

APPROVED 8.15.19
Distributed 8.19.19

ZONING BOARD OF APPEALS Ipswich, Massachusetts

Meeting Minutes June 20, 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 June 20, 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, Robert Clocker, Associate Member Justin Planasch and Marie Rodgers, Administrative Assistant. Also present Barbara Huggins Carboni special counsel for the Board. Becky Gayton was absent with prior notice to the meeting.

This meeting was recorded by ICAM. **Citizen Queries:** There were none.

Announcements:

Chair announced the continuation of the public hearing, for the Comprehensive Permit pursuant to MGL Ch. 40B, at **30 and 34 Town Farm Road** and **17 Locust Road** made by the Applicant's attorney to the July 25, 2019 meeting in room A at 7:30 p.m. *Documents and exhibits used by the Appeals Board: email dated 6.19.2019 request to continue to July 25, 2019 meeting signed by Attorney Kallman.*

Chair announced the continuation of the public hearing for Comprehensive Permit pursuant to MGL Ch. 40B, at **25 Pleasant Street** made by the Applicant's attorney to the July 25, 2019 meeting in room A at 7:30 p.m. *Documents and exhibits used by the Appeals Board: request to continue to July 25, 2019 meeting signed by Paul Ross; Additionally, an Extension of Time to September 27, 2019.*

Chair announced the withdrawal of the Petition for **19 Sagamore Road** by the applicant. **Robert Weatherall** for a special permit pursuant to Sections XI-J and VI.F Table of Dimensional and Density regulations to construct a Private Guest House. *Documents and exhibits used by the Appeals Board: email dated 6/20/19 from R. Weatherall requesting to withdraw the petition.*

NEW PUBLIC HEARINGS:

29 Woods Lane (Assessor's May 42A/Lot 009) **Brian and Seraphima McLean** requests a special permit pursuant to XI.J and II.B.3 and VI Table of Dimensional and Density Regulations footnote 2 to reduce the right side setback to no greater than the 50% of the required 40' to construct an addition to a single family dwelling.

Chairman Gambale read the legal notice and opened the public hearing at 7:50 p.m. He explained to the Petitioner that there was a procedural error and continued to the public hearing g to the July 25, 2019 meeting due to an defective abutter notice.

MOTION:

Chair continued the public hearing to the July 25th, 2019 meeting, at 7:30 in room A.

Documents and exhibits used by the Appeals Board: petition and associated documentation; letter of support from neighbor Norris

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 from the June, July, August, September, October, and November 2018; January, February, March, April and May 2019 meetings)

Chairman Gambale read the legal notice and re-opened the public hearing. Attorney Barbara Huggins Carboni was present representing the Board.

The Petitioner was present with his Attorney John Smolak, Bree Sullivan Bayside Engineering and James Emanuel Landscape Architect

Attorney Smolak reviewed since last meeting the applicant has met with the utilities department, the school department and electric department has submitted comments; he requested permission to continue discussions and get back to the Board. Discussion followed with reference to documents submitted in response to comments from Architect Peer review and from the public.

Mr. Gambale asked the applicant to submit any revisions since June 4th to the peer reviewer. Attorney Smolak indicated that written response to Keri MacRae questions from Mon 5/20/2019 4:09 PM will be forthcoming.

Bree Sullivan, Bayside Engineering reviewed changes since last plan and submitted a three page response letter to Vickie Halmen, Water and Wastewater Director for the Town of Ipswich. (hereby incorporated by reference)

James Emanuel Landscape Architect reviewed the updated landscape plan dated 5/30/2019. Discussion took place regarding vegetation, grading, water and use of cisterns; irrigation will not be part of the plan.

Keri MacRae, 30 Heartbreak Road questioned response from town departments and the IRWA letter. She submitted 10 pages titled 314 CMR: 7:00 Division of Water Pollution Control; and 33 pages titled 314 CMR: 12:00 Division of Water Pollution Control (hereby incorporated by reference)

Helen Weatherall, 44 Fellows Road, Scott Glosserman, 34 Heartbreak Road, Amy Borgman Heartbreak Road all spoke with concerns about fencing, trees, infill, wall and building height of 39'-40' and tree height in 30-5- years and the poor quality of the landscape plans.

Attorney Barbara Huggins Carboni asked about waivers and Attorney Smolak confirmed waivers were requested from the local wetland bylaws, in the original application. Attorney Carboni suggested the Board set aside time to go over the waiver list and allow for public comment. Attorney Smolak discouraged multiple iterations of the waiver list.

Attorney Smolak requested to continue to the July 25, 2019 meeting at 7:30 p.m. in room A; he agreed to an extension of time to August 30, 2019.

Associate Member Justin Planasch suggested the applicant submit a cross section, for a better visual.

