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ZONING BOARD OF APPEALS
Ipswich, Massachusetts

Meeting Minutes
August 15, 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 August 15, 2019 at 7:30 p.m. in Room A, Town Hall, 25 Green Street, Ipswich, MA. Members attending were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Robert Clocker, and Administrative Assistant Marie Rodgers. Becky Gayton and Associate Member Justin Planasch were not present. This meeting was recorded by ICAM.

Citizen Queries: There were none.

Continued Public Hearings:

30 and 34 Town Farm Road and 17 Locust Road - continued to 9.19.19

Chair announced the continuation of the public hearing for the Comprehensive Permit at **30 and 34 Town Farm Road** and **17 Locust Road** to the September 19, 2019 meeting at 7:30 p.m. in room A. Also, a request to extend the 180-day time limit to September 15, 2019. *Documents and exhibits used by the Appeals Board: email dated 8.13.2019 request to continue to 9.19.19 meeting signed by Attorney Kallman.*

25 Pleasant Street – continued to 9.19.19

Chair announced the continuation of the public hearing for the Comprehensive Permit at **25 Pleasant Street** to the September 19, 2019 meeting at 7:30 p.m. in room A. Also, a request to extend the 180-day time limit to November 22, 2019. *Documents and exhibits: request to continue to 9.19.19 meeting and an Extension of Time to 11.22.19 signed by Paul Ross.*

26, 36, 38, 42, 44 Essex Road - Essex Pastures, LLC - continued to 9.19.19

Chair announced the continuation of the public hearing for the Comprehensive Permit at **26, 36, 38, 42, 44 Essex Road** to the September 19, 2019 meeting at 7:30 p.m. in room A. Also, a request to extend the 180-day time limit to October 31, 2019. *Documents and exhibits: request to continue to September 19, 2019 meeting signed by John Smolak. Additionally, an Extension of Time to 10/31/19.*

Chair alerted all applicants that with only four voting members, an affirmative vote of all four members would be required, if there's one no vote, the motion fails.

120 County Road, ROLE Realty Trust, Roger LeBlanc, Trustee requests a special permit pursuant to II.B.1.a to alter the current non-conforming 'Hotel/Motel' use, to allow cooking facilities in rooms with non-transient occupancy (multifamily development), or alternately, request a variance under XI.K to change the current non-conforming use to alter the efficiency dwelling units, to primarily single room occupancy units, with a density of one per 1,375 square feet of land in the Highway Business District. (Assessor's Map 54A, Lot 9)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:40 p.m.

The Petitioner was present with his Attorney David Ankeles. Chair related the site visit held on July 27th, 2019.

Joseph McGowan related his conversation with Planning Director Ethan Parsons who is of the opinion that affordable housing is the responsibility of the Planning Board; it was suggested Town Counsel make a determination of authority.

Mr. Fierro spoke to the bylaw IIB.1 and 2; the Board can grant a special permit to alter non-conforming structures and change use. He indicated that the Board will seek assistance from Town Counsel and input from town officials for the issues of affordability. He cited the bylaw section VI in Chapter 40A gives the ZBA the right to grant special permits. The Planning Board cannot grant variances and cannot issue special permits under section VI.

Chair recognized two residences of 120 County Road, Julie Tucker and her sister Jill Robinson. Ms. Tucker has worked at Winthrop school for 14 years, she spoke in support of the proposal saying she cannot afford rents in Ipswich and would not have a place to live; she expressed her gratitude to Mr. LeBlanc. She continued to describe the residence as a community, she said they look out for one another. Ms. Robinson related her wait for affordable housing in Ipswich for six years, when a two bedroom came up she did not qualify, because her son grew up (and no longer lived with her).

Joseph McGowan, 6 Essex Road #17 submitted photos depicting current surroundings of chairs, tables, grills and planters in front of the units; he commented the units are 'littered with debris'. He questioned the location of decks and voiced his concerns for impacts on the direct abutters. He objected to further disruption in the neighborhood. He requested comments from the police and fire department. He referenced the million dollar investment, owner occupied and the amount of development already taken place in the surrounding area. He complained that it was noisy already, with the new brewery and the YMCA water park. He asked the Board to look at all the details and opined that the proposal is a detriment to the neighborhood.

Chair noted that the applicant, as a matter of right, may apply for building permits for the patios and decks; he's asking for cooking facilities and to make affordable units.

Mr. McGowan asked if there were plans to excavate the hill for patios or decks.

Mr. Leblanc said he would like to place a 10' x 10' deck on the second level unit; no outdoor stair, interior access only. He spoke to cooking appliances would eliminate the need for residence to cook on grills outdoors; a sprinkler system was installed, as well as, a central alarm and heat detectors. He spoke to yearly inspections by BOH, the Fire dept. and the Building Inspector.

Discussion continued concerning mitigating impacts from the second story unit and storage in the basement for individual units; inspection reports are public records.

