



CITY OF GLOUCESTER

PLANNING BOARD

MEETING MINUTES

Thursday May 3, 2012 at 7:00 PM

Kyrouz Auditorium, City Hall, 9 Dale Avenue, Gloucester

Richard Noonan, Chair

Members Present:

Rick Noonan-Chair, Mary Black-Vice Chair, Karen Gallagher, Henry McCarl, Marvin Kushner, Linda Charpentier, Joe Orlando-Absent

Also present: Planning Director, Gregg Cademartori

Planning & Development:

Councilor Gregg Verga-Vice Chair, Councilor Paul McGeary, Councilor Joe Ciolino

Also present: Councilor LeBlanc, Councilor Cox

There was a quorum of the City Council

I. BUSINESS

- A. Call to Order with a Quorum of the Planning Board
- B. Introduction of Planning Board Members and Staff
- C. Review of Planning Board Minutes of April 12, 2012

Motion: To approve the minutes of April 12, 2012

1st: Henry McCarl

2nd: Marvin Kushner

Vote: Approved 6-0

II. PUBLIC COMMENT - None

III. CONSENT AGENDA

ANR Applications

1. Mark and Kristina Stevick to redivide three lots into two at **6A, 8, and 8R Lincoln Street** (Assessor's Map 237 Lots 52, 53, & 54).

Mr. Cademartori stated he had received request for continuance to May 17, 2012

Motion: To continue the ANR application for Mark and Kristina Stevick to re-divide three lots into two at 6A, 8, and 8R Lincoln Street (Assessor's Map 237 Lots 52, 53, & 54) to May 17, 2012.

1st: Henry McCarl

2nd: Karen Gallagher

Vote: Approved 6-0

2. Cefalo to re-divide three lots into one conforming lot and one unbuildable lot at **17 Beachcroft Road** (Assessor's Map 175 Lots 23,24, and 25).

Mr. Cademartoi stated this would consolidate lots lines that run through the existing dwelling and create one unbuildable lot. The road could use improvement, but already provides access to more than a dozen homes. This application will not create any new building lots.

Motion: The subdivision control law does not apply to the division at 17 Beachcroft Road

(Assessor's Map 175 Lots 23,24, and 25).

1st: Mary Black

2nd: Marvin Kushner

Vote: Approved 6-0

Site Plan Review

1. Braga Ventures Four, LLC to construct new parking lot at **121 Washington Street** (Assessor's Map 24, Lot 57).

Presenter: Attorney Robert Coakley

Attorney Coakley stated that this was the last phase of Mr. Braga's construction. He purchased the gas station and will be creating a parking lot in its place. It will be dedicated to parking. There will be interior drainage. The existing access off of Railroad Ave has been closed off and the site will be landscaped. Mike Hale has signed off on the improvements. In the back park of the lot will be a dumpster location. The delivery trucks will now be able to access the restaurant through the parking lot instead of on Washington Street.

Motion: To approve the site plan for Braga Ventures Four, LLC to construct new parking lot at 121 Washington Street (Assessor's Map 24, Lot 57).

1st: Henry McCarl

2nd; Karen Gallagher

Vote: Approved 6-0

IV. NEW PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, Section 5, and the Gloucester Zoning Ordinance, Section 1.11, the **Gloucester Planning Board** will hold a public hearing to consider the following petition to amend the Zoning Map and Zoning Ordinance as follows:

Amend the Gloucester Zoning Map by creating an overlay district zone in the R-20 Zoning District located at 107 and 125 Atlantic Road, Assessor's Map 72 Lots 1 and 3, respectively, and to amend the Gloucester Zoning Ordinance by adopting a corresponding new Section 5.26 entitled Existing Hotel Overlay District (EHOD) governing the permitting of alterations of, additions to, and/or replacement of existing hotel(s) and/or new hotels with accessory uses as of right or by special permit of the City Council.

Presenter: Attorney Michael Faherty,

Attorney Faherty stated he was representing two separate business entities; Bass Rock Ocean View Inc. and Bon Mal Corporation- Atlantis. Attorney Faherty stated he wanted to be clear that we are dealing with two separate properties. These businesses's have been in business for 50 years and also have continuity of ownership. Attorney Faherty distributed photographs of the sites to both boards and gave a brief history of the area.

