



CITY OF GLOUCESTER

PLANNING BOARD

MEETING MINUTES

Thursday January 19, 2012 at 7:00 PM

Kyrouz Auditorium, City Hall, 9 Dale Avenue, Gloucester

Richard Noonan, Chair

Members Present:

Richard Noonan, Chair- **Absent**

Mary Black, Vice Chair

Marvin Kushner

Joe Orlando

Henry McCarl

Karen Gallagher

Staff:

Gregg Cademartori, Planning Director

Pauline Doody, Recording Clerk

I. BUSINESS

- A. Call to Order with a Quorum of the Planning Board
- B. Introduction of Planning Board Members and Staff
- C. Approval of Minutes of December 15, 2011

Motion: To accept the minutes of December 15, 2011

1st: Karen Gallagher

2nd: Henry McCarl

Vote: Approved 5-0

II. PUBLIC COMMENT - None

III. ANR APPLICATIONS

1. Mark Ventimiglia to re-divide three lots into three building lots at **4-6-8 Madison Court**, Assessors Map 38 Lots 48, 49, & 50, respectively.

Mr. Cademartori stated there is an existing dwelling on one of the three lots. Each of the resulting lots will have the required area and frontage for the zoning district.

Motion: The subdivision control law does not apply to the division at 4-6-8 Madison Court; Assessors Map 38 Lots 48, 49, & 50,

1st: Marvin Kushner

2nd: Karen Gallagher

Vote: Approved 5-0

2. Matthew Mullen to divide one lot into two at **5 Stanwood Avenue**, Assessors Map 230 Lot 24.

Mr. Cademartori stated this is the division of large property that has an existing home on it. The existing structure will be on a lot that will conform to R-20 district. There are no issues.

Motion: The subdivision control law does not apply to the division at 5 Stanwood Avenue, Assessors Map 230 Lot 24.

1st: Henry McCarl

2nd: Joe Orlando

Vote: Approved 5-0

3. Windover ShoreCliff, LLC to re-divide three lots into three building lots at **14 Cliff Avenue, and 5 & 7 Boulder Avenue**, Assessors Map 167 Lots 54, 14, and 13, respectively.

Mr. Cademartori stated that this property has gone through several iterations of proposed

development, including a multifamily application that was approved by City Council and recommended by the board as a major project development. They have also filed for a multi-unit project that was approved by the board of appeals and then appealed, and have finally reduced the density to conform to the district. One of the structures has been erected on the lots and the applicant is now re-adjusting the lots to accommodate the final design of building footprints. They have the required frontage and area for the district.

Motion: The subdivision control law does not apply to the division at 14 Cliff Ave, and 5 & 7 Boulder Avenue, Assessors Map 167 Lots 54, 14, and 13.

1st: Karen Gallagher

2nd: Joe Orlando

Vote: Approved 5-0

IV. SITE PLAN REVIEW

Gloucester Lyceum and Sawyer Free Library to construct a new parking lot *at 2 Dale Avenue, 3 Mason Street, and 5 & 7 School Street* (Assessors Map 29 Lots 69,64, 66 & 65).

Carol Grey, Sawyer Free Library Director

Ms. Grey stated the Board of Directors has voted to move forward with plan.

Richard Harrington, Stamski & McNary, Inc. 1000 Main Street, Acton, MA.

Mr. Harrington stated there have been many on site meetings to refine this plan. Mr. Harrington explained the plan to the board. Plans are available for review at the Community Development Office at 3 Pond Road. Drainage has been improved, the existing sewer has been separated, and several sidewalks will be improved to enhance safety. The proposal is to provide a loop access from School Street so there will be an opportunity to come in from either side of School Street to the back door and to the drop off area. There will be 8 angle parking spaces and 6 more in the front and more handicap parking. We have worked with the neighbors and the fire department to make this the best product possible. A landscape and lighting plan have also been submitted. There are no proposed changes for the library; this is an improvement upon it.

Mr. Cademartori stated that there is a letter from the city's engineer summarizing the issues and outlines the revisions. The plan is well integrated and has provided solutions to the issues that were raised.

Mr. McCarl and Ms. Black disclosed they are incorporators for the library.

Motion: To approve the site plan for Gloucester Lyceum and Sawyer Free Library to construct a new parking lot at 2 Dale Avenue, 3 Mason Street, and 5 & 7 School Street (Assessors Map 29 Lots 69,64, 66 & 65).

1st: Marvin Kushner

2nd: Joe Orlando

Vote: Approved 5-0

V. REPETITIVE PETITION

In accordance with M.G.L. Chapter 40A Section 16, Brian S. and Patricia F. James request the Planning Board's consent to file a repetitive petition and find that there are specific and material changes in the conditions related to a filing at *4 Pebble Path* previously acted upon by the Zoning Board of Appeals.

