

**Planning & Development Standing Committee**  
**Wednesday, November 4, 2020 – 5:30 p.m.**  
**REMOTE MEETING**  
**-Minutes-**

**Present: Chair, Councilor Val Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Barry Pett**

**Also Present: Council President Steve LeBlanc; Councilor John McCarthy`**

**Also Present: Mayor, Sefatia Romeo Theken; Acting CAO, Vanessa Krawczyk; Assistant City Clerk, Grace E. Poirier**

**Applicants:** Attorney Joel Favazza of Seaside Legal Solutions, P.C. representing SCP2020-005, Elizabeth Cardarelli representing PP2020-007, Dave Flewelling representing PP2020-008

*This meeting was conducted remotely through ZOOM. All votes were taken by ROLL CALL.*

**Meeting called to order at 5:30 p.m.**

**Chairperson Gilman** announced, “This meeting is recorded by video and audio in accordance with state open meeting law. Consistent with the Governor's orders, suspending certain provisions of the open meeting law and banning gatherings of more than 25 people, this meeting will be conducted by remote participation to the greatest extent possible. The public may not physically attend this meeting, but every effort will be made to allow the public to view and listen to the meeting in real time. Persons who wish to do so are invited to view the meeting and you have the information that was on the posting. If you are calling in on a phone, you can press \*9 to request to speak. If you are watching on a computer a device, there is a raised hand button that you can tap or press to request to speak. Please use either of these options to be recognized to speak.”

1. Memorandum from Community Development Director requesting extension of temporary zoning relief to businesses during COVID-19 through December 30, 2021.

**This matter has been continued until Wednesday, November 18, 2020.**

2. SCP2020-005: Rocky Neck Avenue #37, Map 130, Lot 4A, GZO Secs. 2.3.1.7 “Conversion to or new multi-family or apartment dwelling, four to six dwelling units,” and 3.2 “Dimensional Tables,” reduction in minimum lot area and open space per dwelling unit to create a fourth unit, in the NB zone (Cont. from 10/21/20)

**Summary of Discussion: Chairperson Gilman** shared that a site visit had been conducted on Thursday, October 29, 2020. There were 6 City Councilors in attendance, as well as several abutters. **Councilors Holmgren and Pett** agreed with her suggestion to begin the presentation by having Attorney Favazza answer the documented site visit questions.

**Attorney Joel Favazza** from Seaside Legal Solutions, located at 123 Main Street Gloucester, began the presentation.

**SITE VISIT QUESTIONS**

**Q1 How many apartments will be in the floors above the Goetemann Art Gallery where the site visit began?**

**A1** There will be one apartment above the art gallery and one behind the gallery.

**Q2 Please review the parking and how the spaces are allocated amongst condo association members. How and when is the municipal lot used for tenant parking?**

**A1** The Goetemann unit has 2 tandem deeded spaces out of the 4 in the gravel lot. The municipal lot is used as needed.

**Q3 Where are the boundaries or dimensions of the property?**

**A1** The building itself is about 90 feet long, and stretches from the wooden deck on the northern side, which is near the ice cream shop to the gravel driveway on the southern side, but is all considered one building.

**Q4 How are the existing galleries aligned with the residential units?**

**A1** Currently there is one residential unit per gallery permitted.

**Q5 Explain the right-of-way and its passage. Does the right-of-way actually allow the public to walk on the waterfront deck?**

**A1** Part of the Chapter 91 License allowed for construction of the deck that is open to the public. There is a sign that has actually been repainted this week to make sure it is clear for those passing along the street that the public is allowed to go through the driveway and get out to the deck. The only exception is the public is not allowed to use resident's personal property located on the deck, such as chairs.

**Q6 Are there plans to increase the height of the public way railing?**

**A1** If the Building Department requires it, yes. It is currently not failing or otherwise slated for replacement.

**Q7 Where are the dormer and 2 skylights going to be added?**

**A1** As you can see on this slide photo, here is my laser pointer, here is the dormer in red, and this is standing on the docks looking up at the building. This next photo was taken by standing on the street. The dormer would only be visible in the back, and the skylights would only be visible in the front roof section.

