

CITY OF GLOUCESTER
PLANNING BOARD
MEETING

November 5, 2015

5:30 P.M.

Kyrouz Auditorium
9 Dale Ave, Gloucester
Richard Noonan, Chair

Members Present: Rick Noonan- Chair, Mary Black-Co Chair, Henry McCarl, Ken Hecht, Shawn Henry. Absent Joe Orlando and Doug Cook

Staff: Gregg Cademartori- Planning Director, Matthew Coogan- Senior Planner

Mr. Noonan opened the Planning Board meeting at 5:30 p.m.

I. BUSINESS

Public Comment: None

II. CONSENT AGENDA

Planning Board to consider the *Approval Not Required* Plan submitted by Chris McCarthy to create an additional lot at **166 Bray Street** (Assessors Map 247, Lot 6).

Presenter: Chris McCarthy, **6 Point Road**

Mr. McCarthy explained that is would like to divide a 21 acre parcel into two lots which are approximately 10 acres each. The site is located on a very old road.

Mr. Coogan stated that this area has been gated on both the Concord and Atlantic Street sides. This road is on plans from the 18th century. While the road has existed prior to 1960 the question is “what has the road been for the past few decades”. Parts of the road have been improved by the Atlantic side, but from the eastern side to the western side, there is gravel which slowly dissipates. The concern is toward what is called “Lot 1” - the condition of the frontage. The other concern is to what we consider the road to be. Since it was gated off; does it means it was discontinued or still considered a right of way. There is not a definitive answer from the legal department or DPW at this time. Mr. McCarthy stated it is a public road and navigable by a two wheel drive vehicle and is registered land. A fire permit was issued today and engineering has approved the drainage plan.

A site visit was scheduled Saturday November 7, 2015 at 8:00 a.m.

Motion to continue the Approval Not Required Plan submitted by Chris McCarthy to create an additional lot at 166 Bray Street (Assessors Map 247, Lot 6) to November 19, 2015 was made by Ms. Black, seconded by Mr. Hecht and unanimously approved

Planning Board to consider the *Approval Not Required* Plan submitted by Anthony and Concetta Saia to create an unbuildable to be conveyed to an abutter lot at **15 Wyoma Road and 5 Dune Lane** (Assessors Map 256, Lots 39 and 42).

Mr. Coogan reported that a portion of the 2000 s.f. of Lot A will be carved off of and be made into Lot B. All frontage and square foot requirements will comply.

Motion to find that the Subdivision Control Law does not apply to the division of land at 15 Wyoma Road and 5 Dune Lane (Assessors Map 256, Lots 39 and 42) was made by Ms. Black, seconded by Mr. Henry and unanimously approved.

PUBLIC HEARINGS

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

- A. Delete the definition of “**Junk Yard**” in **Section VI** and Add new definition for “Junk Yard” as follows: "Junk yard" shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily, stored in the open air or under a roofed structure rather than within a fully enclosed building."

Mr. Noonan opened the public hearing.

Councilor Steve LeBlanc- 9 Carlisle Street

Councilor LeBlanc explained that an application for a special permit prompted this application. He stated that there wasn't a definition in the ordinance and wanted to streamline the process.

Mr. Coogan reported that a memo was sent on Tuesday with the current and proposed definition. The proposed definition makes the recycling component more specific and will ensure the proper uses for a junk yard. It broadens the description to encapsulate the usage.

Public comment: None

Motion to make a recommendation to City Council for the adoption of new definition in Section VI for “Junk Yard” as follows: "Junk yard" shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily, stored in the open air or under a roofed structure rather than within a fully enclosed building." was made by Mr. McCarl, seconded by Mr. Henry and unanimously approved.

- B. Delete Section **5.5 Lowland Requirements** and Add newly titled Section **5.5 Floodplain Requirments** which will add special permitting requirements in Sections 5.5.1, 5.5.2, and 5.5.3 for principal structures for residential use in special flood hazard areas.

Mr. Noonan opened the public hearing.

Motion to continue the public hearing for; Delete Section 5.5 Lowland Requirements and Add newly titled Section 5.5 Floodplain Requirments which will add special permitting requirements in Sections 5.5.1, 5.5.2, and 5.5.3 for principal structures for residential use in special flood hazard areas to November 19, 2015 was made by Mr. McCarl, seconded by Mr. Henry and unanimously approved.