Mr. McGowan reiterated that it is more detrimental; it's a quality of life issue.

Rental rates were discussed and the continued use for non-transient occupancy. Cooking facilities were discussed; historic zoning, non-conforming structures and new use posing a detriment to the neighborhood.

Discussion in response to the Board question regarding the plumbing fixtures. Mr. LeBlanc said he has upgraded to reduce waste, and the rooms are insulated lowering cost for heating and cooling. Units shall remain as rental in perpetuity and not be sold any time in the future. No further expansion, no more than the current 37 units, and 10 units shall remain affordable. All units shall remain on one utility.

The Board requested further mitigation for noise and privacy. Mr. LeBlanc agreed to eliminate the deck on the elevated section. Fences and vegetation screening were discussed. Board requested additional information regarding the locations and images of the decks and planting plans; including the location of the mature trees on the hill.

Mr. Fierro opined there was sufficient information regarding the historical pre-existing non-conforming evidence for the Board to grant relief under IIB.2; the change of use, from the transient situation to permanent housing is not more substantially detrimental to the neighborhood. The Board determined to postpone the final decision to next month's meeting to give opportunity to the missing members to review and vote at the next meeting. Additionally, the Board will

contact Town Counsel regarding the regulatory agreement and comments from the Affordable Housing Committee. Attorney Ankeles shall provide a draft decision for review.

Chair listed a few conditions; that all units have sprinklers; removal of all items on sidewalks; unit numbers on doors at least three inches; parking is adequate; number the parking spaces co-ordinate with doors; mail boxes; no further expansion of the building; no additional units, remain at 37; remove hi level decks; fencing where Board deems necessary; plantings as buffer; storage units in basement.

All parties agreed, to continue the public hearing to the next regularly scheduled meeting on September 19, 2019 in Room A at 7:30 p.m.

Documents and exhibits used by the Appeals Board: 16 pgs. Dated 8.9.19 Memo – Supplemental Information 2; 8 pages of photos on site submitted by Mr. McGowan.

NEW PUBLIC HEARINGS:

20 Island Park Road, Anthony and Karen Takis requests a special permit pursuant to sections XI.J and II.B.3 and VI Table of Dimensional and Density Regulations footnote 2, to reduce the rear setback to 9'.3" feet, from the existing 19.3-feet, to construct an addition. (Assessor's Map 23C & Lot 010) Chairman Gambale read the legal notice and opened the public hearing at 9:12 p.m. and read a signed petition in support of the project from eleven neighbors. (hereby incorporated by reference)

The Petitioners were present and explained their request to construct a 330 s.f. deck on the rear of the single family dwelling; the setback at the closest point would be reduced to 9.3 feet. It was determined that the non-conformity of the structure gives the Board authority to grant a special permit. After a brief discussion, the Board determined that the bay window was exempt.

MOTION:

Mr. Fierro moved the Board find the structure qualifies for relief under section II Applicability B. Nonconforming Uses and Structures subsection 3 for a single family structure situated on a currently non-conforming lot area and granting further relief for the rear yard setback will not be substantially more detrimental to the neighborhood. Mr. Vlahos seconded, the motion passed with a unanimous vote.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria for a special permit under XI.J. Mr. Gambale seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board find the social economic needs the addition serves the social economic needs improvement of the property and functionality of the home. Single family home with a modest addition no impact on services, it will serve to increase the taxes, no traffic or parking issues, utilities are adequate. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant the request of the Petitioner from the Protective Zoning Bylaw pursuant to Section VI Table of Dimensional and Density to establish a rear yard setback no closer than 9-feet to construct an addition to the single family dwelling in accordance with plans created by David F. Jaquith, AIA architects dated March 20, 2019 Mr. Vlahos seconded, the motion passed with an unanimous vote.

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

239 High Street, John and Katie Vitale requests a special permit under Sections XI. J. and II. B. 3 and VI Table of Dimensional and Density Regulations footnote 2 and F to allow side setback to be reduced to 10-feet, from the existing 39.3-feet to construct an addition and garage greater than 750 S.F (942 s.f.) (Assessor's Map 20D Lot 027) Chairman

Gambale read the legal notice and opened the public hearing at 9:35 p.m. Chair noted the Petitioner does not need relief from footnote F for the addition is attached, not detached.

Quimby Ave is on the list of unaccepted streets and a private way; the Petitioners access the first ten feet as their driveway. The right side setback of 39-feet is pre-existing non-conforming. The Petitioners are requesting relief for a new right side setback of 29-feet.

