

City of Gloucester City Council

CITY HALL • GLOUCESTER • MASSACHUSETTS • 01930
Telephone 508-281-9722 Fax 508-281-8472

CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, October 14, 2009 – 7:00 p.m.
Council Conference Room (first floor)
9 Dale Avenue - City Hall

AGENDA

1. SCP2009-12-7: 7 Norman Avenue – Sec. 3.2.2(a)(e)
2. COM2009-031: Extension of Special Permit: 35 Dory Road
3. Other Pending Business for status discussion only:
 - a. CC2009-001 (Hardy) Regarding informal review and recommendation by Planning Board on GZO, Sec. 3.2.1 dimensional requirements for single and two family dwellings. P&D is awaiting review and recommendation from Planning Board
 - b. CC2008-047 (Grow) Regarding two new zoning districts, Harbor Business 1 and Harbor Business 2. P&D awaiting Planning Board disposition resulting from Harbor Plan discussions etc.
 - c. Rezoning 447 Western Avenue – P&D is awaiting completion of Planning Board Public Hearing (tentatively scheduled for 10-19) for vote and recommendation.
4. Other Business

NOTE: Agenda items may be taken out of order

COMMITTEE
Councilor Jackie Hardy, Chair
Councilor Sharon George, Vice Chair
Councilor Philip Devlin

Committee members – Please bring relevant documentation

Cc: Mayor, Jim Duggan
Greg Cademartori, Planning Director
Catherine A. Henry, Esq.
J. Michael Faherty, Esq.

City of Gloucester City Council

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October 7, 2009

Catherine A. Henry, Esq.
14 Pleasant Street
Gloucester, MA 01930

Re: SCP2009-12 -7 Norman Avenue, pursuant to Sec. 3.2.2 (a)(e) of the Gloucester Zoning Ordinance.

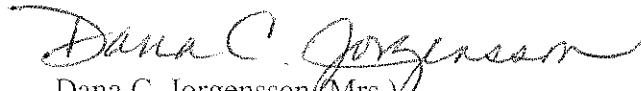
Dear Attorney Henry:

The Planning and Development Committee will meet on Wednesday, October 14, 2009 at 7 p.m. in the Council Conference Room, City Hall regarding the above mentioned special council permit application.

Please notify all abutters and provide a signed copy of the attached affidavit prior to the meeting.

If you have any questions, please do not hesitate to call my office at 978-281-9720.

Sincerely,


Dana C. Jorgenson (Mrs.)
Clerk of Committees

Enclosure: Affidavit Form
Copy of Agenda

AFFADAVIT OF NOTICE OF ABUTTERS

Signing below certifies you have duly noticed all abutters on the certified abutter's list provided in the application; the date, time and place of the Planning and Development Committee meeting for which the following application will be discussed.

Signature of applicant or applicant's representative

Applicant's name and project address

SCP # 2009-012

Date



CITY OF GLOUCESTER
GLOUCESTER, MASSACHUSETTS - 01930

CITY CLERK
GLOUCESTER, MA
09 SEP 24 PM 3:23

City of Gloucester
Special Council Permit - Application

11/25/09
(Public hearing to be held no
later than above date)

In conformance with the requirements of the Zoning Ordinance of the City of Gloucester, the undersigned hereby applies for a Special Council Permit (CC or CCS) in accordance with Section 1.8.3 of the Ordinance and other Sections as listed below:

Type of Permit (Give specific section of Zoning Ordinance) Special Permit to reduce distance between buildings and to reduce open space per dwelling unit per section 3.2.2 (a) and (e)

Applicant's Name: Charles Caldwell & Carol Dirga

Owner's Name Same
(if different from applicant)

Location 7 Norman Avenue Map # 168 Lot # 10
(Street Address)

Zoning Classification: R-20

- Attached is a list of owners (with complete addresses) of land directly opposite on any public or private street or way, direct abutters, and abutters to the abutters of land within three hundred (300) feet of the property line, as they appear on the most recent City of Gloucester Assessor's Maps and Tax list.
- Attached is a listing of criteria set forth in Section 1.8.3(e) of the Zoning Ordinance, including any supportive material or comments the applicant may wish to include (i.e. ZBA decisions, Order of Conditions, ect.) if necessary.
- Attached are the necessary plans as set forth in Section of 1.8.3(b) of the Zoning Ordinance, which at a minimum consist of an accurate plot plan (to scale) showing existing and/or proposed building or structures.