The Atlantis was originally 10 units and in 1960 & 63 and additional 24 & 12 units were built. From 1927-1950 the use of this property was called single residential district. The hotel motel use was allowed with a permit from the Board of Appeals. At the time there were no dimensional requirements other than 25 feet all around, the road was to be 20 feet wide and parking for guests. Those were the terms of how the buildings were constructed. In 1960s it was rezoned to a R2 District. The dimensional requirements went up to 35 feet for front and rear setbacks and a side yard setback equal to 35 feet or the building height- whichever was greater. In 1982 a separate schedule was put in the ordinance which created a different set of standards for multifamily buildings, multifamily dwellings, and hotels and motels. The most important item added was a footnote that was put on the multifamily schedule which said, the setback was 30 feet, however, you would add one foot for every foot that the building exceeded 15 feet in height. That footnote was carried forward, but it appears that the intent of the footnote was for multifamily buildings in different districts. There is no legislative history on it. Under the current zoning these uses have been allowed and it has never been an issue. It is also in the

residential schedule. The current requirement in this district for any expansion or change of the hotels requires a minimum lot area of 40,000 square feet. Both of these lots exceed that requirement by more than 25,000 square feet. It requires 10,000 square feet per guest unit. The ordinance is requiring 10,000 square feet of lot area to support a 250 square foot unit. Minimum open space per two guest units is 7500 square feet per unit. The minimum lot unit is 150 square feet, lot frontage is 125 square feet and these numbers do not present a problem for either one of the properties. Front yard is 30 feet, minimum side yards are 40 feet, and back is 40 feet. The footnote increases that setback of 30, 40, 40 to one foot increase in dimensional relief for every foot of increased height. It has a maximum building height of 30 feet in the schedule. When you look at the pictures the buildings are non-conforming and do not meet the zoning district requirements at this time. They are not realistic requirements if you are going to have any change.

There are several ways to control zoning and establish zoning districts.

1. Use schedules
2. Specific dimensional requirements and any change from those would require a variance.
3. Permits- if there are uses that can potentially be allowed, but there is a concern about the impact over the uses on a neighborhood.

We are proposing to discuss dimensional requirements. People who own these properties will have specific guidelines. These facilities need to remain competitive and that is what has spurred this public hearing.

Section 5.26.1 of the ordinance: We are talking about existing hotels. It is to encourage the continued use of the properties. There is no change in use proposed in this. It is intended to encourage the expansion of the existing uses, economic vitality by permitting the alteration expansion and/or replacement of existing hotels. In sections A, B, C; we are talking about the alteration, expansion of existing hotels to stimulate the general economy by creating jobs and other real estate and other tax revenue. These facilities pay \$60,000 in real estate taxes per year \$124,000 in room tax for the city, and the Atlantis pays an additional \$10,000 in meals tax.

Mr. Cademartori clarified the real estate tax paid to the City is a combination of both hotels.

Councilor Ciolino stated that in order to request a rezoning, there has to be public benefit.

What other public benefit would this project create?

Attorney Faherty stated he believes there is a public benefit. In having the additional growth in rooms would create additional jobs, real estate tax etc.

Councilor Ciolino asked Mr. Cademartori if it is stated in the ordinance that there is supposed to be a public benefit

Mr. Cademartori stated there is always the consideration for the welfare for the city for any proposed zoning.

Attorney Faherty stated to Councilor Ciolino that he may be confusing this with spot zoning.

This is not spot zoning, because the uses are already allowed. On the map there are two lots.

It has to be clear the underlying district remains the same. All the uses can be allowed on this property. If there is any contradiction between this section as it relates to hotels and the underlying, this section is intended to control. The procedural requirement contained in the Gloucester ordinance for any special permits that would be required under this ordinance has to meet the current requirements of the City Council and the Gloucester Zoning Ordinance.

If there are special permits required, they are granted under the standards of section 183.

