



TOWN OF SWAMPSCOTT

ZONING BOARD OF APPEALS

ELIHU THOMSON ADMINISTRATION BUILDING
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

MEMBERS

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DOUGLAS DUBIN
ANDREW ROSE

MARCH 22, 2016 MEETING MINUTES

Time: 7:00-9:10PM
Location: Swampscott Senior Center, 200 Essex Street (rear)
Members Present: M. Kornitsky, D. Doherty, A. Rose, A. Paprocki, D. Dubin
Members Absent: D. Hause, H. Pass
Others Present: Pete Kane (Planning), Graham Salzberg (architect), Walter Jacob (architect), Jerry Perry (resident), Jon Garbowski (applicant), Charles Patsios (applicant), Damon Seligson (attorney), Alec Cheloff (applicant), Dan Dunbar (applicant), Tariq Milton (applicant); Frank MacCaulroy (attorney), Chrys Varvounis (resident), Angelo Varvounis (resident), Richard Alex (resident), Janet Tamborini (resident), Nick Katsas (resident), Fred Riva (resident), David Halliotis (architect), Bill Stibel (attorney). Ghassan Moussa (applicant), Bob Gilardi (resident)

Meeting called to order at 7:05pm by Chairman Kornitsky.

MEETING MINUTES

The Board reviewed the minutes from the hearing on February 24, 2016. By motion of D. Doherty, the minutes were unanimously approved.

ZONING RELIEF PETITIONS

PETITION 15-34 (57 MONUMENT AVENUE): Application of JON GARBOWSKI seeking a dimensional special permit, special permit (non-conforming use/structure), and a site plan special permit to add a 2-car garage with studio space above including a mudroom addition between the proposed garage and existing 2.5-story house. Map 4, Lots 43 & 44.

Architect Walter Jacob began the presentation as the project architect and introduced his client, Jon Garbowski. Architect Graham Salzberg distributed the revised plans which were approved by the Historic District Commission. Mr. Jacob explained the reason they have a ZBA application is to allow the addition of a new two-car garage with studio above and a connector. At the request of the Historic District Commission, the addition was pushed back and the garage oriented toward the side rather than direct to the street. The house is now at the forefront of the property, making the garage appear as a separate building as is typical of the housing in the neighborhood.

The existing home conforms except for the front setback due to the porch. They meet all requirements except that front setback and are adding more than 800 sf and requires a site plan special permit. The proposed height is at 29' where it's limited to 35'.

The character of the addition is to make it appear as a carriage house.

M. Kornitsky opened public comment.

Bob Pierce (67 Monument Ave) asked to see the plans because his home abuts the property. He reviewed the site plan and the elevation sketches. He felt the changes make it look even better.

There were no other public comments.

D. Doherty asked what the height of the addition itself would be. Mr. Salzberg stated that the top of the cupola on the addition will be 8 feet lower from the top of the house. They made sure the garage was subservient to the home.

M. Kornitsky pointed out the Planning Department request for dry wells for the addition and pavers for driveway. Mr. Jacob said the dry wells can be done but the pavers will increase the project costs which have already significantly gone up due to the change in design. They're increasing the pervious area by removing the very long existing paved driveway.

Public hearing closed.

MOTION : by D. Doherty to approve the petition for dimensional special permit, special permit (non-conforming use/structure), and site plan special permit for a two-car garage addition and mudroom between to be built according to the plans submitted at the hearing with condition to use dry wells for the addition portion. Seconded and unanimously approved.

PETITION 15-42 (12-24 PINE STREET): Application of FRANK ORNE seeking a use special permit to allow for storage of vehicles and light vehicle servicing. Map 3, Lot 4.

M. Kornitsky stated that there's been a request for a continuance by the applicant's legal counsel. Damon Seligson (representing neighbors) stated that they were in opposition to the continuation request and the special permit filing in general. He understands the applicant's inability to be at two hearings at one time (reason continuance was requested). He said the neighbors are concerned because the use at the property continues and that no outreach has occurred.

M. Kornitsky stated that enforcement issues need to be raised with the Building Inspector, not the ZBA. He said that he doesn't intend to have the April ZBA hearing during the school's vacation week and instead April 27.

MOTION : M. Kornitsky to move the hearing to April 27 and that enforcement issues should be raised with Building Inspector, seconded by A. Rose, unanimously approved. It will be the first matter.

PETITION 15-40 (121 ELMWOOD ROAD): Application of ALEC CHELOFF seeking a dimensional special permit to install a shed at rear of house within the rear yard setback. Map 2, Lot 5.

