



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
HEATHER ROMAN
PAULA PEARCE

SEPTEMBER 20, 2022 MEETING MINUTES

Time: 7:06PM – 10:15PM
Location: Swampscott High School and via Zoom
Members Present: M. Kornitsky, H. Roman, A. Paprocki, P. Pearce (via Zoom), B. Croft (via Zoom), A. Rose (via Zoom)
Members Absent: D. Doherty
Others Present: Marissa Meaney (Land Use Coordinator)

MOTION: D. Doherty to continue Petition 22-06: 80 Middlesex Ave to July 19th. B. Croft seconds; unanimously approved.

MOTION: D. Doherty to approve minutes from 5/9 & 5/24. P. Pearce seconds; unanimously approved

ZONING RELIEF PETITIONS

PETITION 22-17

115 GREENWOOD AVE

Petition by JULIE GORDON. Requests Use Special Permit for construction of basement accessory dwelling unit. (Parcel ID: 19-71)

Julie Gordon and her husband Scott Coughlin were present via Zoom.

There were no questions from the public.

The Board confirmed that the accessory dwelling unit meets the maximum Gross Floor Area requirement of 800 sq ft.

MOTION: B. Croft to approve Use Special Permit for Accessory Dwelling Unit as submitted, consistent with limitations set forth in the bylaw. M. Kornitsky seconds; unanimously approved.

PETITION 21-07

6 CONNELLY AVE

Petition by DANIEL DUNBAR. Requests extension for special permit issued on July 12, 2021. (Parcel ID: 9-512 & 513)

Zach Millay of Pitman & Wardley Architects was present to request extension.

There were neither questions from the Board, nor from the public.

MOTION: H. Roman to approve extension for twelve additional months, starting on September 20, 2022. M. Kornitsky seconds; unanimously approved.

PETITION 21-12 AMENDMENT

461-463 HUMPHREY ST

Petition by ABDEL AITELHADJ. Request to amend corresponding plans for special permit issued on September 22, 2021. (Parcel ID: 19-174)

Architect Rod Rivera explained how petitioner supplied new plans to Building Department without consent of ZBA, Building Inspector noticed the discrepancy in plans and consequently stopped permit. Original plans were approved by Board in July 2021; new plans were drafted with changes made to structure that include full third story and flat roof; plans were submitted to Building Dept and subsequently rejected; Building Inspector gave petitioner opportunity to draft another new set of plans that retain original roofline but allow for half story on third floor; petitioner before Board to present new plans per advice of Building Inspector.

The Board determined that a variance would NOT be needed for the height, as the height measurement, per the bylaw, would calculate the height of the building at below 35 feet. However, calculation of half-story on third floor appears to be incorrect.

The item was opened for public comment.

Mary Ellen Fletcher, neighbor and Member of Select Board – alarmed that permit was received for one type of work but another type work was actually performed. Wants to ensure that rules are being followed.

Albert Williams – opposed to new height of building; received signatures from 9 other residents on Cedar Hill Terrace who are in agreement

Darryl Smith – noted that new roof is significantly higher

The item was closed to public comment.

The Board agreed that they would not be willing to permit the additional height.

Petitioner, Abdel Aitelhadj, spoke before the Board. He maintained that his special permit was for parking only, and wants the Board to understand his side of the situation and how much money he put into the project, and that his intentions were not malicious.

The Board agreed that they would continue the petition to October, during which time the petitioner could draft a new set of plans for approval, or could withdraw his amended application entirely.

MOTION: M. Kornitsky to continue to October 18, 2022. H. Roman seconds; unanimously approved.

PETITION 22-16

324 ESSEX ST

Petition by Robert Ginsburg c/o Ken Shutzer, Esq. Requests Special Permit for Nonconforming Uses and/or Structures and Use Special Permit to reconstruct pre-existing commercial structure and convert to residential use. (Parcel ID: 13-135)

Attorney Shutzer was present with Mr. Ginsburg and Architect Robert Zarelli. He read description of petition into the record before the Board.

Mr. Zarelli provided Board with history and description of building, and subsequently walked them through plans.

Petitioners clarified that only this one unit is looking to be converted into residential space; the others will remain commercial.

The item was opened for public comment.

Charles Dello Iacono of Dilisio Rd – Inquired about parking; petitioner clarified that there are three spots available on premises. Asked if building could be converted into more apartments later on; Bard answered that any future conversions would require subsequent relief.

The item was closed to public comment. There was no comment from the Board.

MOTION: M. Kornitsky to approve petition as submitted, finding that application and presentation meet criteria outlined in Section 5.2.3.0. of the bylaw. H. Roman seconds; unanimously approved.

