

**Planning & Development Standing Committee**  
**Wednesday, February 3, 2021 – 5:30 p.m.**  
**REMOTE MEETING**  
**-Minutes-**

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

**Other Councilors Present: Councilor Steve LeBlanc; Councilor Sean Nolan; Councilor Jamie O’Hara; Councilor Melissa Cox**

**Also Present: Grace E. Poirier; Vanessa Krawczyk**

**Applicants: Attorney Joel Favazza for SCP2020-006; Attorney Deb Eliason for SCP2020-002**

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

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

**Councilor Gilman** announced that the meeting was being 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 10 people, the meeting would be conducted by remote participation. The public may not physically attend the meeting but every effort would be made to allow the public to view and listen to the meeting in real time. Persons wishing to do so were invited to view the meeting via the information that was on the posting. If calling on a phone, press \*9 to request to speak. If watching on a computer a device, there is a raise hand button that can be tapped or pressed to request to speak. Either option can be used to be recognized to speak.

**Councilor Gilman** announced the names of the P&D Committee members in attendance (Councilors Holmgren, Pett and herself) as well as the members of the City Council and city staff who were attending via Zoom. She announced the presence of a quorum of the City Council.

Matters were taken out of order.

**1. Request from the St. Peter’s Fiesta Committee for the use of St. Peter’s Park on June 25-27, 2021**

**Councilor Gilman** advised the Committee that the Mayor and the Community Development Director had communicated with the City Clerk that the city was not taking any applications for special events at this time.

This matter was continued to April 21, 2021.

**2. RZ2021-001: Amend GZO Sec. 5.11 “Inclusionary Housing Requirement” in accordance with GZO Sec. 1.11.2(a)**

This matter was continued to March 3, 2021.

**3. SCP2020-006: School House Road #2-4, Map 262, Lots 37 & 38, modification of SCP2017-012 pursuant to GZO Secs. 5.29.3.3 “Additional Uses,” 5.29.6.1 “Off-Street Parking Requirements,”**

**5.29.10 “Relief by Special Permit,” 5.17 and 5.29.8 “Drive-through Facilities,” and 4.3 “Sign Regulations,” to allocate parking spaces, obtain a new drive-through permit, and relief from signage requirements in the R-10/Mixed Use Overlay District (Cont. from 1/6/2021)**

**Councilor Gilman** asked Attorney Favazza to review the Q&A from the site visit that was conducted on January 30, 2021.

**Attorney Joel Favazza**, Seaside Legal Solutions, 123 Main Street on behalf of applicant Cape Ann Savings Bank and property owners, GX-PH4, LLC and the YMCA of the North Shore, shared his screen and reviewed the questions brought up at the site visit (PowerPoint on file).

**Q.1.** *How many parking spots will be included in this site? Where will they be? Are they open to the general public who might not be banking?*

**A.** There are 89 required spaces and 97 are provided at the Cape Ann Savings Bank. The YMCA parcel requires 250 spaces and there are 242 provided. Under the terms of Sec. 5.29, and easements, the parking lot is shared between the properties and the parking requirements have been met.

**Q.2.** *Where is the monument sign going to be placed?*

**A.** Taking a left off of School House Road into the development, the sign will be in the lawn area on the left-hand side, prior to the drive-thru exit.

**Q.3.** *Where will the signage be located?*

**A.** It will be on the building: on the tower on the north side, facing the large parking lot and the side facing the rotary; on the window facing the apartments; on the awning over the drive-thru.

**Q.4.** *Can you explain the width of the access road and changes that will be made?*

**A.** The roadway has been widened from 24' to 30', and from 24' to 28'.

**Q.5.** *Where will the drive-thru be located and will cars progress around that corner?*

**A.** 2 cars can be serviced at a time in the drive-thru, and there is space for 3 cars to queue in each lane while still allowing for a bypass lane for traffic that is not using the drive-thru. There is likely the ability for additional cars if needed to queue.

**Q.6.** *Is this site only the location of the bank? Where will additional retail shop(s) be located?*

**A.** The bank is the sole use of the building and is not renting out any space inside of it to third parties. The large building [titled “Retail 1” on the slide] will remain retail space as previously permitted.

**Questions from the Committee:**

None.

