



CITY OF GLOUCESTER PLANNING BOARD

June 15, 2017

6:00 P.M.

**Kyrouz Auditorium
9 Dale Ave, Gloucester**

Richard Noonan, Chair

Members Present: Rick Noonan, John Pratt, Joe Orlando, Shawn Henry, Hank McCarl,
Staff: Gregg Cademartori, Matt Coogan

I. BUSINESS

- A. Motion to approve the minutes of May 4, 2017 was made by Mr. Henry, seconded by Mr. McCarl and unanimously approved.
- B. Public Comment-None

II. CONSENT AGENDA

Planning Board to consider the *Site Plan* submitted by Back Shore LLC for the construction of a new building and parking at **417 Main Street** (Assessors Map 53, Lot 4).

Miranda Gooding- Glovsky & Glovsky.

Attorney Gooding stated that this is an application for a site plan review to construct a 2 story 17,500 square foot building in the harbor. There will be 54 parking spaces. The existing wharf will remain and vessels that use the wharf will continue to do. It will be for industrial use. One tenant is GMGI which operates a marine research laboratory. The building is designed to be compliant with the city's requirements. It is proposed marine industrial so there are no dimensional restrictions.

Peter Goudeau- Windhover Construction

Mr. Goudeau explained the history of the site. GMGI will lease 5000 square feet. The demolition will start in late summer and construction in late fall. Next July tenants will take occupancy.

Charlie Ware- Meridian Associates

The wharf is at elevation 7. The structure will be built on top of the wharf. The rest of the site work is on the landward side of the wharf. The existing curb cut will be improved for emergency vehicles and upgrading will include storm water management. The city engineer advised on the drainage design. There are no LSP concerns. The sewer most like will be gravity and not pressurized.

Motion to approve the Site Plan submitted by Back Shore LLC for the construction of a new building and parking at 417 Main Street (Assessors Map 53, Lot 4) was made by Mr. Orlando, seconded by Mr. Henry and unanimously approved.

III. PUBLIC HEARINGS

In accordance with MGL Chapter 41, and Section 2.27 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, the Gloucester Planning Board to consider the following application:

Summer House Associates LLC, for a Road Improvement Plan Special Permit, Section 5.21, to serve four lots at **15 Hutchins Court** (Assessors Map 125, Lots 102, 103,104,105).

Debra Eliason-Eliason Law office 63 Middle St Gloucester

The 4 lots received ANR approval in 2015. The city engineer provided a letter yesterday and raised questions about the legal authority to make road improvements. A memo has been provided to the city engineer and Planning Director regarding the issue. There is an easement over the Hutchins Court by pass that benefits the 4 lots as well as other properties. There is a state statute that says that anyone that has a deeded right to use a private right away has the right to install utilities.

John Judd- Gateway Consultants

This to improve 740 feet of Hutchins Court. The road requirement has been improved to provide safe access to the lots. A site plan has been developed with the help of Paul Keene.

Mr. Cademartori stated that this plan exceeds the needed requirements. It is a 20 foot paved width

The road is designed to be super elevated so all the drainage will be captured and distributed.

Concerns that remain: A draft covenant has been provided from the applicant that suggests that the grading and roadwork would need to be done and functioning prior to the building permit. The way its been designed if it's done exactly that way, but there are 4 different properties and there will be different builders. There is a lot of water that will have to be moved. It is heavily relying on the fine grading of the 4 lots. In subdivision process it's all about the road. It is doable but it shifts a lot of responsibility onto the homeowner that will expect certain services. It's a complicated plan and the execution is critical.

Mr. Judd stated that it can be remedied with a surety bond to make sure the road is built per the city engineer's requirements.

Attorney Eliason stated that a security will be chosen by the applicant to ensure the work to be done properly. It is most likely that a developer will purchase the lots.

Public Comment:

Mike Novelo 18 Hutchins Court

Good idea about the bypass road. Right now the road is 10 feet wide and culverts have collapsed. A lot more traffic coming into a 10 foot wide road. That will need to be addressed.

Buster Chick- 16 & 20 Hutchins Court

The road is a good idea, but the other road is not up to standard.

Linda Sove, 20 Hutchins Court

It is very narrow and can't imagine large trucks working there. There is no room.

Mr. Judd explained that a hydrant will be added with a 6 inch line. Each lot will have its own Step tank, compartment tank.

Mr. Orlando asked for Mr. Judd to respond to the public comment issues.

Mr. Judd stated that he believes the comments refer to the work the city did putting the sewer in. The narrowness of the road does exist. The road will be improved substantially.

Mr. Pratt asked if there is a negative impact from putting the second road in.

Mr. Judd stated he couldn't comment on the preexisting conditions but does know the road will be improved.

Mr. Cademartori stated a draft covenant has been drafted.

