)

Chairman Gambale read the legal notice and re-opened the public hearing at 9:40 p.m. He noted the applicant submitted revised plans and the request for a variance would no longer be needed.

The Petitioner explained the proposed garage would be attached and roof line is towards the house; options were discussed.

Lengthy discussion followed regarding the average setbacks and location of those setbacks; the process and the interpretation of the bylaw. It was agreed that footnote 2 reduce setback by 10%

Total average 16'.4" on all of Rylan; he asking for 9' seeking relief on Pleasant St. The new front yard setback on Rylan Ave was considered; the average setback on either side of his property, on a street is shorter than 250'.

The Board and the Petitioner further discussed the character of the neighborhood and intent of the bylaw.

Petitioner spoke to using the other building on lot, if the apartment can't work above the garage, the Petitioner would seek an apartment in the existing barn/garage; because of its age could be converted to a separate dwelling.

Additional discussion was held regarding the current design. The Board can work with 15-feet. The Petitioner agreed and will redesign so he's at 15-feet. The redesign would require an external egress and the common area is no longer there.

Chair continued the public hearing to the June 20th, 2019 meeting, 7:30 p.m. room A.

Documents and exhibits used by the Appeals Board: Petition and associated documents. Cover site plan; first floor plan and elevation plan all dated rev 04.11.19

NEW PUBLIC HEARINGS:

10 Seaview Road. (Map 22D Lot 94) **Dale Welch and Kristin Ostberg** requests a special permit pursuant to XI.J and Footnote 2 to the Table of Dimensional and Density regulations to construct an addition that reduces the 40-foot required left side setback to 24.7-feet.

Chairman Gambale read the legal ad and opened the public hearing at 10:55 p.m.

The Petitioners were present and explained their plan to construct an addition that would add two feet of living space to the width of the house to accommodate a larger kitchen and first floor bath for better access. Additionally, they seek to construct an attached two-car garage. The space above the two-car garage would create a large accessible bathroom and third bedroom upstairs will provide storage space.

The house was built in 1950. The lot area is .459 acre, with 150-feet of frontage. The left side setback would be reduced from 58 feet to 24.7 feet. The proposed structure will be 45.7-feet' from the roadway. The existing right side setback of 60 feet will be reduced to 40 feet. The rear yard will be increased from 14.1-feet to 26-feet.

The Petitioners indicated that they spoke with their neighbors; no one spoke in support or in opposition.

The Zoning Board of Appeals may reduce by special permit the side setback requirements up to a maximum of fifty percent (50%)

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, would not have a detrimental fiscal impact upon the town, that there would be no negative impacts.

MOTION:

Mr. Fierro moved that the Board find under XI. Administration J. Special Permits 2. That the benefits to the Town to alter and reconstruction of this structure will outweigh the adverse effects of the proposed use, the petitioners application materials are sufficiently detailed, with credible information to show the project meets the intent of this bylaw. Social economic needs or community needs improvement of the property; potential fiscal impact, including impact on town services, tax base will increase, there is adequate parking, there are adequate utilities, it is compatibility with neighborhood character and there are no impacts on the natural environment. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant the request made by the Petitioner for a special permit pursuant to XI.J and Footnote 2 to the Table of Dimensional and Density regulations to reduce the left side yard setback to no closer than 20-feet for the purpose of constructing an addition as shown on plans titled Proposed Garage in Ipswich, MA property of Dale W. Welch & Kristin W. Ostberg, prepared by Durrant Design Harvard, MA dated 03-05-2019; and Donohue Survey dated 4.17.2019 1page. Mr. Vlahos seconded, the motion passed unanimously.

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

7 Woods Lane. (42C Lot 127) **Michael and Judee Davis** requests a special permit pursuant to II.B.2 and XI.J to replace the existing non-conforming detached single car garage with an expanded two car garage.

Chairman Gambale read the legal ad and opened the public hearing at 11:07 p.m.

The Petitioners were present to explain their proposal to reconstruct a sing-car garage with a two car garage and shifting the orientation of the garage entry approximately 90 degrees to the street to allow vehicle to back out of the drive and face out to the street making sager to exit.

Chair noted a letter of support from the abutter Carl Gardner at 10 Woods Lane.

Discussion followed and the Board determined the special permit is to reconstruct a legally existing non-conforming accessory structure; setback relief is not required. The required side setback is currently 8.8 feet and will increase to 10-feet; the left side setback will increase from 8.8 feet to 10-feet; the front yard and, right yard setback remain the same and rear yard is reduce a little over nine feet to 122.3 feet.

MOTION: Mr. Fierro moved that the applicant may seek relief under IIB.2 because the accessory structure is legally existing non-conforming, the proposed two car garage will not be more substantially detrimental to the neighborhood than the existing one car garage. Mr. Vlahos seconded, the motion passed unanimously.

MOTION: Mr. Fierro moved that the Board find under XI.J. Special Permits 2. that the benefits to the Town to alter and reconstruction of this structure will outweigh the adverse effects of the proposed use and the Petitioner's application include, in the Board's opinion, sufficiently detailed and credible information to show the project meets the intent of this bylaw. Mr. Vlahos seconded, the motion passed unanimously.

The Board reviewed the special permit criteria under section XI.J.

MOTION: Mr. Clocker moved that the Board make finding that the criteria for a special permit have been met by the applicant. Mr. Fierro seconded, the motion passed unanimously.

MOTION: Mr. Fierro moved the Board grant the request made by the Petitioner for a special permit to reconstruct one car garage with a two car garage in accordance with plans titled Donohoe Survey dated 4.15.19; and BEHM Design Plan#576-16 dated 5.11.19; subject to the condition the two windows face the street. Mr. Vlahos seconded, the motion passed unanimously.

Documents and exhibits used by the Appeals Board: Petition and associated documents; letter from abutter at 9 Woods Lane in support.

Approval of Minutes:

Mr. Fierro moved to approve and accept meeting minutes of 3.21.19 and 4.18.19 as amended. Mr. Vlahos seconded, the motion passed unanimously. (*meeting minutes hereby incorporated by reference*)

Adjourn - It was moved, seconded and unanimously voted to adjourn at 11:20 p.m.

Respectfully submitted,

Marie Rodgers

These minutes were approved by the Board as submitted on June 20, 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.