**Summary of Discussion:**

**Councilor Gilman** commented that the Committee had fully vetted the application.

**COMMITTEE RECOMMENDATION:** on a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted by ROLL CALL 3 in favor, 0 opposed to recommend that the City Council grant to Cape Ann Savings Bank, (GX-PH, LLC owner of real property known as 4 School House Road, and Young Men’s Christian Association of the North Shore, Inc. owner of real property known as 2 School House Road) a modification of SCP2017-012 for a Special Council Permit (SCP2020-006), for the property located at School House Road #2-4, Assessors Map 262, Lots 37 & 38, pursuant to Gloucester Zoning Ordinance Sec. 5.29.3.3 “Additional Uses” 5.29.6.1 “Off-Street Parking Requirements,” 5.29.10 “Relief by Special

**Permit,” 5.17 and 5.29.8 “Drive-through Facilities,” and 4.3 “Sign Regulations,” to (i) modify existing permit SCP2017-012; (ii) allocate 8 (eight) parking spaces at School House Road #4 to the parking space count of School House Road #2; (iii) obtain a new drive-through permit; and (iiii) receive relief from signage requirements. This permit is made on the basis of plans and elevations dated November 4, 2020 and submitted to the City Clerk on November 18, 2020 entitled, “School House Road Permit Site Overview Plan.” 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.**

The public hearing has been scheduled for February 9, 2021.

**4. SCP2020-002: Essex Avenue #99A, Map 216, Lot 126, GZO Sec. 3.1.6(b) “Building Heights in Excess of 35 Feet,” Sec. 2.3.4(13) “Marine related service, storage or repair, limited primarily in the MI District to commercial fishing vessels,” Sec. 5.5 “Lowland Requirements,” Sec. 5.5.2 and Sec. 5.5.3 in the EB District (Cont. from 1/6/2021)**

**Councilor Gilman** asked Attorney Eliason to review the Q&A from the site visit that was conducted on January 30, 2021.

**Attorney Deborah Eliason**, Eliason Law Office, 63 Middle Street, introduced herself and the applicants: LLC Managers, Tobin and Drew Dominick and General Manager, Patrick Hurd. Attorney Eliason shared her screen and reviewed the questions brought up at the site visit (Q&A on file and below).

**Q.1.** *While at the Aiello’s property, we asked the applicant to clarify the shadowing produced from the two flag poles simulating the corner and the peak of the proposed structure.*

**A.** This is a photo that Tobin captured at the site visit with the shadows in the Aiello’s driveway where we were standing. Please note that the shadows here are not from the flag poles. One is from the crane on the left that was representing the height at the peak of 53.5’. The lift on the right had two flags on it and was also close to us as you will see in this picture (the distances apart). The lift on the left showed the eave height at 49’ and a flag at 30’. Either way we think that it is best to refer to the shadow studies of the last presentation. Here 12.22 (8:30 a.m.) and 3.22 (8:00 a.m.) studies of which our site visit on January 26, 2020 falls in between. Noting the angle of the sun’s shadow in the morning will continue to move to the left as it rises in the east and as we get closer to spring.

**Q.2.** *During summer can the abutters see the views of the river? (this was asked while at abutter Coleman’s yard)*

**A.** It would be speculation for us to comment on what the abutters can or cannot see from different areas on their property. However, the property at 99A Essex and the abutters’ properties are approximately all at a similar elevation height of 7-10’. The average height that has been calculated at 99A Essex is 8’6” according to the site plan submitted for the project. At all times of the year, boats, equipment and cars are stored on the 99A Essex Avenue. There is a garage at 6 Julian Road along with boats and trailers of all sizes. On 99A Essex Avenue there are boats of all sizes, with or without masts or rigging tower, trailers, and a shed. The old Yankee Fleet and Gull building etc. are located on 75 Essex Avenue. All of these present obstructions to views from abutters’ homes. To say whether there are some views from the abutters’ home over the marina property would be pure speculation on our part. At the site visit we saw the views that Mr. Coleman has from his backyard to the north. These views would not be obstructed by the proposed building. The Aiellos may also have views of the marsh to the northeast that will not be obstructed by the proposed building. These views may be currently obstructed by boats, equipment etc. that are stored on 6 Julian Road.

**Q.3.** *On this second site visit, where are the green flags on the crane that is representing the height of the corner closest to Julian and Essex Avenue?*

**A.** The lift had two green flags on a piece of wood, indicating the eave height at 49' and a flag at 30'. Please note, the lift was not able to get to the exact edge of the building due to the boats on trailer on the frozen ground.

**Q.4.** *Has the measurement of the height requests been set from the top slab of the foundation?*

**A.** The height was shown with the measurement from the "Top of Slab." The architect informed us that the top of slab elevation was the elevation we should use to best represent the height of the building once it is constructed.