City of Gloucester - Action

Fee: 550.00 check 5039

City Clerk (received): [initials] 5/24/09

City Council (received): _____ 10/6/09

Public Hearing (ordered) _____

Public Hearing (opened) _____

Public Hearing (closed) _____

Final Decision _____

Disposition _____

(Approved, Denied, Approved w/conditions)

Applicant:
[Signature]
Name (Signature)

7 Norman Ave., Gloucester, MA
Address

(978) 525 - 4889
Telephone

Certified for completeness:
Building Inspector: [Signature] Date: 9/18/09

Planning Director: [Signature] Date: 9/16/09

Section 1.8.3(e) - (Use additional sheets, if necessary)

1. Social, Economic, or community needs served by the proposal:

The garage will provide storage for the residents and will remove a car from the street.

2. Traffic flow and safety :

The garage will house one vehicle. The property is located on a corner lot with Norman Avenue and Field Road. The proposed garage will be accessed from Field Road, which is a lesser traveled road. Sight lines are good and the addition of one vehicle should not adversely effect traffic flows or safety.

3. Adequacy of utilities and other public services :

The property is serviced by municipal water and a private septic system.

4. Neighborhood character and social structure :

This Magnolia neighborhood has many large multi-family homes and apartment buildings.

5. Qualities of the natural environment :

This is a landscaped and well manicured property. No trees will be disturbed in the construction of the garage and minimal amounts of soil will be removed as the garage will be built on a slab.

6. Potential fiscal impact:

Relatively minor fiscal impact from an increase in assessed value.

The applicant is advised that City staff is available to assist the applicant in preparing the application, including the Inspector of Buildings and City Planner.

Application For Special Permit

The undersigned applicant hereby applies for a special permit under M.G.G., Ch. 40A, § 9 as follows.

1. Applicant (includes equitable owner or purchaser on a purchase and sales agreement):

Name: Charles Caldwell and Carol Dirga

Address: 7 Norman Avenue

Tel. #: Days 978-283-1413 Evenings 978-525-4889

Check here if you are the purchaser on a purchase and sales agreement.

2. Owner, if other than applicant:

Name: _____

Address: _____

Tel. #: Days _____ Evenings _____

3. Property:

Street address: _____

Assessor's map: 168 Lot: 10

Registry of deeds where deed, plan, or both records:

Essex South District

Deed recording: Book 16660 Page 385

Plan recording: Plan # _____

Property is location in the R-20 zoning district.

Because of reasons set forth below, the special permit requested will meet the additional requirements of the Zoning Ordinance/By-Law as follows:

Section 3.2.2.(e) authorizes the City-Council to reduce the distance
between principal buildings upon a showing that the reduction will not
adversely impact views, or service access and that it will not over
shadow or visually crowd the land. This property is located in
Magnolia and has a wooded view with no particularly unique
characteristics. There is ample room around the principal structure
for access by emergency or service access and the limited size of the
structure will prevent overshadowing or overcrowding.
If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the Applicant or will represent the Applicant, owner or equitable owner must designate such representative below.

Name of Representative: Catherine A. Henry, Esquire

Address of Representative: 14 Pleasant Street, Gloucester, MA 01930

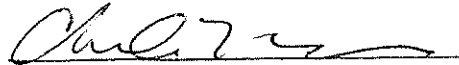
Tel. #: Days 978-283-1413 Evenings _____

Relationship of representative to owner or equitable owner:

Attorney

I hereby authorize Catherine A. Henry to represent my interests before the
Special Permit Granting Authority with respect to this Special Permit Application.