**Q8 Do the floats extend out to the property line?**

**A1** They go beyond the property line pursuant to an easement.

**Q9 What are the boundaries of the docks?**

**A1** They go beyond the property line pursuant to an easement.

**Q10 Does the Chapter 91 license extend the deck of the property or the water?**

**A1** The deck is a licensed structure.

**Q11 What is legally permitted today?**

**A1** Three galleries and 3 residential units.

**Q12 Does current parking conform to Gloucester Zoning Ordinance?**

**A1** No, it does not conform to the requirements for off-street parking, but the parking that they have was permitted in 1989. That permit was ratified for the four-family units in 2020 by the Zoning Board of Appeals, and I believe you received this afternoon confirmation from the Building Inspector Bill Sanborn confirming that the relief that we just got from the ZBA was sufficient relative to parking.

**Summary of Discussion: Attorney Favazza** ended his presentation. He stated that he would be happy to address any other questions, and since the standards to be applied were discussed during the last Planning & Development meeting on Wednesday, October 21, 2020, he believed he had covered all of the necessary information.

**Councilor Pett** mentioned that his primary site visit question had been whether the parking met the zoning requirements for the area since Rocky Neck has parking issues year-round.

**Chairperson Gilman** asked the **Assistant City Clerk** to read into record the email received by Mr. Sanborn that afternoon:

*“Sorry for the last-minute response to your email. I have reviewed the Zoning Board of Appeals decision to modify an existing decision for the property located at 37 Rocky Neck Avenue. I believe it does contain all the necessary relief needed for Mr. Favazza to go forward and appear before the City Council. If you have any further questions, please don't hesitate to contact me.”*

**Chairperson Gilman** announced that Tyler Richards, Mark Goetemann, and Miranda Johnson were members of the public listed as meeting attendees. She explained that while this was not a public hearing, she wanted to allow any follow-up questions that the committee members or the public may have had. She also asked **Council President LeBlanc and Councilor McCarthy** who were in attendance if they had any questions regarding the special council permit.

**Councilor McCarthy** asked if the use of the gallery with the Rocky Neck Art Association would be something that would be recorded in the deed since **Attorney Favazza** had mentioned during the last meeting that if the gallery stopped being used by the association, and that at such time that it began to be utilized for market commercial use, that the permit should either lapse, or need to be reviewed by the City Council.

**Attorney Favazza** attempted to clarify whether **Councilor McCarthy** wanted to condition the special permit on the use of the gallery space by the association or its successors, or if he just wanted the gallery space itself conditioned.

**Councilor McCarthy** reminded this evening's meeting participants that in the first meeting, **Attorney Favazza** had mentioned that the applicant would gladly put something in writing to specify that if the agreement with the association ever discontinued the permitted use, the permit would need to be reviewed by the City Council. **Councilor McCarthy** wondered if that condition could be part of the deed restriction in perpetuity.

**Attorney Favazza** responded that while it would not be on the deed itself, any relief granted by the City Council would be contained in a written decision recorded in the Registry of Deeds. If the relief is conditioned upon the use of the first floor gallery space by the Rocky Neck Art Colony, then if in the future the applicant or another owner wanted to terminate that use, they would no longer be in compliance

with the condition of the permit, and would need to appear again before the City Council for a modification, otherwise, the property would be reverted back to its pre-permitted status of one allowable residence above the gallery.

**Councilor McCarthy** asked a follow-up question, if the permit conditions would be detected during a title search from an attorney or other interested party who may be conveying the property. **Attorney Favazza** stated that would be the case unless the purchaser was not using any type of commercial lender, however, in all likelihood, the purchaser would do their own analysis and this would appear in that search also.

**Chairperson Gilman** announced that Mark Goetemann, owner of the Goetemann Gallery at 37 Rocky Neck Avenue appeared to have his hand raised in the Zoom meeting, and asked the **Assistant City Clerk** to allow him to speak. **Chairperson Gilman** welcomed and thanked him. She then asked him to state his name and address for the record, and reminded him that this was not the public hearing, but rather opportunity to ask questions of the applicant. She informed all in attendance that the public hearing for this matter would be held during the City Council meeting on **Tuesday, November 10, 2020.**

Mr. Goetemann clarified the last question that had been asked. He explained that he had spoken with Kathy Archer and others at the Rocky Neck Art Colony, and asked if they would like to use the space because although he had tried to fill the space the first year after his parents passed away with a local artist, it had not worked out the way he had hoped. He had not yet received a fixed agreement of any particular use for the space yet from the art colony.