**Q.5.** *How thick is the slab?*

**A.** The approximate thickness of the slab is 1'6" according to the elevation drawings. The ground at 99A Essex is not all the same level. When the slab of construction concrete is poured, it will be level. So the thickness will vary when poured, but will not exceed elevation 10'.

**Q.6.** *Is the zoning to average grade?*

**A.** The height of a building for zoning purposes is measured from the average grade elevation.

**Q.7.** *How far is the proposed building from the boulder at the end of Julian Road?*

**A.** Because the site plan does not show the boulders, we cannot answer this question with any accuracy. At the site visit we responded that the building will be approximately 85' away from the houses that abut Julian Road. The proposed building is setback 30' from the property line, Julian Road has a 4' layout and the houses are set back approximately 15' from Julian Road.

**Q.8.** *Are any of the current masts of sailboats higher than the proposed height of the building? (53'6" foot at the peak of the roof)*

**A.** Yes, most of the masts on the property exceed 53'6" in height.

**Q.9.** *Would this proposed structure prohibit any of the abutters from successfully using solar panels?*

**A.** We are not a solar company and we do not know what factors they consider when siting solar panels. However, the roofs of the houses are in minimal shadow in the early mornings from the proposed building. Also, the roofs are in shadow from other neighbors in both the morning and evening at any given time of year. We believe that given the minimal shadowing from the proposed building in the early morning hours, the proposed building would not prohibit the use of solar panels. Again, we are not experts in this area.

**Attorney Eliason** reviewed GZO Sec. 3.1.6 for building heights in excess of Sec. 3.2 limits, and spoke about recent court rulings pertaining to some of Gloucester's Special Council Permits as they related to neighborhoods. She showed a map of the area and the commercial buildings in the area, and pointed out that the proposed building was in the EB district, and that a portion of Julian Road was in that district as well. Attorney Eliason also refuted speculation in social media posts and the letters of opposition submitted to the City Clerk's office regarding the size of the proposed building, and the negative health and environmental effects it might have.

#### **Questions from the Committee:**

**Q.1. (Holmgren):** How many permanent and temporary jobs will be created by this?

**A. (Eliason):** It is not expected that there will new jobs in the beginning. Some current part time jobs will become full time, and employees who were laid off in the winter may not be laid off. The marina hopes that in time this will create jobs.

**Q.2. (Pett):** Tarr's Farm is included in the map shown for the business district, but farms are not considered businesses. Why is a farm included in the map?

**A. (Eliason):** The slide was showing what is contained within the EB district, and Tarr's Farm is within the EB district.

**Q.3. (Holmgren):** how would the boats housed at the proposed facility impact boat traffic through the cut bridge, as well as road traffic on Route 127?

**A. (Eliason):** There are no anticipated issues with the cut traffic beyond what already exists. The boats are already at the marina so there wouldn't be a change. Regarding traffic delays on Route 127, the boats are coming in through the water and then being brought on land and into the building through the marina property.

**Q.4. (Pett):** Is there a reason why the marina itself is not part and parcel to the application? Is there anything that prevents the applicant from changing the use of the proposed building?

**A. (Eliason):** If the change was to something other than marine storage, it would need to be permitted through City Council. Also, it is the permit that governs the use, not ownership of the property.

**Q.5. (Gilman):** Regarding GZO Sec. 2.3.4(13), what proportion of the boats stored at the marina will be commercial?

**A. (Eliason):** It's hard to say. But the portion of the ordinance referring to the Marine Industrial district does not apply to this application because the proposed building is not in the Marine Industrial district.

**Q.6. (Gilman):** How does GZO Sec. 5.5.2 fit in to this proposed permit?

**A. (Eliason):** The permit is not for an occupied building. It is a storage building and there will be no living or office space in the building.

#### **Questions from Members of the Public:**

**Q.1. (Peter Coleman, 105R Essex Avenue):** Why is the applicant presenting shadow data for abutters' homes when they indicated they acquired hundreds of data points on 99A Essex Avenue, not data points of any of the abutting homes?

**A. (Hurd):** The data points were collected from the inner and exterior portions of the property, so data points were collected well within the neighborhood. They were able to continue the data points with some Google Earth shots and others.

**Q.2. (Debra Liacos, 41 Woodward Avenue):** What is the capacity of the boat storage facility? Will overflow storage go to the outside parking lot? Will there be multiple levels of boat storage?

