



TOWN OF SWAMPSCOTT

ZONING BOARD OF APPEALS

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

MEMBERS
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DANIEL DOHERTY, ESQ., VICE CHAIR
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RON LANDEN
HEATHER ROMAN
EMILY STUART

MAY 23, 2017 MEETING MINUTES

Time: 7:08PM – 7:32PM
Location: Swampscott High School, 200 Essex Street, Rm B129
Members Present: M. Kornitsky, D. Doherty, A. Paprocki, E. Stuart, H. Roman, A. Rose, R. Landen, A. Rose
Members Absent: B. Croft
Others Present: Tariq Milton (Petitioner), David Haliotis (Architect), Gail Rosenberg (Resident), Andrew Levin (Assistant Town Planner)

Chairman of the Board, M. Kornitsky called the meeting to order at 7:08 PM.

MEETING MINUTES

The meeting minutes from April 26, 2017 (previously distributed to Board members) were reviewed, there were no comments.

MOTION: by M. Kornitsky to approve the April 26, 2017 meeting minutes, D. Doherty seconded, the meeting minutes were approved by the Board.

ZONING RELIEF PETITIONS

M. Kornitsky explained to the Board and audience present that the representatives for Petition 17-08 (410 Humphrey Street) and Petition 17-09 (11 Tip Top Road) had filed request for continuations for their respective petitions, previous to the meeting. M. Kornitsky explained that before the Board opened Petition 16-06 Amendment, that he wished the Board to vote on the request for continuances first. Before beginning the vote, M. Kornitsky asked if there was anyone present for either petition, there was no one.

PETITION 17-08

410 HUMPHREY STREET

Petition 17-08 is an application by Amy Brackman for a special permit (sign) for an already-installed secondary sign on the second floor of the structure. This petition was continued from the April meeting.

MOTION: by M. Kornitsky to continue petition 17-08 to the June 20th, 2017 ZBA meeting, seconded by D. Doherty, the continuance was unanimously approved.

M. Kornitsky stated that the next meeting will be June 20th, 2017.

PETITION 17-09

11 TIP TOP ROAD

Application by Patricia Cashman to appeal the findings and order by the Inspector of Buildings to immediately evict any persons living in the rear structure and anyone living in the front building to vacate on December 1, 2016 and any resultant fines in violation thereof.

Attorney Kenneth Shutzer began by stating that he is representing the applicant, Ms. Cashman (who was also present), and stated to the Board that he will be requesting a continuation. M. Kornitsky then stated that he understood there was opposition to the request from the Building Inspector, and held off opening the hearing until the Building Inspector was present.

While the Board waited for the Building Inspector, Petition 15-42 was opened.

PETITION 16-09 AMENDMENT

55 BERKSHIRE ROAD

M. Kornitsky called forth petition 16-06 Amendment, an application of Tariq Milton, seeking to amend previous special permits to build a new front brick steps/stairs platform, a 6' x 25' front entry with brick and stone, and new bulkhead stairs. This petition was continued from the April meeting.

David Haliotis, the projects architect, and Tariq Milton, the petitioner, were present.

Mr. Haliotis handed the Board copies of revised plans for the home. Mr. Haliotis mentioned that he spoke with Swampscott Director of Community Development, Peter Kane, along with Gail Rosenberg, who lives across from the property. Mr. Haliotis stated that he had spoken with P. Kane a few hours before the meeting, and that he had been emailing with Ms. Rosenberg, and handed the Board a copy of an email, sent from Ms. Rosenberg dated the day of the hearing.

M. Kornitsky asked what the revised plans show. Mr. Haliotis explained there had been discussion on the sizing of the structure, along with a correct plot plan. Mr. Haliotis mentioned there was a petition regarding the bulkhead which was originally 4.8 feet, but it has been rebuilt now at 5.5 feet. Mr. Haliotis mentioned that they have basically left the stairs that were built in place, but have taken the brick out, and that the stairs will be 6' x 12.5' now.

