

# MAY 9, 2023 MEETING MINUTES

Received by Town Clerk

September 26, 2023, 10:37am

**Time:** 7:07PM – 8:01PM  
**Location:** Swampscott Senior Center and Virtual via Microsoft Teams  
**Members Present:** Heather Roman (Chair), Dan Doherty (Vice Chair), Marc Kornitsky, Paula Pearce  
**Members Absent:** Andy Rose, Anthony Paprocki, Brad Croft  
**Others Present:** Marissa Meaney (Land Use Coordinator), Stephen Cummings (Inspector of Buildings)

MOTION: H. Roman to approve minutes from April 4, 2023. M. Kornitsky seconds; unanimously approved.

MOTION: H. Roman to continue 22-25: 53 Puritan Rd and 23-05: 0 Lodge Rd to June 13, 2023. P. Pearce seconds; unanimously approved.

## ZONING RELIEF PETITIONS

### PETITION 23-05: 286 HUMPHREY ST.

Petition by ARTHUR INGEMI c/o KEN SHUTZER, ESQ. Requests Humphrey Street Special Permit for the installation of an outdoor cooler unit. (Parcel ID: 2-143C)

- Attorney Shutzer introduced the petition to the Board. Noted that there were two letters from the Planning Board that spoke to the Design Review and the Sign Review for the restaurant
- Petition seeks relief from 4.7.6.0.d. for the installation of the walk-in cooler that would be located off the kitchen, in the alley. Board discussed the issue of the 10' planting buffer that is required for commercial properties in the Humphrey Street Overlay District that abut residential properties.
  - H. Roman argued that relief is only applicable to dimensional requirements and not the waiving of the buffer requirement. The Board will not require the petitioner to erect a buffer because the structure is pre-existing, but they cannot provide relief for installation of the cooler.
  - M. Kornitsky agrees; believes Board does not have jurisdiction over discretionary section.
  - D. Doherty stated that 4.7.6.1. does not apply as the setback is already 0', and the Board cannot give more relief beyond that. Noted additionally that the Town's Master Plan is also cognizant of the buffers to residential zones.
  - Attorney Shutzer argued that a bump-out is more of a benefit as it provides more screening and acts as a buffer
- The item was opened for public comment
  - Dan Grimes (290 Humphrey) – expressed concerns about parking in his driveway and the hours of operation of the takeout window
    - M. Kornitsky explained that DPW has jurisdiction over the sidewalk and Select Board would have jurisdiction over any license that contemplates hours of operations
  - Moira Farrell (16 Blaney Ter) – Shared concerns about the takeout window; food gets thrown onto sidewalks during the summer months; concerned about humming of refrigerator like that of G-Bar; smells from restaurant ill seep into her window when wind blows in certain direction; delivery trucks idle very early in morning

- Attorney Shutzer argued that concerns of residents are those associated with operation of a restaurant, and therefore outside jurisdiction of ZBA
- The Board was in agreement that they do not have the jurisdiction to provide relief, as any changes to the dimensions of the structure would trigger the planting buffer requirement.
- The petitioner requested a continuance in order to come up with alternative in the meantime.

MOTION: H. Roman to continue Petition 23-05 to June 13, 2023. P. Pearce seconds; unanimously approved.