Motion to approve Summer House Associates LLC, for a Road Improvement Plan Special Permit, Section 5.21, to serve four lots at 15 Hutchins Court (Assessors Map 125, Lots 102,

103,104,105) based on plans dated 5-15-17 was made by Mr. Henry, seconded by Mr. Pratt and unanimously approved.

IV. CONTINUED 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 the Zoning Ordinance:

Add Section 1.5.4.1 “Zoning Administrator, and amend Sections 1.8.1, 1.8.2, 2.2.1, and 2.3.1 accordingly; and amend Section V to add a new section 5.29 – Certain Pre-Existing Multi-Family Use. *Continued from June 1st meeting.*

Councilor Joe Orlando indicated that there had been a lot of discussion at the last meeting and some revisions have been proposed and he was available to answer any questions.

Mr. Cademartori had distributed a memorandum and revised draft of the amendment to the Planning Board and folks that attended the first hearing including the Zoning Board members and Councilor Orlando. Key areas addressed included: renumbering the new section as Section 5.30, the duration of the ordinance identifying that it would be available on interim basis for three years and sunset unless extended, and clarified that the duration of the required affordable restriction would be for 30 years which would make them available for inclusion on the subsidized inventory. He also noted that since the last hearing session there was a submission from the Sib Wright, chair of the Zoning Board.

Councilor Orlando indicated he did not have a lot of time to review Mr. Wright’s memorandum

Mr. Noonan invited Mr. Wright to outline his thoughts.

Mr. Wright 12 Rear Sunset Point Road, he did not want to belabor two points. One, that he thought that this was an extremely significant area of zoning interest to vest in one individual, everything else we do is by a multimember body such as the City Council, Planning Board and Zoning Board, and supermajorities are required. Suddenly we are creating this amnesty program where one individual that the ZBA is going to be asked to appoint, is going to be asked to make judgements only on the basis of interior investigations of the Board of Health and Building Inspector and in no part of this process is there any recognition of any impact on the neighborhood, other than showing that there have been no complaints in the last five years. After being involved in the review of these type of projects, and as a neighbor in a close knit neighborhood, there are many things that people are not satisfied with, but they are not particularly motivated to complain about them to the Building, Health or Police departments. Most people go along to get along. Often times when people come to legitimize units, the Zoning Board grants them, unless upon notice, abutters come forth. This is often a motivating event to get people to come out and present their issues and concerns, and the Zoning Board often resolves them as conditions in permits. He provided some specific examples, and does not see how the Zoning Administrator has the opportunity to look at neighborhood issues as the ordinance is proposed. Instead the Zoning Administrator will be a rubber stamp. Isn’t protecting the neighborhood what zoning is all about? If the neighborhood does get wind of what’s going on, they can pay a fee and appeal the Zoning Administrator to the Zoning Board. But they will only be able to bring up issues with the paper trail filed with the Zoning Administrator. He hoped the members had the opportunity to review his memorandum which provides some alternatives to consider. He agrees there may be value in the creation of a Zoning Administrator to certify information to streamline the Zoning Boards review. He would be happy to work with Councilor Orlando and others to work on both the amnesty with respect to affordable housing and protecting the neighborhood.as well.

Mr. Noonan asked Mr. Wright if he could expand on his concern surrounding the appeal an abutter might take.

Mr. Wright indicated that it was his understanding that as written if an abutter takes an appeal of the Zoning Administrator decision, which is intended to be a Special Permit Granting Authority (SPGA) as per 40A, it would be heard by the Zoning Board. He thinks this flies in the face of 40A which dictates appeals of an SPGA should be heading to Superior Court and thinks this approach might face legal challenge. He does not think that it is very fair to have an abutter be the moving party in an appeal of a decision that was made in an office.

Councilor Orlando agreed that Mr. Wright's concerns are legitimate concerns. The reason they put the five year look back in the ordinance is to ensure that there are not neighborhood concerns that are going to overburden the neighborhood. There is no extra burden because they people are already parked where they are parked and living where they are living. Remember it is the landlord that has to prove that a person has been living there for a fixed period of time for at least ten years. So if there have been no complaints for the last five years, there can't be anything that prevalent to a neighbor, if they were really bothered they would have brought it forward. While he appreciated the well prepared memorandum by Mr. Wright, he believed his reading of 40A was incorrect. The SPGA or Zoning Administrator will have to hold a public hearing with abutter notification. This was an issue among others that were raised in a working group and addressed in the ordinance. The Zoning Administrator will not be acting on his own, he will need to follow the 40A process. He checked with the City Solicitor and he agrees and appeal of the Zoning Administrator would go to the Zoning Board. So while he understands these are legitimate concerns he feels they are addressed in the draft series of changes. He understands there may be neighbors with questions, but due process is not lost, it is something that is very important. Finally, on the burdening on the neighborhood, the premise is that it already exists and people would have complained otherwise. He respectfully disagreed with the objections raised and feels they have been resolved.

Mr. Henry asked for a quick clarification that the public hearing and notice that was referenced, would they be held at regularly scheduled meetings of the Zoning Administrator, or would they be held within Zoning Board meetings?