Documents and exhibits used by the Appeals Board: cover letter (3pgs) dated 6/3/2019 from John Smolak; describing the latest site plan adjustments; 7pgs titled Auto Turn Firetruck Bayside Engineering; Rev. 5.29.19; 1 sheet SITE LAYOUT dated 5/29/2019 Bayside Engineering, Inc. June 13, 2019 - hand delivered from John Bruni; color, Preliminary Plan Site Layout dated 5/29/2019 June 19, 2019 – Town of Ipswich Utilities Dept comment letter dated 6.18.19 email from V. Halmen June 19, 2019 – Landscape Plan 24" x 16" dated 5/30/19

31 Pleasant Street. (Assessor's Map 41B Lot 22) **Gerald A Gould** request a special permits pursuant to sections XI.J, IX.J and II.B.2, to construct a garage with an accessory apartment above, attached to the primary dwelling to extend non-conformity and reduce the current 20-foot setback frontage along Ryan Ave and allow the entry door to face Ryan Ave at continued from the April and May meetings)

Chairman Gambale re-opened the public hearing at 9:40 p.m. and read the legal ad. He noted that the applicant had submitted revised plans and a variance would not be needed.

The Petitioners were present. Revised plans were submitted, design by BATES DESIGN COLLABORATIVE dated June 20, 2019. The Petitioner redesigned the addition to fit within a setback of 15-feet from Ryan Ave property line. The garage will be attached directly to the primary dwelling. Additionally, the egresses were moved further apart by removing the internal staircase and add a spiral staircase to the outside of the building. The Building Inspector Jim Bone approved to these changes and had no other concerns about the design, including the spiral staircase.

Discussion was held regarding the topography and grade of the driveway.

Mr. Gambale reviewed and the Petitioner acknowledged conditions (XI.J a. – n.) for an accessory apartment.

The Board discussed relief required from the setback. The front setback of 16-feet was determined by the Petitioner by measuring average front setbacks of homes on abutting lots within two hundred and fifty (250) feet of each lot line facing the same street and located within the abutting homes. The Board can grant a maximum of 10% of on non-conforming lots. The Board granted no closer than 15-feet.

Mr. Fierro cited the bylaw under footnote 2 of section VI in the Table of Dimensional and Density Regulations, which allows the Board to reduce front setback by a maximum of 10% taking in consideration the lot is non-conforming in lot area and front setback on Pleasant/Brownville. Based on that the Board can grant relief to reduce front setback to 15- feet. He then reviewed footnote 1 which allows the reduction of setbacks, by taking into consideration the average setback of surrounding homes.

MOTION:

Mr. Fierro moved that the Board make the finding that the applicant qualifies for relief under footnote one and two; no closer than 15-feet. Mr. Clocker seconded, the motion passed unanimously.

Mr. Fierro led the Board in review of the criteria for the granting of a special permit.

MOTION:

Mr. Fierro moved the Board make a finding that the benefit to the Town of an addition to this home outweighs any adverse effects, the Board did consider it in a site visit and taking into account the site itself and proposal in relation to the site; and the Board can find the Petitioner's application are sufficiently detailed, with credible information for the Board to determine that it meets the intent of the bylaw under sections XI.J and II.B. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board make a finding for the social, economic or community needs, the additional housing property; potential fiscal impact on town, the proposal would increase the assessed value of the property; traffic flow and safety, including parking and loading, there is adequate parking; adequacy of utilities and other public services it is one bedroom apartment; compatibility with neighborhood character keeping in character with neighborhood; impacts on the natural environment relatively small addition no closer than 15-feet to the front setback. In accordance with BATES DESIGN COLLABORATIVE 6.20.2019. Mr. Vlahos seconded, the motion passed unanimously.

Mr. Gambale read the conditions for an accessory apartment earlier in the hearing and the applicant agreed.

MOTION:

Mr. Fierro moved that the Board make the finding that the applicant has met the criteria for an accessory apartment section IX.J a-n. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved Board make a finding that the benefit to the Town of an accessory apartment outweighs adverse effects, the Board did consider it in a site visit and taking into account the site itself and proposal in relation to the site; and the Board can find the Petitioner's application are sufficiently detailed, with credible information for the Board to determine that it meets the intent of the bylaw under sections XI.J and II.B. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved Board make a finding of social, economic or community needs are being met by the additional an apartment rental; potential fiscal impact on town, the proposal would increase the assessed value of the property; traffic flow and safety, including parking and loading, there is adequate parking; adequacy of utilities and other public services, it is one bedroom apartment; compatibility with neighborhood character keeping in character with neighborhood; and legible impacts on the natural environment are relatively small addition. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant the Petitioner's request for an Accessory Apartment under IX.J and XI.J for an accessory apartment not exceeding 720 square feet, as shown on plans titled BATES DESIGN COLLABORATIVE 6.20.2019 pages 1-4 with attached addendum to ZBA Decision for an Accessory Apartment. Mr. Vlahos seconded, the motion passed unanimously.

Documents and exhibits used by the Appeals Board: Petition and associated documents; plans dated 6.20.2019 titled BATES DESIGN COLLABORATIVE pages 1-4.

Approval of Minutes:

Mr. Fierro moved to approve and accept meeting minutes of May 16, 2019 as submitted. Mr. Vlahos seconded, the motion passed unanimously. (*meeting minutes hereby incorporated by reference*)

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:20 p.m.

Respectfully submitted,

Marie Rodgers

These minutes were approved by the Board as submitted on August 15, 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.