



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

JULY 20, 2021 MEETING MINUTES

Time: 7:04PM – 10:06PM
Location: HYBRID: In person at Swampscott High School or Remote via Zoom
Members Present: M. Kornitsky (in person), R. Landen (in person), B. Croft (in person), A. Rose (in person), A. Paprocki (in person), P. Pearce (in person), H. Roman (via Zoom)
Members Absent: D. Doherty
Others Present: Marissa Meaney (Land Use Coordinator), Rich Baldacci (Building Commissioner)

Chairman of the Board, Marc Kornitsky, called the meeting to order at 7:04 PM.

MOTION: M. Kornitsky to approve June meeting minutes. A. Paprocki seconds; unanimously approved.

ZONING RELIEF PETITIONS

PETITION 21-10

16 ATLANTIC CROSSING

Petition by STEPHEN TAPPER; requests a Dimensional Special Permit for the construction of a back deck, measuring approximately 8 feet by 20 feet. Property located at 16 ATLANTIC CROSSING (Parcel ID: 29-4-8)

Stephen Tapper was present to explain that he had applied for a building permit but was issued a determination by Building Commissioner, Rich Baldacci, stating that his construction required relief from the Zoning Board of Appeals.

The Board ultimately determined that a Dimensional Special Permit was not needed.

There was no public comment.

MOTION: M. Kornitsky to issue finding that the uncovered deck, which is set back by 8.5 feet, according to Section 2.3.8.2 of the Zoning Bylaw, is more than 5 feet from the setback and does not project more than 10 feet from the foundation. It is therefore dimensionally conforming in accordance with Section 2.3.8.2 and the Planned Development District of Atlantic Crossing. B. Croft seconds; unanimously approved.

PETITION 21-12

461-463 HUMPHREY ST

Petition by ABDELOUAHAB AITELHADJ; requests Special Permit for Parking and Loading Requirement Reduction for property, which will be converted from two-family plus commercial storefront structure to three-family structure. Property located at 461-463 HUMPHREY ST (Parcel ID: 19-174)

Abdel was present to speak before the Board. He explained that he plans on maintaining the garage, though he will remove the doors to create more of a carport.

The item was opened for public comment.

Maryellen Fletcher inquired whether the height of the building would remain the same, the answer to which was yes. She further inquired about rat mitigation during construction, and whether it would comply with the building code. The Board explained that this inquiry is outside their jurisdiction and cannot therefore speak to it.

Board member Andy Rose stated he was uncomfortable with giving relief because the garage setup did not make sense.

M. Kornitsky suggested continuing the petition to the next meeting to allow for parking reconfiguration, or the structure could be left as is with a commercial storefront and would therefore not need relief.

Petitioner's architect, Rod Rivera, seemed to agree with the Board. He stated that it would be easier and cheaper to demo the garage and allow for more parking.

Mr. Aitelhadj inquired if relief could be given for three spaces only if he kept the garage. The Board agreed that it would not be possible.

M. Kornitsky suggested to continue to the petition to September, and petitioner should return with an official plan stamped by a land surveyor.

MOTION: M. Kornitsky to continue petition to September meeting. A. Rose seconds; unanimously approved.

PETITION 21-08

970 PARADISE RD

Petition by CORE STATES GROUP c/o CHRIS DRUCAS, ESQ.; requests Use Special Permit and a Site Plan Special Permit for the construction of a full-service branch of Chase Bank with a remote, drive-thru ATM. Property located at 970 PARADISE RD (Parcel ID: 17-9A)

Board member Andy Rose recused as an abutting property owner

Attorney Chris Drucas appeared before the Board with Core States representative, Kai Burk, to explain that the site plan was not well-received by the Planning Board, and was issued an unfavorable recommendation. He is therefore asking the Board for a continuance tonight, as the Core States team would like to go back to the Planning Board and address their concerns.

M. Kornitsky encouraged the petitioner to work with the Planning Board, and noted the lack of alignment of goals with the Master Plan.

Matt McCool, a representative of Chase Bank, explained to the Board that he and his team look into the request for outdoor seating, but from a risk management perspective it presents a liability and it is therefore not something that they can support.