Mr. Cheloff explained that he's gone before the Historic District Commission. Based on those meetings, he would like to locate the shed behind the house instead. It will be 5 feet from the rear yard and over 10 feet from the rear of the house. He provided an updated plan with the shed marked in roughly.

P. Kane stated that if the shed is out of view of the public ways (Elmwood and Redington) then it's no longer a Historic District Commission matter. The plan distributed at the hearing doesn't show side yard setback to be certain it will be out of view.

A. Paprocki asked about the shed dimensions - 8' x 14' and 13 feet tall (Board doesn't feel the height is correct).

A. Rose pointed out that it's not appropriate for the Board to just let the applicant shift a shed already installed without a permit. They should have a surveyed plan with proper dimensions marked out.

D. Doherty recalled at the previous hearing that he felt this petition actually requires a variance. They read through 2.3.6.1 which they determined the shed needs 10 feet rear setback. But D. Doherty doesn't feel a shed applies to that.

M. Kornitsky stated that the Board needs a surveyed plan with accurate dimensions provided. M. Kornitsky clarified that Mr. Cheloff will actually need a variance in order to reduce the rear setback requirement down to 5 feet. The Board stated that it is rare to grant variances. They advised the applicant to keep it at the corner and work through approval by the Historic District Commission.

Mr. Cheloff asked why it wouldn't be possible to get a variance. M. Kornitsky stated that the bylaws allow for dimensional relief via special permit. But this request goes beyond the bylaw limits and therefore they would need to "vary the bylaw." It would be extraordinary.

M. Kornitsky said they can't make a determination tonight because of a lack of information.

The applicant asked to continue to the April 27 hearing - approved by the Board.

PETITION 16-05 (6 CONNELLY AVENUE): Application of DANIEL DUNBAR seeking a dimensional special permit and use special permit for two additional storage structures to be constructed of galvanized pipe and tarp material. Map 9, Lots 512 & 513.

Dan Dunbar opened that he wants to add two accessory structures (they already have one which is a pool house). They plan on converting their attic for resident living space and plan to use the structures for personal storage. D. Doherty asked how long the landscape operation has been going - for 12 years. He bought the property in 1994. D. Doherty said he looked at satellite imagery, you see a large commercial operation happening in the back half of the property. Mr. Dunbar said that a lot of owners on that street operate businesses from their homes/properties. He hasn't had any problem with it.

M. Kornitsky said that the proposed structures are very large. Mr. Dunbar said there's no concrete and not "super permanent." M. Kornitsky that there's an issue when the accessory use (landscape business) becomes a second principal use.

Public comment opened.

Frank MacCaulroy (attorney) representing Chrys and Angelo Varvounis who live behind the property at 23 Vaughn Place. They moved to the neighborhood three years ago. At that time, they filed a complaint about the business being run out of the residential zone property. It was obvious a landscape business was operating there. It was disturbing. They'd be woken up early in the morning by trucks and fishing equipment. A galvanized piped structure was just put up a few weeks ago even though they haven't gotten the permit. When they first moved to the house, they met with Rich Baldacci (building inspector at that time). Frank pointed out that in the A-2 zone, a contractor's yard is not allowed - this is a contractor's yard. If it continues, it defeats the zoning theory. The structures are not garages. They may function as garages but don't look like residential garages. They'll be covered in tarp and will be noisy in wind. He also called into question the open space calculation because it doesn't acknowledge the significant paved area and driveway. He then presented an advert that's currently running for Lee's Landscaping (the business at the property). The quotes for the garages were also made to Lee's Landscaping.

Richard Alex (94 Foster Rd) who abuts the property. He recently looked at the back of his property and saw that there is fencing and storage or equipment that's on his own property. He hasn't seen the plans for the structures. He's concerned where that storage will be and make sure it's not on his property.

Janet Tamborini (15 Vaughn Place) lived there for 31 years. In the last five years, there has been an increase in activity with the trucks. You get woken up at 4:30a because of the equipment.

Mr. Dunbar said they need the structures for storage of the living space from the home. He says a lot of people operate out of their yards. He thinks half of Swampscott wouldn't be able to have the vehicles they have. He goes to work at 1a (starts a truck from his property). He says no one has come up to him to complain. He's not sure what "views" the neighbors are looking for. During the summer his pool gets used a lot and there are parties. They're not cheap structures.

Nick Katsas (lives on Humphrey St) and has a business in Swampscott. He's never seen anyone in town with a tarp-like structure and is concerned with it. He's afraid that other people will then do the same. He wants to know what the limits of size and car space of a garage is by the zoning bylaw.