PETITION 22-18

8 STEARNS ST

Petition by SCOTT THIBODEAU. Requests Dimensional Special Permit and/or Dimensional Variance for construction of one-story addition on nonconforming property. (Parcel ID: 27-33)

Mr. Thibodeau was present before the Board; explained that addition is to accommodate elderly mother. He provided the Board with signatures of neighbors who are in support of the petition. He is aware of the side-yard setback relief needed, as well as the relief needed with respect to the distance between the principal structure and the detached garage.

The bylaw states that the relevant distance between a principal and accessory structure cannot exceed 10 feet, and Mr. Thibodeau's new addition would put him in violation of that distance. The Board would be unwilling to support the issuance of a variance.

The Board offered a creative solution – allowing Mr. Thibodeau to construct a breezeway between the house and the detached garage, which would then unify the two structures to create one principal structure. In doing so, it would bring the garage into noncompliance with respect to the setbacks, however, under the findings of the Bellalta case (Bellalta vs. Town of Brookline), adding a breezeway does not change the nonconformity of the garage, and the addition on the side of the home would be no more detrimental.

The Board is allowing Mr. Thibodeau to continue the petition to October so that he may draw up some new plans with his architect. The only metric that the Board asked for in addition is lot coverage, just to determine whether or not dimensional relief is needed.

There was no public comment.

MOTION: M. Kornitsky to continue to October 18, 2022. P. Pearce seconds; unanimously approved.

PETITION 22-19

100 GALLOUPES POINT RD

Petition by TOM BELHUMEUR. Requests Use Special Permit for pre-existing shed. (Parcel ID: 26-66)

Mr. Belhumeur and wife Cynthia were present before the Board. He explained that the shed has always been there, but now a special permit is needed since he had a pool house constructed recently.

There were neither comments from the Board, nor from the public.

MOTION: B. Croft to approve Use Special Permit for shed. M. Kornitsky seconds; unanimously approved.

PETITION 22-06

80 MIDDLESEX AVE

Petition by JENNIFER SIMON. Requests Dimensional Special Permit to construct roof overhang over pre-existing front porch. (Parcel ID: 5-55)

Ms. Simon was present with her counsel, Attorney Josh McGuire.

Attorney McGuire explained that he had been in contact with Town Counsel Attorney, Robin Stein, who forwarded him the case law regarding Bellalta vs. the Town of Brookline, which establishes precedent for the relief that Ms. Simon is seeking. It is Attorney Stein's opinion that the application of the Bellalta case can be extended to beyond what the Board has previously applied it.

Under the guidance established in the Bellalta case, the local Board must determine if the petition before them seeks relief for the creation of a new nonconformity or the extension of a pre-existing nonconformity. In the case of Ms. Simon, the Board determined that this petition seeks relief for the extension of a pre-existing nonconformity, and further determined that said extension is no more detrimental than what currently exists.

MOTION: M. Kornitsky to find that construction of roof overhang does increase the nature of the pre-existing nonconformity, but the application submitted before the Board meets the criteria for a Section 6 Special Permit, and furthermore, the increase of the nonconformity is no more detrimental than what currently exists. B. Croft seconds; unanimously approved.

PETITION 22-11

8 DENNISON AVE

Petition by HANOVER COURT LLC. Requests Dimensional Special Permit and Site Plan Special Permit to construct addition. (Parcel ID: 27-38)

Petitioner was represented by Attorney Paul Lynch, who was present before the Board, along with Architect Derek Bloom, who provided the presentation of the site plan.

The item was opened for public comment.

Scott Thibodeau (8 Stearns St) - Current housekeeping of property has been horrible; raised questions that were brought up at Planning Board meeting such as location of AC units; consensus of Planning Board is that proposed structure is too big; flat roof not in keeping with neighborhood characteristics; concern with how building looks from rear

Ben & Judy Locke (11 Dennison Ave) - Submitted statement on 8/2 to Marissa that was signed by many neighbors; spoke up for neighbor at 6 Dennison who is concerned about size of building; style of home not consistent with neighborhood; concerned about home being used for AirBnB

The public comment was closed.

Board agrees that they would not grant relief for additional 2.9% of lot coverage. If petition is continued to November, then team could determine how to get lot coverage below 30% and incorporate/address concerns of neighbors. Petition would still be subject to zoning relief for the over 15% increase in Gross Floor Area on a nonconforming lot.

MOTION: M. Kornitsky to continue to October 18, 2022. A. Paprocki seconds; unanimously approved.