



TOWN OF SWAMPSCOTT

ZONING BOARD OF APPEALS

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

MEMBERS
MARC KORNITSKY, ESQ., CHAIR
DANIEL DOHERTY, ESQ., VICE CHAIR
BRADLEY L. CROFT, ESQ.
ANTHONY PAPROCKI
ANDREW ROSE

ASSOCIATE MEMBERS
RON LANDEN
HEATHER ROMAN
PAULA PEARCE

JANUARY 16, 2021 MEETING MINUTES

Time: 7:01PM – 10:10PM
Location: Remote via Zoom
Members Present: M. Kornitsky, D. Doherty, R. Landen, P. Pearce, A. Paprocki, B. Croft, A. Rose, H. Roman
Members Absent:
Others Present: Marissa Meaney (Land Use Coordinator), Rich Baldacci (Building Inspector)

Chairman of the Board, M. Kornitsky called the meeting to order at 7:01 PM.

MOTION: M. Kornitsky to approve the previous meeting minutes from December 2020; seconded by B. Croft; unanimously approved. (H. Roman recused)

MOTION: M. Kornitsky to continue the following items to February: Petition 19-31, Petition 20-19, and 20-25. Seconded by D. Doherty; unanimously approved.

ZONING RELIEF PETITIONS

PETITIONS 12-5 & 12-5 (2)

ARCHER STREET

Petition by DIGIORGIO & MESSINA CONSTRUCTION CORP. for an amendment to an existing site plan special permit, independent living facility special permit for an access route via Cushing Avenue and an alternative access route via Archer Street, and to increase the number of units from 15 to 22. Property is located at ARCHER STREET (Map 7, Lots 213-248 and 250-255)

Petition by DIGIORGIO & MESSINA CONSTRUCTION CORP. to amend prior decision to modify the site plan to increase the number of units from 15 to 22. Property is located at ARCHER STREET (Map 7, Lots 213-248 and 250-255)

Jill Mann, Esq. appeared before the Board to open a discussion and provide a status update with two objectives:

1. To propose access for the development through Archer Street
2. To continue the appeal of the denial for access through Cushing Ave

Before returning to the ZBA in the coming months, Ms. Mann will need to appear before the Planning Board and present an AD1G plan that shows how the development will achieve access through Archer Street. She maintained that this type of plan is acceptable and would not be required to undergo an entire subdivision or street plan approval that would have to be officially approved by the Planning Board.

Town Counsel representative, Robin Stein, Esq., clarified, however, that in section 3.5.0.0. of the Town bylaw, street plans must be approved by the Planning Board. Ms. Mann maintained that the Planning Board has absolutely no discretion.

There was no comment from the Board.

The item was not opened for public comment.

MOTION: M. Kornitsky to continue petition to 3/23. A. Rose seconds; unanimously approved. (M. Kornitsky recused)

PETITION 20-11

9 BOYNTON ST

Petition by ARTHUR GOLDBERG, NATHANSON & GOLDBERG, PC for a Dimensional Special Permit, Use Special Permit, Special Permit for Nonconforming Uses and/or Structure, and Site Plan Special Permit for the construction of 4 townhouse-style condominiums. Property located at 9 BOYNTON ST (PARCEL ID: 3-6) **Continued from December**

Arthur Goldberg, Esq. and Morris Schopf, AIA appeared before the Board to present.

Following the presentation, Chairman Marc Kornitsky clarified the nature of the relief being sought for each of the special permits. It was determined that the petitioners were eligible to seek relief under the Town bylaws, with one exception. Section 2.3.8.5 of the Bylaw states that there must be a minimum of 40' between multifamily structures, and the proposed structure at 9 Boynton would lie at a distance of 20' from the neighboring structure at 11 Boynton, which is currently a three-family home.

Member A. Rose indicated that in earlier versions of the bylaw, it is stated that this subsection applies specifically to structures contained on the same lot within the B3 district, such as those in Vinnin Square.