**A. (Eliason):** Capacity depends on the size of the boats. Some boats will be inside and some will be outside but there will not be an increase in the number of boats. The proposed building is the height that it is so that it can store taller boats. There will be no racks in the building.

**Q.3. (Mary Ann Albert Boucher, 93 Mt. Pleasant Avenue):** Is the proposed building is 85' feet away from the property line, or the actual houses?

**A. (Eliason):** It is from the side of the proposed building to the front of the homes.

#### **Summary of Discussion:**

**Councilor Gilman** announced that Attorney Eliason updated the Q&A from the first site visit, and that can be found in the February 3, 2021 P&D packet online.

**Councilors Pett** and **Holmgren** both expressed that they were focusing on the application before them, and were staying away from the speculation going around on social media.

The **Committee** reviewed and discussed the following sections of the GZO as it pertained to the application:

- *GZO Sec. 2.3.4(13) “Marine related service storage or repair, limited primarily in the MI District to commercial fishing vessels”*

**Councilor Pett** commented that the application before them is not in the MI District, however, it is for marine related storage.

- *GZO Sec. 5.5.2 “No building permit for a principal building shall be issued for construction on land less than 10 feet elevation above U.S.G.S datum except on approval of a Special Permit for an exception by the City Council. Such Special Permit shall be issued only if it is demonstrated by the applicant that the proposed development will pose no hazard to the health or safety of the occupants thereof.*

- *GZO Sec. 5.5.3 “Without limiting the generality of the foregoing, the following are presumed to be hazardous to health or safety:*

- (a) Floor level of any structure for human occupancy less than 12 feet elevation*

- (b) Individual sewage disposal systems subject to inundation in the event of coastal flooding to ten feet elevation*

- (c) Methods of filling or excavation subject to displacement by coastal flooding to ten feet elevation*

- (d) Water supplies subject to interruption or contamination in the event of coastal flooding to ten feet elevation”*

**Councilor Holmgren** commented that she did not believe any chemicals/devices/substances would be used in the facility that would pose any hazard to the health and safety of people in the abutting buildings. **Councilor Pett** agreed with Councilor Holmgren. **Councilor Gilman** requested that the Fire Chief weigh in on this matter prior to the next meeting.

- *GZO Sec. 1.8.3 “Standards to be Applied – A special permit pursuant to this section shall be granted only upon a written determination by the SPGA that the proposed use will be in harmony with the general purpose and intent of this ordinance, and that it will not adversely affect the neighborhood, the zoning district or the city to such an extent, as to outweigh the beneficial effects of said use. In reviewing special permit applications, SPGA shall consider, but not be limited to, the following six factors: (a) Social, economic and community needs that will be served by the proposed use; (b) Traffic flow and safety; (c) Adequacy of utilities and other public services; (d) Neighborhood character and social structure; (3) Qualities of the natural environment; (f) Potential fiscal impacts.”*

**Councilor Pett** commented that his biggest concern was the effect of the project on the neighborhood regarding views and shadowing. He said that the marina was one of the most important parts of the economy in Gloucester and everything that goes along with it is relative to the success of the marina and the city. However, he found that after discussing with neighbors, and taking the larger view that Attorney Eliason has said of what the neighbors are, he had a problem supporting the part that the project was proper for the neighborhood – for views and some effects of shadowing, and said he would have a hard time meeting the requirements that are before the Committee to support it, because of that.

**Councilor Holmgren** commented that her biggest concerns were also the neighborhood, and specifically considered the dissenting neighbors’ assertions that their neighborhood character and quality of life would be significantly impacted by the height of the building. She commented that regarding scenery and scenic views, beauty was in the eye of the beholder, and the neighbors have a right to the view that they have.

She said that she looked at the Assessors database at both the residential and commercial buildings surrounding the property and they were all built in the early- to mid-20<sup>th</sup> century for the most part; she couldn't find anything built past 1975, although she didn't look at all of the properties (about 10 or 11). **Councilor Holmgren** also commented that in regard to the economic impact, if the proposed building not creating new jobs, or increasing the number of boats being stored, she did not see demonstrable evidence that it would result in a positive economic impact. She said she would not vote in support of the project at this time, but reserved the right to change her opinion between now and the public hearing.