Discussion took place regarding the proposal and location of the second garage door located ten feet from the roadway; the petitioner indicated it would be used for their boat, only. Further discussion took place concerning abutters and residence further down the roadway. Mr. Fierro noted the current setback is 39-feet only one foot shy of conforming and the relief requested to go to ten feet is substantial. The Board suggested moving the proposal further from the roadway. Discussion followed regarding the plans and eliminating the four foot bump out, the entire length would remain at a depth of 16-feet. The legally pre-existing nonconforming single-family dwelling would not be substantial more detrimental to the neighborhood, than currently exist.

MOTION:

Mr. Fierro moved the Board find they can grant relief requested by the applicant, finding the structure is a legally non-conforming single family dwelling and the proposal will increase the non-conformity on the right side setback, doing so will be no more detrimental than the existing non-conformity. Mr. Vlahos seconded. Mr. Clocker amended the motion for the Board to find that Quimby Ave as a shared driveway, not applicable to zoning, not as a frontage, but a side yard. Mr. Vlahos seconded, the amended motion passed unanimously.

MOTION:

Mr. Fierro moved the Board make a finding under XI.J that the benefit to the Town outweighs the adverse effects of the proposal, taking into account the characteristics of the site and proposal in relation to that site; and in the Board's opinion, the Petitioner's application is sufficiently detailed and credible information to show the project meets the intent of this bylaw. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro reviewed the special permit criteria; the proposal would improve the condition of the property and serve the social economic needs, no adverse impact for a modest addition and will not impact traffic; it will provide parking in the garage and there are adequate utilities for a modest addition; it will increase the assessed value of the property; it is compatible with the neighborhood character and impacts on the natural environment will be de minimis. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant the special permit as request by the Petitioner under section VI Table of Dimensional and Density to establish the right yard setback no greater than 9'.9" from the front portion of the proposed garage subject to the elimination of the 4-foot bump out, as indicated on plans titled Josh Norris JNC Architects dated 7/8/2019 and Existing Plot Plan prepared by LeBlanc Survey Associates, Inc. dated 7/15/19. The Petitioner acknowledged and agreed to elimination of the four foot bump out and second garage door. Mr. Vlahos seconded the motion and the vote was unanimously in favor. The Petitioner initialed the modified plans.

Documents and exhibits used by the Appeals Board: Petition and associated documents; plan dated 7/15/19.

11 Applewood Dr., Jannell Zarba requests a special permit under Sections XI. J. and II.B.3 and VI Table of Dimensional and Density Regulations footnote 2 to reduce the rear yard setback to 24'.7" feet to construct an addition. (Assessor's Map 31B Lot 12A) Chairman Gambale read the legal notice and opened the public hearing at 10:05 p.m.

The Petitioner Jannell Zarba/Damiana Design and Project Manager was present to explain the proposal to construct a 13' x 16'.6" addition on the right side of the house and incorporate the existing bonus room a master bedroom suite, walk in closet and ¾ bathroom; entry would be off the current living room.

The single family dwelling measures 1,800 sq. ft. and the proposed 352 s.f. addition would reduce the rear set back to 24.7 feet. The lot is irregular in shape and the rear lot line is angled. There were no objections from abutters or others.

Discussion followed regarding the lot size and its irregular shape and relief requested. The single-family dwelling structure is legally existing pre-existing nonconforming and degree of substantial detriment to the neighborhood, than currently exist.

The Board reviewed the criteria for relief.

MOTION:

Mr. Fierro moved the Board find the applicant qualifies for relief under section II.B section VI. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved that the Board find the benefit to the Town outweighs the adverse effects of the proposal, taking into account the characteristics of the site and proposal in relation to that site; and find materials substantive and sufficiently detailed and credible pro meets intent of bylaw. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board make the finding the proposal meets the special permit criteria; the proposal will serve the social economic needs, no adverse modest addition to a home; increase tax base, no impacts on traffic and parking additional utilities on town sewer and water; compatible with neighborhood and small impacts on the natural environment. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant the special permit from section VI of the Protective Zoning Bylaw section IIB. XI. J. to reduce the left yard setback no closer than 28-feet reduce the rear yard setback no closer than 24-feet to construct an addition as show on plans submitted in the application titled PROPOSED ADDITIONS PLAN IN IPSWICH, MA PROPERTY OF KRISTEN MOORE Donohue Survey dated 7.18.19. Mr. Vlahos seconded. Mr. Clocker amended the motion to read the 'right' side setback no closer than 28-feet. Mr. Vlahos seconded the amendment and the vote was unanimous on the amended motion.

Chair read an email from abutters at 9 Applewood Drive dated 8.13.19 in support.

Documents and exhibits used by the Appeals Board: Petition and associated documents. Email dated 8.13.19 from Gavin Keenan in support.

New Business: Discussion regarding peer review for Essex Road 40B storm water; Administrative Assistant will provided two names to the applicant, then move forward.

Approval of Minutes:

Mr. Fierro moved to approve and accept meeting minutes of 6.20.19 and 7.25.19 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 10:30 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

The Board approved minutes, with minor edits on September 19, 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.