He expressed feeling uncomfortable with the notion of a deed restriction. He elaborated that his talks with the art colony were put on hold in March 2020 due to COVID-19, and had just reconvened within the last couple weeks. Ms. Archer had asked him if it would be possible to create an artist residency studio space in the gallery since the residency had been named after his father in 2010. It is a yearly rotating residency in which 5 artists live at Rocky Neck at different times over the course of the year, and need a productive studio and living space. Expenses and a small stipend are included. He declined due to the fact that the proposed use of the space would effectively close the gallery doors to the public, and his objective was to keep the gallery in operation. He mentioned that after their discussion, Ms. Archer was in agreement with his decision.

The other ideas proposed are a hybrid cultural center, Gallery 53, and/or artist studio space, however nothing has materialized. He mentioned that if the right opportunity does not present itself, he will attempt to re-open the gallery himself.

**Chairperson Gilman** offered to have Mr. Goetemann take a portion of **Attorney Favazza's** 15-minute presentation during the public hearing, and he agreed to participate.

**Councilor Pett** requested that before the public hearing, the applicant would have another discussion with the art colony/cultural center and hopefully reach an agreement so that the project can move forward since the idea behind the application was to make that first-floor space available and create that second condo unit in order to financially sustain the entire section of the building owned by Mr. Goetemann. He stated that if that is not going to happen, he is not sure how the application purpose would be justified.

**Attorney Favazza** agreed that during the presentation, he would address the parameters that would be created that provided the property owner with the necessary flexibility to remain sustainable and also guaranteed the Council that sufficient conditions would be placed in the special permit.

**Chairperson Gilman** asked **Attorney Favazza** to review the specific requirements in terms of the reduction in the minimum lot area and open space per dwelling unit outlined in GZO Section 3.2.2 fn(a)

before the committee voted on a recommendation for the City Council. He explained that the standard to be applied in Section 3.2.2 fn(a) is that a finding needs to be determined that whatever reduction is being allowed, which leads to the density being allowed, is in keeping with the neighborhood character and structural density. He reiterated that Rocky Neck is a dense, mixed-use neighborhood with lots of buildings crowded onto the sidewalk. He believed the density of this building met the requirement. As far as keeping with the neighborhood character, this additional unit created minimal change since it had previously been used as one, and he felt that the 6 conditions required in Section 1.8.3 were also satisfied.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the Planning & Development Committee voted by ROLL CALL 3 in favor, 0 opposed, to recommend that the City Council grant to Seaside Legal Solutions, P.C., on behalf of owner, Mark Goetemann, P.R., a Special Council Permit (SCP2020-005), for the property located at Rocky Neck Avenue #37, Assessors Map 130, Lot 4A, pursuant to Gloucester Zoning Ordinance Sec. 2.3.1.7 “Conversion to or new multifamily or apartment dwelling, four to six dwelling units” and Sec. 3.2.2 “Dimensional Requirements for Multi-family Dwellings and Their Accessory Uses (other than signs),” footnote (a) for reduction in minimum lot area and open space per dwelling unit, to construct a fourth housing unit. This permit is made on the basis of plans and elevations dated August 10, 1990 and submitted to the City Clerk on September 16, 2020 entitled “37 Rocky Neck Avenue Condominium” and plans and elevations dated August 14, 1990 and submitted to the City Clerk on September 16, 2020, entitled “Phase Plan – Site Plan of Thirty Seven Rocky Neck Avenue Condominium, Gloucester, Massachusetts.” Subject to new information and/or debate that results from the public hearing, this Special Council Permit is deemed to be in harmony with the intent and purpose of the Zoning Ordinance.**

**Summary of Discussion: Councilor Pett** asked **Chairperson Gilman** whether she thought that an amendment should be made to the motion now, or if the matter of hoping that an agreement can be reached between the applicant and the art colony/cultural center should be addressed at the public hearing. It was then agreed on by all committee members and **Attorney Favazza** that it would be addressed on November 10<sup>th</sup> to allow time for he and his client to discuss and create an action plan.

**Chairperson Gilman** shared that it was really helpful to attend the site visit and be able to look at the actual location and how it all fit together. She observed that the changes would not be detrimentally visible from the outside, you only see a dormer and a couple of skylights. The biggest issue she was concerned with was the density of parking. She wanted to address it during the public hearing to allow feedback from the abutters and members of the public at the hearing during the City Council meeting that would be held **November 10<sup>th</sup> at 6:00 p.m.** She encouraged anyone interested in speaking during the public hearing to feel free to do so, and made the viewers aware that while the meeting begins at 6:00 p.m., it is not possible to know exactly what time the public hearing will begin since there are matters scheduled before it. She thanked **Attorney Favazza** and Mr. Goetemann for being on the call.