(Signed by owner/equitable owner)



4. Nature of relief requested:

Special permit pursuant to Article/Section 3.2:2.(e) & (a) of the
Zoning Ordinance/By-Law which authorizes City Council to permit
a reduction in the distance between buildings & reduce open space

Detailed explanation of request:

Applicant is seeking to construct a 24 ft x 28 ft single car
garage. It will be 9 ft 6 in from the deck and 15 ft from
the rear of the building.

5. Evidence to support grant of special permit:

Because of reasons set forth below, the special permit requested will be in harmony with the intent and purpose of the Zoning Ordinance/By-Law:

The construction of the garage is an appropriate use of land
that enhances the value without detriment to the neighborhood.

City of Gloucester, Abutters List

Report Description:

Abutters To Parcel... Map 168 Lot 10

Please be aware that the abutters list reflects mailing addresses for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements.
Gloucester Board of Assessors

Abutter	Street Address	Parcel No.	Mailing Address
1 168 2 THE NORMAN MANOR APARTMENTS LLC	9 NORMAN AV	168 2	PO BOX 1560 MANCHESTER MA 01944
2 168 8 UNION CONGREGATIONAL	5R FIELD RD	168 8	CHURCH OF MAGNOLIA P O BOX 74 MAGNOLIA STATION GLOUCESTER MA 01930 0000
3 168 9 BRITTAIN BARBARA A	5 FIELD RD	168 9	415 ESSEX AV GLOUCESTER MA 01930
4 168 10 CALDWELL CHARLES N & DIRGA CAROL	7 NORMAN AV	168 10	7 NORMAN AV GLOUCESTER MA 01930
5 168 11 SHEEHY PATRICK B & RENEE L	5 NORMAN AV	168 11	5 NORMAN AV GLOUCESTER MA 01930
6 168 12 UNION CONGREGATIONAL	3A NORMAN AV	168 12	CHURCH OF MAGNOLIA 3A NORMAN AV GLOUCESTER MA 01930 0000
7 168 13 UNION CONGREGATIONAL	3 NORMAN AV	168 13	CHURCH OF MAGNOLIA 3 NORMAN AVE GLOUCESTER MA 01930 0000
8 168 58 LACEY MARK & FEHRMANN SUSAN	4 FIELD RD	168 58	47 ROCKY NECK AV GLOUCESTER MA 01930
9 168 59 UNION CONGREGATIONAL	5R NORMAN AV	168 59	BOARD OF ASSESSORS CITY HALL 9 DALE AVENUE GLOUCESTER, MA 01930 <i>fbcm</i>
10 170 19 TOYE CHARLES A SR	8 NORMAN AV	170 19	CHURCH OF MAGNOLIA 3 NORMAN AVE GLOUCESTER MA 01930 0000
11 170 31 SCHMIDT RICHARD W & CAROLE A	10 NORMAN AV	170 31	8 NORMAN AVE GLOUCESTER MA 01930 0000
			10 NORMAN AVENUE GLOUCESTER MA 01930 0000

From: amichael41@comcast.net
Subject: building
Date: March 26, 2009 6:24:45 PM EDT
To: charles-caldwell@comcast.net

March 26 2009

To Charles Caldwell

This is to confirm our recent conversation regarding the construction of a garage adjacent to the property at 5 Field Rd. As you know I have lived at that address for 18 years and am about to close on purchase of that property. You have explained the location of your proposed garage and I have no objection. I am out of the country until April 16th so cannot attend a hearing with you if it comes up during that time. Feel free to take this email with you as an affirmation of support for your permit.

Allan D Michael
5 Field Rd

I am a neighbor of Charles Caldwell and Carol Dirga. 7 Norman Avenue, Gloucester MA.
I have seen the plans for the proposed garage and the plot plan showing its location on their property, titled "Proposed Garage at the Caldwell/Dirga Residence," drawn by Ellen Levin, Architect, dated March 5, 2009.

I recommend that the Zoning Board of Appeals approve this project.