Board member Heather Roman inquired whether there was any discussion with the Planning Board about bringing the building closer to the sidewalk. The petitioner responded that they ran into the issue with the required 100' setback. H. Roman responded by asking the Board if that is something they can change in the bylaw for future developments in Vinnin Square. She noted that one of the goals in the Master Plan is to foster a more walkable community, and the current Zoning Bylaw prohibits that. M. Kornitsky was in agreement.

M. Kornitsky explained to petitioner that dimensional relief could be sought to bring the building closer by 20 feet. The change would not affect parking and gives chance to add more green space in the back.

Mr. McCool stated that they would take that into consideration when reappearing before the Planning Board.

MOTION: M. Kornitsky to continue to September. A. Paprocki seconds; unanimously approved.

PETITION 21-11

14-16 NEW OCEAN ST

Petition by CALYX PEAK c/o MICHAEL DRYDEN; requests Use Special Permit and Site Plan Special permit for the construction of a retail marijuana dispensary.

Michael Dryden of Allen Engineering provides presentation for the Board.

The item was opened for public comment.

Mike Kessler inquired about community outreach to neighbors at Curry Circle or the VFW Post. The petitioner responded that extensive community outreach was performed, especially for the abutters. They conducted a three-hour meeting very early on in the process, and the initial feedback was incorporated into the plans that are now before the Zoning Board of Appeals. The petitioner also appeared before the Select Board, which gave the public various additional opportunities to speak and voice comment. The VFW spoke favorably at one of the Select Board meetings.

There were no questions from the Board.

MOTION: H. Roman to approve petition for a Use Special Permit and Site Plan Special Permit for the construction of a retail marijuana dispensary in accordance with the bylaw and plans and application stamped on 6/21/21. Conditions include recommendations made by the Planning Board, including that the concrete sidewalks are not bituminous, and that bike racks be installed on site, both pending approval from DPW. M. Kornitsky seconds; unanimously approved.

PETITIONS 21-04A & 21-04B

53 PURITAN RD

Petition by GERALD SNEIRSON c/o MICHAEL TUCKER, ESQ and WILLIAM SHEEHAN, ESQ; requests a Dimensional Special Permit and other relief as needed, if any, including a Dimensional Variance, so as to permit work previously done on the subject property, a single-family dwelling, to wit: the addition of a one hundred square foot second-floor storage area, increasing the building coverage of the subject lot. Property located at 53 PURITAN RD (Parcel ID: 19-202)

Attorney William Sheehan provided opening statement before the Board, explaining the timeline of this project and why they are seeking relief before the Board today.

A. Rose stated that he was confused, and inquired how the original 100 square foot addition was built without a permit. He also thinks that a variance is needed for the lot coverage. W. Sheehan responded by stating that the bylaw anticipates taking a nonconformity and making it more nonconforming. M. Kornitsky stated, however, that Section 2.3.6.5 only addresses “underlying” lot coverage and not “underlying minimum” lot coverage.

Attorney Ken Shutzer, who is representing direct abutter Larry Bithell, was given the opportunity by the Board to comment on the matter at hand. However, he stated that procedural concerns need to be addressed before dimensional relief can be requested. The work was not properly permitted by the Historical Commission, and it fails to address the property’s location within the Coastal Flood Overlay District. Therefore, the Board should only be hearing the request regarding the work that was performed without the permit.

M. Kornitsky stated that some of the work had been permitted. Building Commissioner, Rich Baldacci, explained the scope of the permits issued by former Commissioner Max Kasper. He further stated that the work performed exceeded the scope of the permits.

Attorney Sheehan provided a comprehensive history of all building permits that were issued, as well as a set of plans which were not within the Building Department records.

Attorney Shutzer stated that the Board does not have the authority to make a decision based on the materials that are in front of them, and that more concrete information is needed. However, it is possible that Board may never get said information. He also stated that a Certificate of Occupancy should not be issued because the homeowner defied the Town ordinance.

M. Kornitsky stated that for purposes of record, the Board needs to make facts of finding.

Representative of the Historical Commission, Jonathan Leamon, was present to speak on the matter. He stated that he is certain that the Commission would not approve of the structure that is there right now.

MOTION: M. Kornitsky to continue to September. A. Paprocki seconds; unanimously approved.

MOTION: M. Kornitsky to continue agenda items 9, 10, 12, and 13 to the September meeting, and to withdraw without prejudice item 11, as requested by Attorney Shutzer. A. Rose seconds; unanimously approved.