Attorney Robert Coakely

Mr. Coakely stated that this is an unusual petition. The zoning ordinance says that if you are denied on a request that you cannot come back before the board until it has been two years out. The legislature allows for the applicant to come back in a two step process. The merit of the matter is what this is all about. In 2009 the applicants engaged a wetland specialist and went before the Conservation Commission to do some proposed work on the house. The commission allowed it, the applicant through their contractor filed with the inspector's office for a permit to build an addition onto the existing shed using the same plan that was approved by the conservation commission. The building permit was issued and the work started to move forward. While the work was going on, someone was concerned that it was going on without a permit. The Conservation Commission looked at it more closely and also received an opinion from DEP stating the work was being done on a dune. Eventually, the work was agreed upon and it was allowed to proceed. While this was going on, the Building Department advised the applicants to come back and ask the ZBA for a form of relief for what they were applying for. It was

advertised for the zoning board. The board wanted more information from the applicant and the matter was continued. At the same time, they were working with the Conservation Commission. The contractor talked to the board's secretary and asked for a continuance. The secretary asked the contractor to send her an email about the continuance. The contractor sent the email and the applicants agent offered to waive the time standards. The secretary to the board of the zoning board forwarded the email to the zoning board of appeals Chairman.

There was a series of continuances due to faulty advertisements at the zoning board of appeals level and the matter was continued and continued. The applicant never heard back from the zoning board of appeals. What the matter got up before the zoning board of appeals on a continuance, there was no one there. The ZBA denied it because there was no one there to present the matter before them. They never made a decision on its merits. Normally when a petition comes before the ZBA is because there has been a change in the proposal. There was not a change on the proposal and the applicants want the opportunity to be heard on the merits. We want to go back before the zoning board because they never made any decision on the matter. We are asking the planning board consent to be able to go before the zoning board to present this matter.

Ms. Gallagher stated that because of the unusual nature of the application that I would err on the side of the applicant. There will be no harm to the city.

Ms. Black stated that there seems to have been a procedural misstep and the board never got to the substance of the project.

Public comment: Laurel Galaso, 1 Pebble Path

Ms. Galaso stated when her husband and she purchased the house there was not a shed built. Part of the reason the home was purchased was for the view. Now there is a shed with a deck. It was her understanding that the ZBA denied this project because the setbacks were not met. The shed is almost bigger than the house and is an eyesore. We did not know about the meeting with ZBA, and did not receive a notification..

Ms. Gallagher asked Mr. Coakley about setback issues in regards the denial that was issued.

Attorney Coakley stated that they never reached that level. This is a shed that replaced what had been there before. It was added to by 4 feet and was shown on the Conservation application. They denied it for lack of prosecution. The shed was built with a permit and is not over the height limits. The deck has not been completed. We can build if we get the final permits from ZBA.

Mr. Orlando stated his concern for the factual discrepancy regarding the shed.

Ms. Gallagher stated to let the proper board have the opportunity to hear the applicant.

Mr. Cademartori asked Attorney Coakley if, in his opinion, the structure that is standing now is compliant.

Attorney Coakley stated it was in the process in remodeling the existing shed. There was an existing concrete foundation where the original shed was.

Mr. Cademartori asked from a zoning perspective, if nothing were to change out there, is the structure compliant or will it be necessary for some relief needed to be granted.

Attorney Coakley stated the builder asked to add an additional 4 feet. It was the same plan that went to the Conservation Commission. The building permit may have been issued in error. It was closer to the setback line. When the contractor filed with ZBA, he was asking for relief. All we want tonight is to be able to present it in a full application to ZBA so it can make a ruling.

Mr. McCarl stated that our decision is whether to allow the applicant to be able to present at ZBA. We must make the decision on the procedural matter.

Mr. Orlando stated that the board should not stop the process for the citizens to be heard where the decision can be made.

Motion: The Planning Board grants the request of Brian S. and Patricia F. James to file a repetitive petition and find that there are specific and material changes in the conditions related to a filing at 4 Pebble Path previously acted upon by the Zoning Board of Appeals.

1st: Henry McCarl

2nd: Karen Gallagher

Vote: Approved 5-0

OTHER BUSINESS

Ms. Gallagher stated that the first round projects of CPA are going forward and the second round of funding has been approved. The third round of funding has also been started.

Mr. McCarl stated that PIRC has had a meeting and are proceeding to organize another meeting of the

boards and commissions.

Mr. Cademartori stated that the Birdseye Zoning proposal in the form a hotel overlay district was filed at the City Clerks office,e but the referral was continued at City Council. The proposal will likely be referred to the Planning Board in the next couple of weeks.

VI. ADJOURNMENT

Motion: To adjourn

1st: Henry McCarl

2nd: Joe Orlando

Vote: Approved 5-0

VII. NEXT MEETING

Next regular meeting of the Planning Board is Thursday February 2, 2012

Planning Board Members: If you are unable to attend the next meeting please contact the Planning Office at (978)281-9781.