Barbara Brittain

3/25/09

Signature

Date

Barbara Brittain
174 Pond Street
South Weymouth MA 02190

I am a neighbor of Charles Caldwell and Carol Dirga. 7 Norman Avenue, Gloucester MA.
I have seen the plans for the proposed garage and the plot plan showing its location on their
property, titled "Proposed Garage at the Caldwell/Dirga Residence," drawn by Ellen Levin,
Architect, dated March 5, 2009.

I recommend that the Zoning Board of Appeals approve this project.


Signature _____ Date 3-24-09

Charles Toye
8 Norman Avenue
Gloucester MA

DECISION: ZONING BOARD OF APPEALS

PETITIONER: Charles N. Caldwell & Carol Dirga, 7 Norman Avenue,
Gloucester, MA

PETITION: Seeking Special Permits to alter/expand a nonconforming structure and decrease the minimum open space per dwelling unit and Variances for side and rear yard setback requirements and distance between buildings to enable petitioners to erect a detached garage at 7 Norman Avenue.
(Assessor's Map 168, Lot 10)

Six letters were received by the Board signed by 11 residents who expressed support of the proposal.

No one spoke in opposition of the proposal.

No petitions or communications were received by the Board signed by residents in opposition to the proposal.

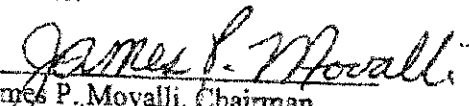
The Board has carefully considered the petitioners' request and finds that owing to soil conditions, shape and topography of the land and especially affecting such land, a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship to the petitioners. The Board also finds that desirable relief can be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. The Board also voted in favor of a Special Permit to alter/expand a nonconforming structure.

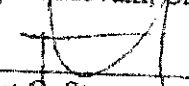
<u>Category</u>	<u>Required</u>	<u>Existing</u>	<u>Granted</u>
Right side yard setback	46'6"	30'	16' 6"
Rear yard setback	46'6"	8'	38' 6"

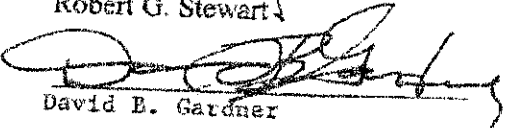
The Variances are hereby granted subject to the following condition: the proposed garage shall not have any plumbing.


The afore granted decision shall not take effect until such notice is filed with the Essex South District Registry of Deeds. The fee for such notice shall be paid by the owner. Prior to registering this decision with the Registry of Deeds, the petitioner shall have the Seal of the City affixed to same.

In favor:


James P. Movalli, Chairman

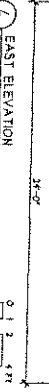
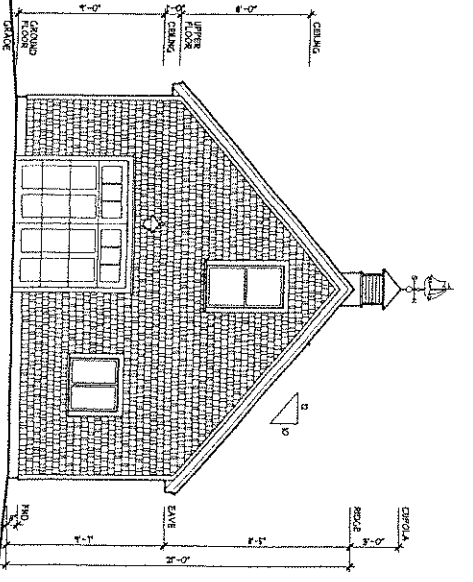
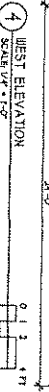
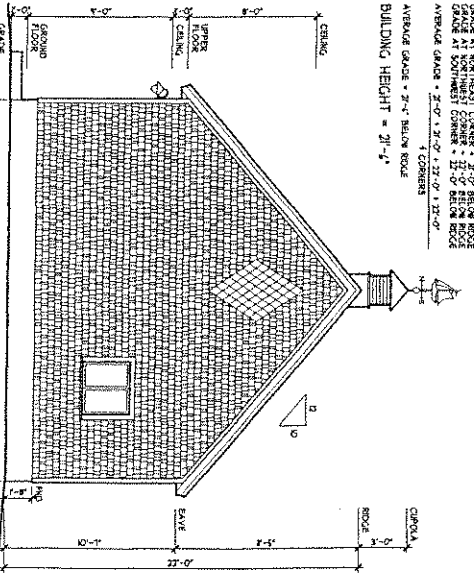
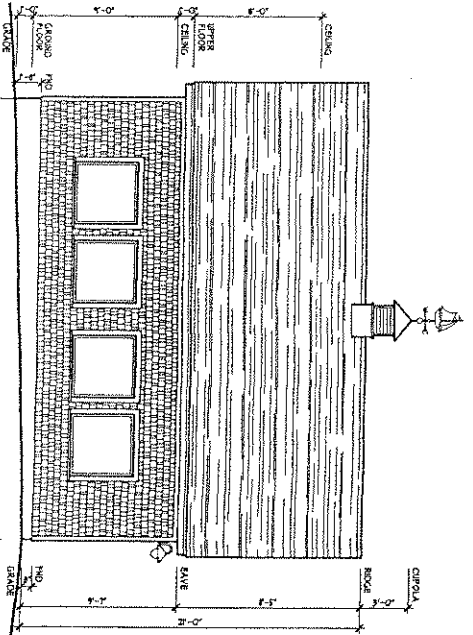
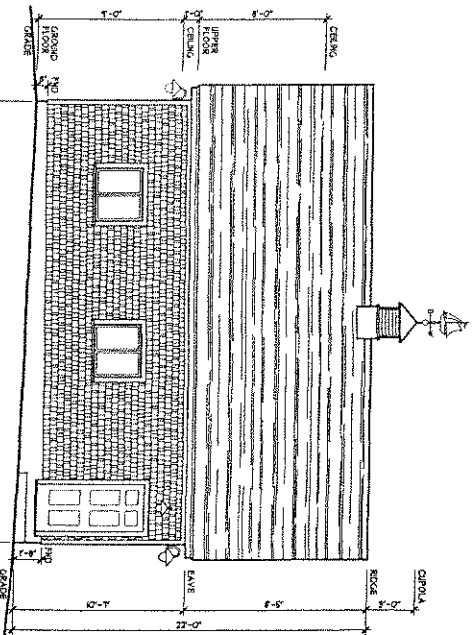
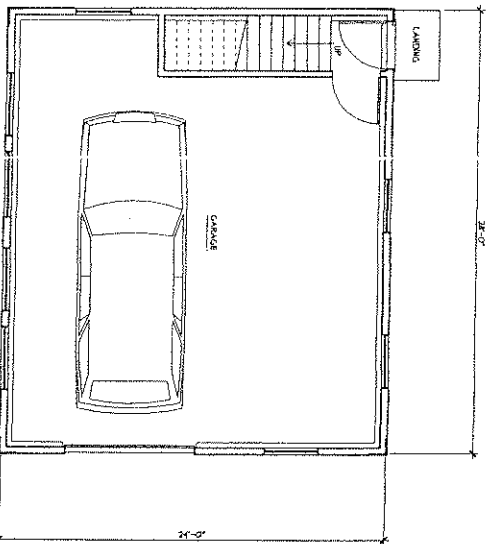
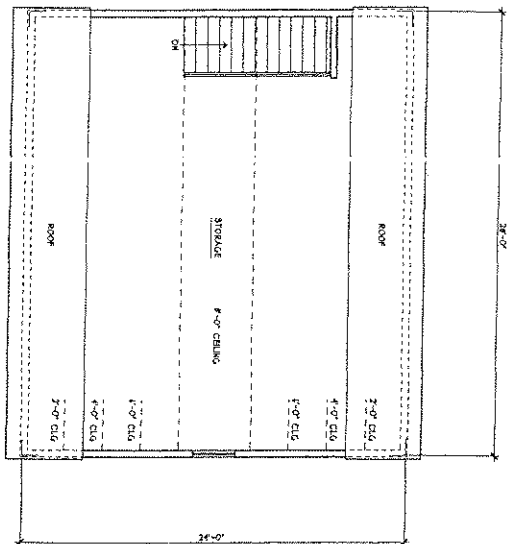

Robert G. Stewart


David B. Gardner


Virginia Bergmann, Vice Chairman


Michael C. Nimon

Opposed: none.