Councilor Orlando thought that it would depend on the volume, may be something similar to other boards like every third Tuesday, but if there are no applications there would be no meeting. He did not envision that the Zoning Administrator would sit as a part of the Zoning Board meetings, again the intent is to streamline the process. But, it will depend on how many applicants file under the new ordinance.

Mr. Noonan asked if there was anyone wishing to speak from the public. Seeing none, the public hearing was closed. He asked if there were any final thoughts from staff?

Mr. Cademartori said the current draft as revised does not address the concerns of the Zoning Board chair, however it will mechanically function. We discussed at the last meeting whether or not there is enough of an incentive to have folks come forward and take on an affordable restriction. As Councilor Orlando indicated that is for the applicant to decide. The other point that was just raised, if there is a legitimate concern raised, a neighborhood issue, the Zoning Administrator looking at the criteria in the proposed ordinance would not be able to cite them as grounds for denial of a permit. Mr. Sanborn suggested that if an issue was raised to him if he were the Zoning Administrator he would defer to the Zoning Board, but this is not provided for in the ordinance. There is also still outstanding concerns of the Zoning Board instilling this power to the Zoning Administrator. This will have to be worked out if this moves forward. From a department perspective the ultimate goal is safe housing, this may be a creative way to get there if these concerns can be worked out. To the extent that there are units out there that are not meeting the basic life health and safety needs of inhabitants this may address these concerns, the counter argument is that there is zoning, building and health codes that should be enforced, and these units should be identified and inspected, but units are falling through the cracks.

Mr. Henry had a quick comment that he admired the creativity and looked outside the box. But we have talked about streamlining zoning and recognize our existing character and open things up to

promote housing. This is something that can be worked on, but he agrees with the Zoning Board chairman and shares some of his concerns, that we are creating a new process and position in tight budgets. Also we have a history given the current status of property owner ignoring the rules that they should already be dealing with, and the regulation of affordable housing is complex, with requirements on rents, marketing and who are in these units that may also need another position to monitor this as well. Again he admires the creativity and push to resolve some of these issues in this proposal, but he will give deference to the Zoning Board chair and not be supporting it tonight.

Mr. Orlando (*Planning Board Member*) thinks the end result of this will create more affordable housing and safer housing for our citizens. We keep on finding creative ways to step on any kind of development or anything, the same people that support affordable housing oppose it, people are trying to hold on to their power. I got to tell you that it is a constant problem in this community and in government in general that creativity is admired and then stepped on. This is a method, in my opinion, that will make these illegal units, legal, safer for the children, the elderly and those with the least ability to pay, it will help landlords. It really is a win-win and we are talking about nit picking certain aspects, not terribly surprised. He thinks we should move this on to the City Council take it and let them do what they are going to do. Because this board should not be a constant obstruction to what needs to be done.

Mr. Pratt thanks all for their contributions and thinks this a great body of work a lot of people were brought into the process with a great result. I sit here thinking as the child of a firefighter who pulled people from buildings that safety and the greater good of the community come first. Stats as it relates to housing wain in comparison to the importance of safety. The Zoning Board has merit, this placed properly in that system can enhance the safety in our community and move us forward in an area we have not in two hundred years.

Mr. McCarl thought we should move this along, any kinks can be worked out. If we run into problems this is not irreversible. We can move ahead and let the issues be worked out.

Mr. Noonan would accept a motion to recommend the amendment of the Zoning Ordinance as follows: Add Section 1.5.4.1 “Zoning Administrator”, and amend Sections 1.8.1, 1.8.2, 1.8.8, 2.2.1, and 2.3.1 accordingly And amend Section V to add a new section 5.30 – Certain Pre-Existing Multi-Family Use as revised in the draft present at the June 15, 2017 meeting.

Motion to add section Add Section 1.5.4.1 “Zoning Administrator, and amend Sections 1.8.1, 1.8.2, 2.2.1, and 2.3.1 accordingly; and amend Section V to add a new section 5.29 –3.0 Certain Pre-Existing Multi-Family Use

Motion made by Mr. Orlando, seconded by Mr. McCarl. Motion is passed 3-2

V. OTHER BUSINESS

- CPA Update
Mr. McCarl reported that the CPA will have hearings on applications on June 20th.
- Planning Board representation at Department Review Meetings
Mr. Cademartori stated that this is an idea to have a planning board member attend the “behind the scenes” look at a project or become an advocate as the applicants come in. Also another informal proposal around housing has come in from another councilor. It makes sense to form a working group to hammer out issues.

VI. ADJOURNMENT

Motion to adjourn was made by Mr. McCarl, seconded by Mr. Pratt and unanimously approved.

VII. NEXT MEETING

Next regular meeting of the Planning Board July 20, 2017

Planning Board Members: *If you are unable to attend the next meeting please contact the Planning Office at (978)325-5235.*