Mr. Haliotis explained that he had emailed back and forth with Ms. Rosenberg, as well as walked to the neighbor's homes and showed them the plans. Mr. Haliotis then handed the Board a sheet with signatures from the abutters. M. Kornitsky reviewed the sheet, and stated that the signatures from the abutters were only certifying that they had seen the plans, Mr. Haliotis responded that some abutters had left comments.

Mr. Haliotis mentioned that from earlier conversations with P. Kane and Ms. Rosenberg, he has added some architectural features on the elevation plans, and removed the round windows from the plans. Mr. Haliotis also mentioned that he has added some shingle siding in the plans, and that Ms. Rosenberg mentioned to him that she would not like it left as it is now. Mr. Haliotis then mentioned that Ms. Rosenberg mentioned that the petitioner could do mismatched materials, such as brick on the sides and keep it consistent

M. Kornitsky asked if the revised plans in front of the Board show what the new proposal is, Mr. Haliotis explained yes, except for the shingles. M. Kornitsky explained to Mr. Haliotis and Mr. Milton that he will ask the abutters for their comments and questions and then the Board will decide what needs to be done.

M. Kornitsky then asked that Mr. Haliotis stay up front with the Board to help answer some of Ms. Rosenbergs questions. M. Kornitsky then asked Ms. Rosenberg for her comments and questions.

Ms. Rosenberg began by stating that the only plans she had seen were dated April 5th, and that she has not seen anything more recent than that.

Ms. Rosenberg then stated that she is an architect herself, and that she works for the State, and that she has lived in Swampscott for many years. Ms. Rosenberg explained that she has previously been Town committees such as, the building oversight committee, the new Police building committee, and Town meeting. Ms. Rosenberg stated to the Board that she cares deeply about the Town of Swampscott and where she lives. Ms. Rosenberg explained her home is on Middlesex Ave, and on the left side of 55 Berkshire (the petitioner's property). Ms. Rosenberg mentioned that she was happy when someone bought the home and made repairs to it, and then explained that the home was flipped, and resold and then was happy again when someone bought it. Ms. Rosenberg mentioned that the homes in the neighborhood all have historic styling to them.

Ms. Rosenberg explained that over the summer she had become alarmed when she saw what was going on with the changes. Ms. Rosenberg stated that she, along with some neighbors, had never received in the mail a notice regarding a ZBA hearing for the home and the changes, and mentioned this is why they never made it to the meeting. Ms. Rosenberg stated that several months ago she did provide comments to P. Kane and that she had also met with the Building Inspector. Ms. Rosenberg stated she was told that as long as things were being built to code, the Building Inspector did not have any jurisdiction over what was being built.

Ms. Rosenberg explained that she was happy to get new plans, and that she reviewed them herself along with her neighbors, but after reviewing the plans, she still had many questions and comments regarding the plans.

Ms. Rosenberg stated that her primary concern is that things are not being built according to the plans approved by the ZBA. Ms. Rosenberg stated that it sets a bad precedent for the Zoning Board, if someone is to get an approval, and then not build according to the approved plans.

Ms. Rosenberg stated that in regards to 55 Berkshire, the stairs were not on the original plot plan, the dormer is much larger than as it is shown in the drawings, the setbacks have changed which has caused the porch on the Middlesex Ave side to come closer to the property line. Ms. Rosenberg also mentioned that the windows had changed from the original plan, as well as condensers that were supposed to be on the opposite side of the home (as approved in the plans, Ms. Rosenberg stated) are now positioned on the side of the home, facing her. Ms. Rosenberg stated that when you add up these little things and combine it with the scale of the construction, this structure does not fit in with the neighborhood.

Ms. Rosenberg stated that the neighborhood is older in styling, and that some homes are on the historic register. Ms. Rosenberg stated that the home at 55 Berkshire does not look similar in styling to many of the homes in the neighborhood, and that the home looks like it would fit in a more contemporary neighborhood.

Ms. Rosenberg stated that she is requesting a list of changes stemming from what was approved and what was built, and would like the dimensions for these changes, Ms. Rosenberg mentioned she has not seen anything such as this. Ms. Rosenberg mentioned that she thinks there needs to be a certified plot plan as well as as-builts to better understand what is there on the property.