3. PP2020-007 (To be conducted as a Public Hearing): Application by National Grid to install 1 JO pole and all appurtenances on Lawrence Mountain Road beginning at a point approximately 1,300 feet northwest of the centerline of the intersection of Essex Avenue

**The public hearing opened at 6:01 p.m.**

**Those Speaking In Favor:** Elizabeth Cardarelli from the National Grid Distribution Design team represented the pole petition request. She shared that her office is located at 44 River Street in Beverly, and that the request was created to make it possible for the company to feed new service to a new home that had been built at 29 Lawrence Mountain Road. It was for a proposed pole line extension since the existing pole line is located approximately 120 feet from the dead-end pole currently on that street.

**Those Speaking in Opposition:** None

**Communications:** The Assistant City Clerk read the following received communication from Director Mike Hale:

*“Councilors, the Department of Public Works has reviewed the above mentioned application by Massachusetts Electric, doing business as National Grid and Verizon New England, Inc., requesting permission to install one JO pole on Lawrence Mountain Road beginning at a point approximately 1,300 feet northwest of the center line of the intersection of Essex Avenue, installing one JO pole and all appurtenances, and for permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan on file. Also for permission to lay and maintain underground laterals, cables, and wires, and the above intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes. In an attempt to maintain the quality of city roadways, the Department of Public Works requests the following be required of the applicant:*

- 1. Notification to the Department of Public Works 72 hours in advance of the proposed work, a construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.*
- 2. Proposed excavation may only occur during accepted road opening and construction season March 15th through November 15th.*
- 3. In the absence of a detailed construction plan, the Department of Public Works requests all proposed conduits and appurtenances shall be placed so as to cause minimal conflict with existing underground utility services.*
- 4. All excavations must be secured at all times.*
- 5. All excavated trenches shall be patched flush with the surrounding asphalt, using hot mix asphalt binder at the end of each workday to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2 inches totaling 4 inches.*
- 6. Sidewalks must be restored with like material immediately after pole set.*
- 7. All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.”*

**Councilor Questions:** None

**The public hearing closed at 6:05 p.m.**

**MOTION:** On a motion by Councilor Gilman seconded by Councilor Holmgren, the Planning & Development Committee voted BY ROLL CALL 3 in favor, 0 opposed, to waive the reading of the conditions listed in the motion as they were included in the letter submitted by Public Works Director Mike Hale.

**MOTION:** On a motion by Councilor Gilman seconded by Councilor Holmgren, the Planning & Development Committee voted BY ROLL CALL 3 in favor, 0 opposed, to permit Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc. to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures and install 1 JO Pole on

**Lawrence Mountain Road beginning at a point approximately 1,300 feet northwest of the centerline of the intersection of Essex Avenue. Installing 1 JO pole and all appurtenances in the public right of way – as shown on a plan included in the application dated August 29, 2020 – with the following conditions:**

- 1. Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.**
- 2. Proposed excavation may only occur during accepted road opening and construction season, 15 March – 15 November.**
- 3. In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.**
- 4. All excavations must be secured at all times.**
- 5. All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day, to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2-inches, totaling 4-inches.**
- 6. Sidewalks must be restored with like material immediately after pole set.**
- 7. All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.**

**Summary of Discussion:** Due to technical difficulty, **Councilor Pett** was unable to ask a question while the public hearing was still open. He had observed that the permit issued by the DPW Director stated that construction season ends on November 15<sup>th</sup>, which would only allow for 10 days left for the work to be completed. **Chairperson Gilman** explained that the Planning & Developing Committee was the final decision maker on pole petitions, so the matter did not need to go before the full City Council. The concern was that if the work could not be completed in time, the homeowner would not have power until after construction season began on March 15, 2021.

Ms. Cardarelli stated that it was her understanding that a pole set does not fall under the November 15<sup>th</sup> end of construction season since it does not interrupt a sidewalk, there is none in that area. There would be no underground conduit, no underground work was required at all for this project.