M. Kornitsky agreed that this subsection of the bylaw gives way to vague interpretation, and therefore would be willing to grant relief, as he believes that it is not the intent of the Town bylaw to discourage denser, multifamily housing. Members A. Rose, P. Pearce, H. Roman, and B. Croft were in agreement. Vice-chair D. Doherty and member R. Landen maintained a stricter interpretation of the subsection, and therefore were not willing to grant relief.

With Town Meeting happening in May, it is possible that the Community Development and Building Departments could present a modification to this subsection, which if approved, would allow Mr. Goldberg to seek relief around July. Mr. Goldberg agreed to this, and in the meantime, will return before the Planning Board to re-present the original scheme which would not require relief being sought for the 40' distance.

The item was not opened for public comment.

MOTION: M. Kornitsky to continue petition to 3/23. A. Rose seconds; unanimously approved.

PETITION 20-26

10 PALMER RD

Petition by THOMAS GROOM c/o ROBERT MCCANN, ESQ. for a dimensional special permit, special permit for nonconforming uses and/or structures, and site plan special permit for the construction of a single-family home. Property located at 10 PALMER RD (PARCEL ID: 33-13D) **Continued from December**.

MOTION: M. Kornitsky reopen the public hearing. A. Paprocki seconds; unanimous.

Robert McCann, Esq. appeared before the Board to explain why he requested that the item be reopened, as it resulted that the immediate abutter at 4 Palmer Rd had not been properly notified of the December meeting, and was therefore not able to share her concerns before the Board. In order to provide the abutter with the opportunity to speak before the Board, rather than having to file an appeal, the Board agreed to reopen the public hearing.

The item was opened for public comment.

Resident Susan Dallabrida of 4 Palmer Rd explained to the Board that she had closed on this property in November, around the same time that Mr. Groom began filing for permits for the proposed construction. She maintained that this new construction would block every ocean view that is visible from her home, and would further block the flow of natural sunlight to the area of the home that face the sun. She is concerned that the ongoing construction will also be disruptive, particularly to her son as he continues to attend school remotely, and will also be detrimental to her property.

Tom Groom responded by saying that Ms. Dallabrida never once directly reached out to discuss project details with Mr. Groom. He stated that he also made several attempts to contact Ms. Dallabrida, none of which were reciprocated.

After discussion, it was maintained by the Board that it is not within their purview to protect ocean views from property owners, and as such, the original decision stands.

MOTION: M. Kornitsky to reaffirm decision made in December and issue amendment to state that abutter noticing was initially deemed sufficient, but item was reopened to accommodate abutter who maintained that she was not properly noticed. B. Croft seconds; unanimously approved.

PETITION 20-27

32 LITTLES POINT RD.

Petition by JOSEPH BURKE for a Dimensional Special Permit and Site Plan Special Permit to construct a single-family home on a vacant lot. Property located at 32 LITTLES POINT RD. (PARCEL ID: 35-77D)

Joey and Jimmy Burke were present to speak before the Board. They explained that they are seeking dimensional relief for the front-yard setback.

There was no comment from the Board.

There was no public comment.

MOTION: H. Roman to approve Dimensional Special Permit due to frontage lacking 30' depth where 125' is required. M. Kornitsky seconds; unanimously approved. (A. Rose recused)

PETITION 20-28

121 GREENWOOD AVE

Petition by MIMI SPILLANE for a Special Permit for Nonconforming Use and/or Structure to construct a two-story addition at the rear of the home. Property located at 121 GREENWOOD AVE (PARCEL ID: 19-70)

Mimi and her husband Steven appeared before the Board to present their petition.

There was no comment from the Board.

There was no public comment.

MOTION: A. Rose to issue Special Permit for Nonconforming Use and/or Structure in accordance with plans submitted. M. Kornitsky seconds; unanimously approved.