D. Doherty said that a reason why neighbors may not have said anything because they don't want to cause a problem. He's concerned with the business and that it's illegal. Just because others are doing it doesn't make it right. He feels that one of the structures will certainly be used for his business and not the stated residential use.

M. Kornitsky read from the zoning bylaw (2.3.4.4) that not more than one accessory structure is permitted without a special permit. A. Rose said that he doesn't feel the Board should be approving this type of structure; it needs to be permanent. M. Kornitsky said that they also need to be restricted to the permitted use (residential). D. Dubin doesn't agree with the bylaw and that people should be able to run businesses from their property.

Angelo Varvounis stated that they filed a complaint to the Building Inspector and it took three years for him to respond. They said the new Building Inspector was now taking action.

M. Kornitsky stated that he's not going to get his relief request and what his possible steps are: vote on application, withdraw.

Dan Dunbar said he would like to withdraw.

Fred Riva (18 Connelly Ave) stated that he's been operating a business at his property for many years without issue.

MOTION : by A. Rose to accept withdrawal, seconded by M. Kornitsky, unanimously approved.

PETITION 16-06 (55 BERKSHIRE STREET): Application of TARIQ MILTON seeking a dimensional special permit and special permit (nonconforming use/structure) for addition for kitchen on first floor, new bedroom and three-season porch on second floor, and new half story for master bedroom loft along with new deck at rear corner of home. Map 5, Lot 65.

David Halliotis (architect) explained that they are proposing an addition to expand the kitchen.

M. Kornitsky stated that there were comments from the Planning Dept that a breakdown of additional square footage by floor wasn't provided and they need to ensure that the total added square footage isn't over 800 square feet. Also that the site plan doesn't show abutting property structures and it's necessary to see how close the buildings are to one another.

A. Rose stated he's concerned with the proposed side deck. Because there's a second level to it, it's covered and therefore it has to be further from the side yard (at least 6 feet). Only part of the first floor deck is covered. M. Kornitsky said that 2.3.8.2 allows decks like this need to be setback 5 feet.

M. Kornitsky suggested continuing to the next hearing so they could correct the issues and fill in the missing information.

No public comment.

MOTION : by D. Doherty to continue the hearing to April 27, seconded by M. Kornitsky, unanimously approved.

PETITION 16-07 (219 PARADISE ROAD): Application of GHASSAN MOUSSA seeking to amend existing special permit to allow additional parking overnight for vehicles related to the service and repair operation and vehicle sales operation. Map 15, Lot 2.

Bill Stibel (attorney) representing applicant spoke to the Board. He said that the applicant is here to amend the existing special permit for the light auto service and auto sale business for overnight parking. The service operation needs storage area when vehicles are waiting to be worked on or for customers to pick up the repaired car. Current special permit allows for three cars overnight for the auto service and six cars for sale.

In a discussion with Mr. Kane, it was raised whether the auto service was permitted or grandfathered based on current zoning delineation for auto service as it relates to the B-1 district. D. Dubin said that work on a light vehicle would be light service. M. Kornitsky questioned whether it was appropriate for D. Dubin to making the statement (based on his private work). Mr. Stibel doesn't believe that it falls under "grandfathered" use because they perform light service and it conforms to the special permit that exists.

They are looking for 10 spaces for auto service and 10 spaces for auto sales in total for outdoor storage and keep the three indoor. The proposed parking plan shows current paved area. Applicant has had the business for ten years and is known in the community. He provides an inspection station. Mr. Stibel then submitted a petition in support for the application signed by 190 people (there were some non-Swampscott residents).

A. Rose asked if there's any change to the impervious surface - no.

Bob Gilardi (20 Swampscott Ave) asked to see a plan of the parking spaces.

The Board discussed the parking plan. They feel an area needs to be removed at the rear of the building for fire access. P. Kane recommended that the spaces be lined out. They won't park next to the building for fire access.

M. Kornitsky thought that it might be worth including a sunset clause to see if it works.

They expect that if they get additional storage space for the auto sales, they'll then go to the Selectmen to revise their license to allow ten vehicles.

Public hearing closed.

MOTION : by M. Kornitsky to approve the petition for use special permit to increase overnight parking for 20 vehicles (10 for auto repair and 10 for auto sales) with no overnight parking allowed in the spaces directly behind the building and with striping of spaces, seconded by D. Doherty, unanimously approved.

Meeting closed at 9:10p.

S. Peter Kane
Director of Community Development