- C. Add a New Section titled **Atlantic Road Overlay District** on the water side of Atlantic Road from the intersection of Grapevine Road and Atlantic Road to the intersection of Atlantic Road and Bass Rocks Road. The purpose of the overlay would be to protect the coastal shoreline known as Gloucester's Back Shore from any development. The overlay

would prohibit any residential or commercial construction insuring protection of this valuable environmental resource.

Ms. Black recused herself

Councilor Joe Ciolino- 28 High Popples Road

Councilor Ciolino stated that he initiated this proposal to protect oceanfront properties so they are not built on. When people purchased their property across the street they were told the ocean side was not buildable. The city sees the Oceanside as non-buildable and taxes it as such. This proposal is to define where the overlay is. Some of parcels are owned by the city, but most are privately owned. This overlay signifies what cannot be built on. The city is responsible for the safety of its citizens. Safety is a concern and Gloucester's coastline has to be protected.

Mr. Cademartori read the new section titled Atlantic Road Overlay District to the board and public. He stated there would be map amendment recommendation to define exactly where the overlay is.

Mr. Henry asked if the legal opinion from the city solicitor has been sought to whether the concerns address the climate changes bulk of the assessment and whether those issues have been addressed by Concom.

Mr. Cademartori stated that there are very few performance standards that the Concom can look at. There are more regulations for construction and building codes. There isn't an ability to set a higher standard of building code but there is an ability to regulate use.

Mr. Henry asked if the new flood maps will be taken into consideration by the ZBA.

Mr. Cademartori stated there are standards in the ordinance for the creation of lots, allowances for lots in existence; the first pass of buildability comes through the building inspector's office. For the creation of new lots in this area- they are in the flood plain if someone were to propose to divide the property in two they would be **relieved from the board of appeals because the definition of the lot would not be met.**

The board discussed the internal procedures of how each department looks at proposed lots.

Public Comment in favor:

Robert Piselli, 183 Atlantic Road

Mr. Piselli stated that he has owned his property for half a century and have enjoyed the view and the needs of a generation outweigh the needs of the few. Please protect the legacy of Gloucester. This represents a danger to the community. The city is the protectors of the community and has a responsibility to preserve its natural beauty.

Barbara Silverman, 7 Bass Road

Ms. Silverman stated that when she bought her house in 1997, she was told she couldn't touch the other side of the road. To have a house on the oceanside is implausible. This is a threat to the back shore. It is a national treasure. It is important to keep bigger picture in mind as well as the economic factors.

Mark Delvechio- 11 Tragabigzanda Road

Mr. Delvechio stated that he is in favor of this and next proposal. Both of the models are set forth by Chatham in their fight to defend their zoning rules which reached the Supreme Judicial Court. They have the right to regulate construction in flood plains and the right to regulate for public safety. As a resident of the neighborhood, safety is important concern. He stated he is in agreement with the two prior speakers that the view does mean something. There are concerns that the city can be sued, however Chatham showed us the way to win in the Supreme Court.

Scott **Lampart**, 9 Greystone Road.

Mr. **Lampart** stated that as an incoming Councilor for Ward 1 is in support of Councilor Ciolino's proposal. It will create some clarity on the ground rules for an area in the city that we cherish.

Carol Daigle, 11 Marina Drive

Ms. Daigle stated that she never expected the lots would be a buildable. It is a blow to the city of Gloucester. The back shore is a serenity walk, ride, and run for many people. It is a sensitive issue and to build on the area is wrong.

Richard Emmanuel, 153 East Main St

Mr. Emmanuel stated that his comments are for both proposals.

He stated that this is a major issue and will represent the planning, zoning and conservation of this city. The decisions made on this project will become statewide and national. He read a prepared letter to the board and submitted to be placed on file

Christopher Driscoll 44 Harriet Road

Mr. Driscoll stated he was in agreement with all the public comment before him. The backshore is a gift to this community and it would be an aesthetic disaster if built. The Councilor's ordinance zoning should be adopted.

Ron Geary, 209 Atlantic Road

Mr. Geary stated that he has owned his property for 9 years and has lived through the storms and knows the damage that can be done to properties. He read a prepared letter to the board and from Chapter 91. As citizens of the Commonwealth we deserve protection under Chapter 91. He asked the Planning Board under Chapter 91 to determine under the proposal seeks to protect and extend strolling rights without impediment as stipulated under Mass DEP Waterways Regulation, to determine that if 178 Atlantic Road is an area of critical environmental concern, there are 4 areas of geographical jurisdiction, in particular- flowed tidelands. To build on this site is an incredibly bad idea.