We are not looking to change the standards by which special permits are granted. "As of Right" doesn't mean you can do anything you want. It means that if you conform to the requirements of the zoning ordinance, if you satisfy the requirements for a building permit, environmental review, etc then you are entitled to the permit without the necessity of going to a legislative body such as the City Council or Board of Appeals. What we have included in this proposal is; any continuation of a use of a hotel or alteration, expansion, or replacement of an existing hotel that results in an increase of not more than 30 % of the rooms. There is a criterion that a person with an existing hotel could apply for a building permit to up to a 30% increase. The Atlantis has 40 rooms, and Bass Rocks has 54 rooms. This would result in 52 units for the Atlantis and 70 units at Bass Rocks. Key point: which buildings otherwise meet the dimensional requirements of the EHOD. If you want that without the permit, you would have to meet the dimensional requirements as a prerequisite to be able to pull the building permit. If you can't meet the requirements, you have to go to City Council. Nothing here is going to change what we would normally do. That is the key point

In the next section of existing accessory uses; we are talking about uses that are already there and allowed, but they can be expanded within the same parameter. Anything new would require

a special permit. The next section 5.2633- if it is not allowed by right or permitted it is prohibited.

Councilor Ciolino stated concern about the 30% by right. In one of the items of discussion in 5.26.24 is the dimensional requirement. If they stay within the 30% and have already changed the dimensional tables - My question is; if they stay within the 30% they would not have to come before the City Council for a special permit or major project even though the number of rooms would trigger it to be a major project.

Attorney Faherty stated it would not trigger a major project. This is the intent for that 30%.

Councilor Ciolino stated in the way it stands now, they could now go to ZBA and ask for a variance.

Attorney Faherty stated that it is more complicated than that. The structures are non-conforming, so it would require a permit from the Board of Appeals with a special finding, they would have to get variances from the dimensional requirements of the ordinance, and then they would have to go to City Council for a special permit under the use schedule. There would be 3 types of reliefs required. We are saying that doesn't make sense.

Councilor Ciolino stated if they go to the variance route there would be public hearings and public input.

Ms. Black asked how many times these two businesses have expanded over the 50 years.

Attorney Faherty stated essentially 0. In 1963 they got relief to make changes and there has been no expansion since.

Ms. Black asked how the 30% figure was arrived at.

Attorney Faherty stated if you look at the plans, the only place for growth is by adding an additional story. It will be a one level of building.

Ms. Gallagher stated if they stay within dimensional requirements and allowed to expand 30%, could they expand another 30% in 10 years.

Attorney Faherty stated if the board wants to make it a one time expansion that is acceptable

Councilor McGeary stated in section 571 of the zoning ordinance defines a major project as any hotel, motel or motor inn resulting in 30 or more guest units existing plus proposed. Aren't you at variance with that that?

Attorney Faherty stated this overlay would take care of that. The expansion as of right on a major project has a permit. There is a distinction. If I tell you, you need a permit to do something, I would be coming to City Council and then the dimensions would be looked at and it would be said that is a major project. What I am saying is that if we can do this as a matter of right, I wouldn't come to you in the first place. So it isn't triggering a special permit.

Councilor McGeary stated it would fall within the definition of the ordinance that constitutes a major project. How would the proponents feel if they got dimensional relief, but still kept the major project requirements? It would still have to go before City Council.

Attorney Faherty stated he was not prepared to answer that right now. We think this will work and feel we deserve it.

Mr. Cademartori stated for clarification in 5.26.3.1.B - the focus was on the calculation for the potential of additional rooms that could be allowed as of right, the language states or replacement. Are you saying that if the buildings were raised on the property and the hotels were constructed within that limit – then it would only require a building permit?

Attorney Faherty stated yes because of the way it is worded. We are talking about if the rooms are replaced. One of the intentions is to expand the bath facilities. These were built along time ago. They need to upgrade these facilities to meet market conditions. The intent is that if it is replacement of a room, it falls under that rule. Does it anticipate a full scale demolition? No it does not. That is something that can be clarified.

Mr. Cademartori stated in the regards to a question asked earlier; would this be allowed as of right at this density? The way it is written, it would.

Attorney Faherty stated yes it would be.

Mr. Noonan asked Attorney Faherty if he would be open to perfecting the term of replacement and Attorney Faherty stated yes.

Attorney Faherty stated we are looking to designing a reasonable set of criteria. The dimensional requirements are; Minimum lot area is 40,000 square feet, the minimum lot area per guest unit would be 750 square feet, open space per guest unit would be 200 square feet. The footnote "I" is important; at the option of the land owner, a contiguous open space as currently defined of not less than 10,000 square feet in the front yard would satisfy the open space requirement. The parking is in the rear of the properties. That is why the footnote is there. The lot width is not an issue and the frontage is not an issue. Front yard- we are

substituting from the footnote that requires you to go up a foot for every 15 feet. It will be no less than existing or 30 feet. It will be no less than existing or 30 feet. It will not change the existing setbacks on this property. By putting this in the ordinance, it is saying nothing less than what is there now. No one is intending to build to the property line. If a commercial building is built you don't have 8-10 feet separation of floors, it is more like 12-13 feet per floor for construction. The highest point of the buildings now is 24'. The houses in the neighborhood are higher. .