Ms. Rosenberg reiterated some of her requests and comments made in her email to the Board and Mr. Haliotis, and asked that the Board think seriously about this project.

Ms. Rosenberg stated that she finds it concerning that someone would present plans and elevations, and then build something else, and then come back before the Board and ask for forgiveness. M. Kornitsky agreed with Ms. Rosenbergs statement, then apologized. M. Kornitsky explained that he voted on the approval, and speaking stated that speaking for himself, that the project was not in harmony and scale with the neighborhood, and he again apologized.

M. Kornitsky mentioned that the Board now has a chance, with everyone's cooperation to make the home the best that they can, due to the fact that it was not built in accordance with the plans. M. Kornitsky mentioned that if this were not the case, the Board would not have jurisdiction.

M. Kornitsky mentioned that the plans were filed late, not allowing the Board and the abutters sufficient time to review the plans, and wondered aloud if the petitioner would be willing to continue the hearing to the next ZBA hearing, and asked the petitioner how they would feel about a continuance. Mr. Haliotis mentioned that it was fine with him. M. Kornitsky mentioned this could allow for the abutters to review the plans. A. Rose asked for a copy of the original plans, and mentioned they would be good to have to review both plans in comparison. Ms. Rosenberg mentioned that the dimensions of what was built should also be checked. Ms. Rosenberg mentioned that in the most recent plans, that some things that were built do not look correct, and then reiterated her list of changes in the as-builts, compared to what was approved. Ms. Rosenberg stated that they need to see what has changed and what the new dimensions are. Ms. Rosenberg mentioned that this would be very helpful to see what the changes are.

M. Kornitsky suggested that Mr. Haliotis and Mr. Milton should a schedule a meeting as soon as possible with P. Kane and Ms. Rosenberg and to go over the changes and the new proposal and receive comments and concerns.

M.Kornitsky explained that Mr. Haliotis and Mr. Milton should combine the list of what was approved, what was built, and what the new proposal is as soon as possible and send these to Mr. Kane, Ms. Rosenberg, and Mr. Levin (the Assistant Town Planner) and then meet with them to receive comments, and ask Ms. Rosenberg to distribute the revised plans to the neighbors. M. Kornitsky explained that this will make it easier to get plans that the neighbors and the petitioners both support. D. Doherty mentioned that the meeting should take place at the property, and recommended that Ms. Rosenberg, with her background in architecture, should bring a tape measurer to make sure the measurements are right.

M. Kornitsky mentioned that he was volunteering P. Kane's time for this meeting but believed that P. Kane would be more than willing to meet and discuss. D. Doherty reiterated his suggestion for Ms. Rosenberg to measure the changes, and mentioned then they are not relying on the petitioner. D. Doherty explained that the petitioner had not been doing what they said they were going to do and that he shares the concern of Ms. Rosenberg, in the petitioner departing from the plans that were approved, which D. Doherty stated was troubling to him. D. Doherty then stated that he has no problem with making the petitioner take everything out.

Mr. Milton stated to the Board that this petition has already been continued twice and he has been waiting for three months, and then acknowledged that he had made a mistake and apologized.

D. Doherty stated that the Board is past sorry, and that the changes now need to be fixed. Mr. Milton then stated that he had received little complaints, only one about the work that he had done.

M. Kornitsky stated to Mr. Milton that it did not matter that only one person complained, but what matters is the project was built not according to the plans. M. Kornitsky then stated that because the project was not built according to plans, it gives the Board the opportunity to look at the plans again.

Mr. Haliotis then stated that there were windows put in that were taken out, due to the process with the Building Inspector, and conversations with the neighbors, that a lot of round windows came out, and that currently the home has almost no round windows. M. Kornitsky stated that this is a good thing, and mentioned that the original approved plans did have something's the ZBA now sees as mistake so the new proposed plans should reflect some fixes.

Mr. Milton again reiterated that he cannot wait another month, and again mentioned that he is sorry.