Maria Vellente, 103 East Main St.

Ms. Vellente stated she has written several letters in regards to this issue and is in agreement with all that has been said. There are a number of reports that have come out by the citizens of Gloucester. In 2001 the Community Development Plan and the 2005 Recognizance report that both identify the back shore as a heritage landscape and is a precious resource and called for its preservation. The 2011 Open Space Land has section that discuss growth and development which says that the Atlantic Ocean continues to play a major role in the influence of Gloucester's business industry. The shoreline is a critical ecologic and economic resource. The resource needs to be preserved. This is full city issue. Flooding is the most serious hazard that was identified by the DPW and Open Space. The flood maps are changing by the year. There are other lots that may be buildable and this could set the precedent for future projects.

Mike Stelluto, 29 Briar Road

Mr. Stelluto stated that he is against building in the area.

Robert Lewis, 4 Mayflower Lane

Mr. Lewis stated that if this ordinance is passed then the city is liable to its citizens. The city is already liable because of how the lots have been assessed. The citizens of Gloucester thought the area was protected and it's the city's responsibility to return to the city of Gloucester what the citizens thought what was.

Public Comment against:

Attorney Meredith Fine- representing Jim Harwood.

Attorney Fine stated explained that the project was before the Conservation Commission last evening and is the only board that has jurisdiction over the proposal. The commission is hiring a coastal geologist and the report will be an essential document in the city's review.

The ordinance proposed by Councilor Ciolino is naked spot zoning and is clearly aimed at this proposal. As heard from the comments this evening that is how many are taking it and aimed to stop this plan. It says that no building of any kind will be allowed in a section of Atlantic Road- from Grapevine Road to Bass Rocks Road. The 9 houses that are already built on the water side of Atlantic Ave will be left out of the overlay district. In this proposal the other 35 properties which are privately owned would be city's disposal to do what they want with them. In this country that is not supposed to happen. This is not overlay district. An overlay district is a mechanism for focused regulation to take a larger district and create a smaller district within the larger district for a specific purpose. This is a complete ban on any building. It is not a way to make the residential zone that this land is in function better more specifically. It is not viable land use proposal.

Michael Faherty, 83 Mount Pleasant Ave.

Attorney Faherty stated that he has no opinion other than that it is a fool's errand to build there. He stated his objection is to the process. The process has been abused. Zoning amendments can only be initiated by a specific process in Section 5 of Chapter 40 A. It has to be initiated by a City Councilman not by an individual. The Planning Board or the Board of Appeals cannot initiate a zoning change. It's illegal. This is spot zoning and it will result in a regulatory taking to allow people to apply for monetary relief or allow them to file for further reduction in their taxes. The citizens of Gloucester will pay for that. The lots are assessed differently. There is no provision to initiate zoning. Please follow process and do it right.

Councilor at Large-Joe Ciolino

Councilor Ciolino stated that no individual will profit from this proposal. It is not spot zoning. Any government unit has the power to create zoning districts. Three basic steps to create an overlay district; that is what the Planning Board is charged with this evening

1. Define the purpose of the district
2. Identify the areas that make up the district.
3. Develop specific rules to the identified district.

Mr. Noonan closed Public Comment.

Motion to continue the public hearing to add a New Section titled Atlantic Road Overlay District on the water side of Atlantic Road from the intersection of Grapevine Road and Atlantic Road to the intersection of Atlantic Road and Bass Rocks Road. The purpose of the overlay would be to protect the coastal shoreline known as Gloucester's Back Shore from any development. The overlay would prohibit any residential or commercial construction insuring protection of this valuable environmental resource to November 19, 2015 was made by Mr. McCarl, seconded by Mr. Hecht and unanimously approved.

Ms. Black rejoined the board.

Riverdale Subdivision

Mr. Cadematori stated he has received a petition for a Release of Covenant for the last remaining lot and to secure the remaining construction by a cash bond.

Motion was made to approve the release of covenant for the last lot in Riverdale Place and to accept a form of a cash bond for the remaining work by Mr. McCarl, seconded by Mr. Henry and unanimously approved.

III. ADJOURNMENT

Motion was made to adjourn the meeting at 7:02 p.m. by Mr. McCarl, seconded by Mr. Hecht and unanimously approved.

NEXT MEETING

Next regular meeting of the Planning Board November 19, 2015

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