Councilor Ciolino stated the maximum height is height 45 feet. The height should not include mechanicals or habitable rooftop structures. The building would be probably more like 50 feet.

Attorney Faherty we took this right out of the ordinance. It is not a change.

Councilor Ciolino stated past City Councils have turned down a lot of the houses that wanted to go to 35 and kept them at 30. How would you explain to the neighbors if you go to 45 feet high?

Attorney Faherty stated that the expansion would not cause overshadowing on another property. Nothing on this property would cause overshadowing or block anyone's view.

Councilor Ciolino the neighbors are saying it should be consistent.

Attorney Faherty stated the parking requirements have not been changed. There is one parking place for each guest room and one parking space for every 3 employees. Both properties exceed this requirement.

Public comment; in favor

Damon Cumming 1063 Washington Street

Mr. Damon stated he grew up on Atlantic Road and the hotels did not contract from the neighborhood. The area is wonderful for hotels. There were no difficulties between neighbors and the hotels.

Steve Curley, Lodge of elks

Mr. Curley stated that we see no reason for opposition. They are good neighbors and good business people

Nathaniel Mulcahey, 33 Middle Street

Mr. Mulcahey stated there is a need for more hotel space. It has great advantages over the Fort hotel. It will not add to the congestion in Downtown Gloucester. It meets all the needs of the city and has the added advantage of the golf course.

Jean Boland, 30 Haskell Street

Ms. Boland stated she has assay had positive feedback from people who have stayed at these hotels. They are positive business owners, have well maintained properties.

Bob Ryan, 3 Blake court,

Mr. Ryan gave a history of Atlantic Road. It will add to the commercial tax base. It will create more jobs, and improve our infrastructure. Both business owners are community driven.

Valerie Nelson, Sunset Road

Ms. Nelson stated the most important people to listen to are the people who are impacted. We have heard a lot about the need for hotel space. In the broader city interest, this location is far more acceptable than the Fort and it is not a conflicting use. This hotel proposal is the place for expansion. It does not compromise our Marine Industrial space.

Ted Shediac

Mr. Shedic stated in order for these businesses to stay current they need the room to perform the improvements. What we need to do is to keep our community vital

Ron Goulart- A1 Carpet Cleaning

Mr. Goulart stated he has been cleaning their for 25 years and he is favor of the proposal.

Judy Walcott, Page Street

Ms. Walcott stated she lives behind the hotels. They have been very good neighbors and is in support of the overlay.

Denise Foley 57 Western Ave

Ms. Foley stated she has worked at Bass Rocks and it has always been quiet, clean, and impeccable with their properties. They are premier places to stay in Gloucester.

Ann Malloy, Neptunes Harvest

Ms. Mallory stated this area is more appropriate place for expansion. They should have the right to do it.