M. Kornitsky stated to the Board and the audience present that the next ZBA meeting will be June 20th, to which Mr. Milton stated that he needs a Certificate of Occupancy to live at the property.

M. Kornitsky then stated to Mr. Milton that they had filed their revised plans at the meetings, and had not shown the neighbors the revised plans, as well as they had not provided enough copies of the plans. M. Kornitsky then reiterated that the neighbors and the ZBA needs to see the plans. M. Kornitsky mentioned to Mr. Milton that he understands his frustration, but that the Board is also frustrated, because the abutters and Board all need to see the plans in advance.

Mr. Haliotis explained they could apply to the Building Inspector for a temporary Certificate. M. Kornitsky stated that he cannot dictate what Mr. Bettencourt (the Building Inspector) does, and that it is the Building Inspectors jurisdiction.

Mr. Haliotis again reiterated that he will agree to a continuance.

M. Kornitsky suggested to Mr. Milton that as soon as possible, he should create a list of what was approved including dimensions, what was built, to help highlight the differences, and what is being proposed now. M. Kornitsky then stated that this list should be circulated to P. Kane and Ms. Rosenberg (M. Kornitsky asked Ms. Rosenberg to circulate the plans to her neighbors), and then schedule a meeting with them as soon as possible to discuss the plans.

M. Kornitsky asked the Board for more questions.

D. Doherty mentioned that in regards to the email sent by Ms. Rosenberg, that she made a point about a platform on the home and its height. D. Doherty mentioned that the plans state the height is two feet, but that Ms. Rosenberg believes it is higher, D. Doherty asked Mr. Haliotis and Mr. Milton what the height of the platform is and if the two-foot measurement is accurate. Mr. Haliotis began to explain some regulations regarding the stairs and why they were built the way they were, D. Doherty then clarified that he only wants to know if the height of the platform is accurately labeled as two feet. Mr. Haliotis explained that it is probably more near 3.5 feet now. D. Doherty stated that if this is true, then how can the Board have confidence in any of the measurements stated on the plans. D. Doherty explained that a discrepancy like the one mentioned, then how can the Board believe any of the measurements, and then reiterated this point again. D. Doherty stated that to him, none of the measurements mean nothing to him now. M. Kornitsky pointed out that Ms. Rosenberg stated in her email that there are 5 risers on the stairs, but on the plans it shows 4, when counting the platform. D. Doherty reiterated that the changes from the approved plans are problematic, and then mentioned other measurements. M. Kornitsky mentioned that they do have a survey done, and Mr. Haliotis mentioned that the stairs were set back enough to do some grading. M. Kornitsky then clarified what is being proposed on the plans, but then mentioned that the neighbors and P. Kane needed to review the proposal and make comments. M. Kornitsky mentioned it was significant improvement, the changes in the windows and materials.

M. Kornitsky then mentioned that Ms. Rosenberg had made some other points as well that might soften the effect on the neighbors, such as screening around the AC units, and that Mr. Milton and Mr. Haliotis should address the other comments Ms. Rosenberg has made. M. Kornitsky then stated that what the petitioner could easily do, they should do.

Mr. Milton and Ms. Rosenberg then briefly discussed some of the changes that he had made, Ms. Rosenberg stated she would be happy to meet with him and Mr. Kane and discuss the new proposal.

M. Kornitsky mentioned that the petitioners should look to amend some of their proposals to the neighbors wants, such as the condensers. M. Kornitsky then reiterated that there needs to be a list of proposals given to the neighbors, and that there is the risk that the ZBA might say no, and that the petitioner must be in strict compliance, and that the petitioner must do what they need to, to make the structure right.

M. Kornitsky asked for any other comments from the Board, there were none.

MOTION : by M. Kornitsky to continue Petition 16-06 Amendment to the June 20TH meeting of the ZBA, seconded by D. Doherty, unanimously approved.

M. Kornitsky moved to close the meeting, seconded by D. Doherty, the meeting was adjourned at 7:32 PM.

Andrew Levin
Assistant Town Planner