• ***GZO Sec. 3.1.6(b) “Building Heights in Excess of 35 Feet – Building heights in excess of 35 feet may be authorized by special permit issued by City Council. Said permit shall contain such conditions as the council deems necessary, and shall only issue upon a written determination by the council that such increase in allowable height is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of the other properties, impairment of utilities, or other adverse impacts.”***

**Councilor Holmgren** commented that based on the number of site visits conducted, her vision of the building's height and mass from any neighbor's yard is overwhelming. She said that she realized there were other buildings and structures shadowing the buildings and properties and that the applicant has a right to build and she applauded that right, but she could not argue with the neighbors' assertions that the proposed building will detract from their views, such as it is.

**Councilor Pett** agreed with Councilor Holmgren and commented that they have the right to build as it is a commercial property and there are commercial uses there. He reiterated that the effect on the neighborhood was the factor that was holding him totally back on the project in so many ways; from the mass of it, from the shadowing, whether it's on one house or two or three, and the impact on views: those were his biggest concerns. He reiterated Councilor Holmgren's comments that beauty was in the eyes of the beholder, and that looking at a structure that was a minimum of 48.5' tall, regardless of its length, would not be attractive to their views. He said he could not support that part of the project.

**Councilor Gilman** commented that she had been to the site three times, and she understood that the winter solstice was the most detrimental to shadowing. She said when the site visits occurred the sun was low, and the abutting properties had the most effect of any other season. She that in her perspective, the shadowing in the morning hours during the wintertime on 105R Essex Avenue and 4 Julian Road was incredible for that time of year. She said she tried to be as objective as she could, but it surprised her. She said that she understood there was already shadowing there, but this was significant shadowing to those homes. She added that those homes were not summer homes, but year round homes. Regarding the view, **Councilor Gilman** commented that the facility was 85' feet away from the homes on Julian Road. To visualize, to best of her memory, she said the facility was 145' wide by 245' long, which is the size of Newell Stadium minus 55' (not the end zone, just the yards). She commented that she can see the water from the Causeway Restaurant, she can see the water where the boats are and the Gull to the left of it. She said that the effect of the proposed building is on more than the immediate neighborhood and that there are other abutters that will be affected by the height of the proposed building. **Councilor Gilman** reminded the committee that they were there for 39' and above, and she commented that it was just a huge building. She concurred that she was not in a position to vote in favor, but to be reminded that this is subject to listening to the public comments and looking closely at every letter that the Council has received. They have all of the letters in front of them, and members of the public should know to send their emails in by, preferably, Friday at noon so that the Council can get them quickly and spend time reading them. She noted the clause in the motion that says “Subject to new information and/or debate that results from the public hearing,” and the Committee will always be open minded to listening to the public right. Right now, her vote was no.

**Councilors Gilman, Holmgren and Pett** expressed that they would not be supporting the project, but reserved the right to change their opinion at the public hearing.

Members of the Committee thanked the applicants and Attorney Eliason for their work and effort in answering every question the Committee asked.

COMMITTEE RECOMMENDATION: on a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted by ROLL CALL 0 in favor, 3 opposed to recommend that the City Council grant to Dominick Holdings, LLC, a Special Council Permit (SCP2020-002), for the property located at Essex Avenue #99A, Assessors Map 218, Lot 126, pursuant to Gloucester Zoning Ordinance Sec. 3.1.6(b) “Building Heights in Excess of 35 Feet”, Sec. 2.3.4(13) “Marine related service storage or repair, limited primarily in the MI District to commercial fishing vessels”, and Sec. 5.5 “Lowland Requirements”, to construct an approximately 34,320 square foot indoor, climate controlled boat storage facility. This permit is made on the basis of plans and elevations dated January 28, 2020 and submitted to the City Clerk on February 5, 2020 entitled, “Site Plan - 99A Essex Ave. Gloucester MA,” “Detail Sheet – 99A Essex Av. Gloucester, MA,” and plans and elevations dated January 29, 2020 and submitted to the City Clerk on February 5, 2020 entitled, “Cape Ann Marina – Boat Storage Proposal.” 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.

The public hearing has been scheduled for February 9, 2021.

**MOTION: on a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted by ROLL CALL 3 in favor, 0 opposed to adjourn the meeting at 7:03 p.m.**

**Submitted by Grace E. Poirier, Assistant City Clerk**

**Documents submitted at the meeting: SCP2020-006 slides with questions from the 1/30/21 Site Visit**

**Meeting Recording: <https://gloucester-ma.gov.zoom.us/rec/play/DvFQaL6BezKzQ4j78D4wClryWVgRy6RJTZFFOccbKW6arUY58qOwvC0PxLnVwk6KsyMtJVnNgVNQGNh.CaHi-RUXNHzaBkCp?autoplay=true&startTime=1612391383000>**