Public Comment: In Opposition

Attorney Ralph 46 Middle Street

Attorney Pino stated he was representing Mike & Jane Fonzo who are abutters to the property. There has been a lot of talk of how wonderful the current owners are of these properties and that really is a non issue because they could sell at any time. An overlay to the ordinance is a legislative function and needs a public greater purpose to be to be expressed and need to further the legitimate end of the zoning power when you do this. This is very distinct from variances and special permits. There is clearly an exiting remedy to alter, expand, or replace these hotels. It is the basic notion of the zoning throughout Gloucester and the Commonwealth of Massachusetts. If you look at zoning, there are uses that are allowed by right and some objectionable uses and also uses that should be looked at. Because giving a blank ticket to what they want to do is not appropriate. What is proposing to be done, while it may not be technically spot zoning, it is spot overlay zoning. It is in the sense that we are going against everything an overlay district should be. There is zero public purpose. Birdseye has had numerous studies done. When I represented the Hampton Inn, which got permitted, we showed the need for a downtown business hotel. I have not seen a need for more rooms on Bass Rocks and increase the traffic congestion. The Birdseye project, even if passed, still requires that the applicant go through the permit process so the city can analyze and it can be thoroughly vetted. What is being attempted here is to avoid zoning, avoid the permitting process, and calling it overlaying. The properties have not been expanded because they have been fully built up. What we should be looking at is the benefit to the community. Are these distressed properties? Are they properties on the edge of a changing zone district? Is there a reason why these properties don't fit into the current zoning structure? What we do have are two extensively used properties that are filled in the summer. They are very busy and very active. When we look at the proposal itself we ask what can be built on this site. The side yard setback that says we can go to 15 feet The footnote states: or the setback existing on the site on the date of the adoption of the zoning ordinance whichever is less. My reading of that is 15 feet is the most we need, so maybe we only need 7 feet, but we can have a building that is 20 feet off the back, 15 feet from the sides and 45 feet high. We can put two monoliths there and there is nothing anyone in the City of Gloucester can do. They won't be able to analyze it to see if it is appropriate. The question will be for the Fonzo's is; what kind of 45 foot wall will they be looking at? No one will know until it is done and no one will have any say. The parking proposal relates to the number of rooms. There is no review process for it as long as they are within the dimensional setbacks and the existing uses that are in the buildings currently. It is totally inappropriate. Under this proposal there is no traffic study, there is no provision for adequate utilities. Clearly what is attempted here is to avoid the zoning process. We have hotels in both directions from and they will be in here asking for there own zoning. This is giving a blank check. It would be permitting in bulk.

Ed Siberrman 7 Bass Rocks Road

Mr. Siberman stated he has no objection to the hotels. There are reasons for the stringent requirements that the city has in place. This is a fragile, environmental and there is good reason to be careful. We want to have a careful process for community review.

Tom Berger 133 Atlantic Road

Mr. Berger stated this seems to be a great overreach. The 45 foot height is out of character with the neighbor hood. It is not something for the backshore. It should go through the formal process.

Jane Fonzo 129 Atlantic Road

Ms. Fonzo stated that Bass Rocks is a natural treasure. The Atlantic Motor Inn and Bass Rocks do not want the input of neighbors and abutters. If this is approved, we will not have say in what is built. Don't we have the right of to know what is happening of our neighborhood? Can you approve two hotels and not the others? This is unreasonable. To rezone the area, if it is not in the ordinance, must prove that is for the good of the public.

Suzanne London 11 Beach Road.

Ms. London stated she understands the importance of bringing tourism to Gloucester. The two motor inns are good citizens of the community. Atlantic Road is zoned residential and any building to be done should have input form the neighbors. They should be held to the same standard as the residents are for building.

Mary Jane Hagerman, Pine Road

Ms. Hagerman stated as a neighbor I would like to have a say in the zoning approval. If the hotels have to come before zoning if it is more than 30% how much more could be? It is a seasonal business.

Paul Kelly 135 Atlantic Road

Mr. Kelly stated Atlantic is a gem. We have 4 hotels there now, so how much more do we need? There has been a lot of construction on Atlantic Road over the last two years. Speeding has also been an issue. The area is notorious for its view. Let's keep it the way it is.

Mark Poulin, 84 High Popples Road

Mr. Poulin stated two sides of his property abut Ocean View Inn. Please do your jobs and think this through. It is either Boca Raton or Carmel.

Mary Jo Montignino

Ms. Montignino stated she objects to the lack of public process and the public should have a say of in it. She stated she is opposed to the overlay distinct but not to expansion using the process we have now.

Motion: To continue the public hearing to Amend the Gloucester Zoning Map by creating an overlay district zone in the R-20 Zoning District located at 107 and 125 Atlantic Road, Assessor's Map 72 Lots 1 and 3, respectively, and to amend the Gloucester Zoning Ordinance by adopting a corresponding new Section 5.26 entitled Existing Hotel Overlay District (EHOD) governing the permitting of alterations of, additions to, and/or replacement of existing hotel(s) and/or new hotels with accessory uses as of right or by special permit of the City Council to May 17, 2012.

1st: Henry McCarl

2nd: Marvin Kushner

Vote: Approved 6-0

Planning and Development continued its meeting.

V. ADJOURNMENT

Motion: To Adjourn

1st: Henry McCarl

2nd: Linda Charpentier

Vote: Approved 6-0

VI. NEXT MEETING

Next regular meeting of the Planning Board is Thursday May 17, 2012

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