4. PP2020-007 (To be conducted as a Public Hearing): Application by Comcast to install new underground conduit on Elm Street starting at Utility Pole #4977 excavating to place (1) 3” PVC Conduit 75’ +/- to 206 Main Street.

**The public hearing opened at 6:08 p.m.**

**Those Speaking in Favor:** Comcast Specialist **Dave Flewelling** from the office located at 9 Forbes Road in Woburn represented the pole petition request.

**Those Speaking in Opposition:** None

**Communications:** The **Assistant City Clerk** read the following received communication from DPW Director Mike Hale:

*Councilors, the Department of Public Works has reviewed the above-mentioned application by Comcast to install the new underground conduit system to provide Comcast services to 206 Main Street, starting on Elm Street at Utility Pole #4977, excavating to place one 3 inch PVC conduit 75 five feet plus or minus at 206 Main Street. Also permission to construct and locate for such a line of conduits and manholes with*

*the necessary wires and cables therein, said conduits manholes to be located substantially as shown on the plan on file dated October 9<sup>th</sup>, 2020.*

*In an attempt to maintain the quality of city roadways, the Department of Public Works requests the following be required of the applicant:*

- 1. Notification to the Department of Public Works 72 hours in advance of the proposed work, a construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.*
- 2. Proposed excavation may only occur during accepted road opening and construction season March 15<sup>th</sup> through November 15<sup>th</sup>.*
- 3. In the absence of a detailed construction plan, the Department of Public Works requests all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.*
- 4. All excavations must be secured at all times.*
- 5. All excavated trenches shall be patched flush with the surrounding asphalt, using hot mix asphalt binder at the end of each workday to minimize pedestrian hazards. Asphalt shall be applied in two lifts of two inches totaling four inches.*
- 6. Sidewalks must be restored with like material immediately after pole set.*
- 7. All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.*

**Summary of Discussion:** Councilor Pett and Mr. Flewelling discussed the fact that if the committee were to approve the request this evening, Comcast should be able to coordinate with the DPW so that the work could be completed by the November 15<sup>th</sup> deadline.

**The public hearing closed at 6:13 p.m.**

**MOTION:** On a motion by Councilor Gilman seconded by Councilor Holmgren, the Planning & Development Committee voted BY ROLL CALL 3 in favor, 0 opposed, to waive the reading of the conditions listed in the motion.

**MOTION:** On a motion by Councilor Gilman seconded by Councilor Holmgren, the Planning & Development Committee voted BY ROLL CALL 3 in favor, 0 opposed, to permit Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of public way Elm Street – and above or intersecting public ways for the purpose of making connection with such poles and buildings as may be desired for distributing purposes – starting at Utility Pole No. 4977, excavating to place (1) 3” PVC Conduit 75 feet +/- to Main Street #206 as shown on a plan included in the application dated October 9, 2020 with the following conditions:

- 1. Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.**

2. **Proposed excavation may only occur during accepted road opening and construction season, 15 March – 15 November.**
3. **In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.**
4. **All excavations must be secured at all times.**
5. **All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day, to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2-inches, totaling 4-inches.**
6. **Sidewalks must be restored with like material immediately after pole set.**
7. **All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.**

**Summary of Discussion:** Chairperson Gilman requested that in anticipation of the 37 Rocky Neck Avenue public hearing, if any committee member had a member of the City staff that they would like to attend the meeting that evening, that they inform her by tomorrow so that she can notify **Acting CAO Vanessa Krawczyk** who could assist with scheduling that since City staff should receive notice 5 days in advance if they are requested to appear.

**Councilor Holmgren** thanked the **City Clerk's office** staff and volunteers for their efforts and patience during the preparation for the presidential election that was held on November 3, 2020.

**MOTION:** on a motion by Councilor Pett, seconded by Councilor Holmgren, the Planning & Development Committee voted by **ROLL CALL 3** in favor, **0** opposed, to adjourn the meeting at **6:18 p.m.**

There is a link to this meeting available on the city website at <https://gloucester-ma.gov.zoom.us/rec/play/uyreMCZXbOABxK1OJKRHdhKxQpUHom1sGcwsH02EzsMBvNFXIMf3ZIYEibHgLU5aa13DY8WKQ3igPSY.oq4xz2N9EDAfCVPE>

**A transcript of this meeting will be filed with the minutes as soon as possible.**

Respectfully submitted,  
Brianna Komi  
Administrative Support  
City Clerk's Office