BUILDING HEIGHT CALCULATION
 BUILDING HEIGHT = THE VERTICAL DISTANCE MEASURED FROM
 TO THE WORKING FLOOR TO THE FINISH CEILING CONSTRUCTION
 AVERAGE GARAGE = THE AVERAGE OF THE ELEVATIONS OF
 THE OUTSIDE AT ALL OF ITS CORNERS.
 GARAGE AT SOUTHWEST CORNER = 2'-0" BELOW ROOF
 GARAGE AT SOUTHWEST CORNER = 2'-0" BELOW ROOF
 GARAGE AT SOUTHWEST CORNER = 2'-0" BELOW ROOF
 AVERAGE GARAGE = 2'-0" + 2'-0" + 2'-0" = 2'-0"
 BUILDING HEIGHT = 2'-0"

PROPOSED
GARAGE
AT THE
CALDWELL
DIRGA
RESIDENCE
7 NORMAN AVE
GLOUCESTER, MA

ELLEN LEVINE
ARCHITECT
3 HIGH ST
GLOUCESTER, MA 01930
978-870-4327

FLOOR PLANS
AND
ELEVATIONS

ISSUED FOR: 2/24
DATE: MARCH 1, 2009

A2



**GLOUCESTER CITY COUNCIL 2009
COMMUNICATION
RECEIVED: 09/30/09
NUMBER: COM2009-031
NUMBER OF PAGES: 2
SUBJECT: Extension of Special Permit: 35 Dory Road
ACTION: Refer to P&D**

LAW OFFICES
OF
J. MICHAEL FAHERTY

09 SEP 30 PM 12:00
111 MAIN STREET
GLOUCESTER, MA 01930
TELEPHONE (978) 283-9233
(978) 281-0999
FAX (978) 283-0314

September 28, 2009

Bruce Tobey, President
Gloucester City Council
City Hall, Dale Ave
Gloucester, MA 01930

RE: Varian Semiconductor Equipment Associates, Inc.
City Council Decision dated December 11, 2007

Dear Mr. President:

I continue to represent Varian Semiconductor Equipment Associates, Inc. ("Varian") My client was issued a City Council Special Permit on December 11, 2007 for the construction of two (2) commercial land-based wind conversion facilities at the client's property at 35 Dory Road.

The purpose of this letter is to request pursuant to section 5.22.12 of the Gloucester Zoning Ordinance an eighteen (18) month extension of time to commence construction of the wind conversion facilities. As reasons for this request, I would state the following facts:

1. Although the City Council Permit was not appealed, a group calling itself 10-Citizen Group appealed the Negative Determination issued by the Gloucester Conservation Commission for one of the sites through the Massachusetts Department of Environmental Protection. A further appeal was taken by the group represented by attorney Robert Wolfe to the Suffolk County Superior Court in 2008. All appeals have been decided in favor of Varian, but the Superior Court decision was not rendered until February 25, 2009. A further Notice of Appeal was filed with the Suffolk Superior Court on March 4, 2009 but the 10 Citizen Group which continues to be represented by attorney Wolfe did not docket their appeal within 10 days of the notification from the Superior Court that the record in the case had been assembled as required by the rules of the Appeals Court. This failure to act effectively terminated or closed the action as of September 21, 2009.

2. My client did not want to accept the risk of proceeding with construction and the ordering of the turbines until the Conservation Commission appeal (however frivolous) had been concluded.
3. Construction activities can now be scheduled but there is considerable lead time before the equipment can be delivered.

My client regards this delay caused by on- going appeals to be "good cause for failure to commence construction", and requests that the City Council grant the requested extension.

This request is of first impression under the Ordinance. Would you please have the City Clerk advise my office how you wish to proceed on the request.

Sincerely,


J. Michael Faherty