



TOWN OF SWAMPSCOTT

ZONING BOARD OF APPEALS

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

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RON LANDEN
HEATHER ROMAN
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MAY 29, 2018 MEETING MINUTES

Time: 7:00-10:47PM
Location: Swampscott High School, 200 Essex Street, Room B129
Members Present: M. Kornitsky, D. Doherty, E. Stuart, H. Roman, B. Croft, R. Landen (late)
Members Absent: A. Rose, A. Paprocki
Others Present: Peter Kane (Dir. of Community Development), Nikolas Nikolopoulos (applicant), Mark Klamann (applicant), Barbara Klamann (applicant), Bruce Paradise (applicant), Nick Mennino (applicant), Robert McCann (attorney), Abdelhafid Zarouite (applicant), John Piccarello (resident), Robert Corcoran (applicant), Jill Mann (attorney), Theodore Regnante (attorney), Jesse Schomer (attorney), Abdelhafid Zarouite (applicant), Myriam Rosen (resident), Evangelos Varvounis (resident), James O'Brien (resident), Eileen Zeller (resident), Elisabeth Vlahos (resident), Laurie Videtta (resident), Nikola Sands (resident), Doug Jones (landscape architect), Tom Saltsman (architect), Ken Shutzer (attorney), Charlie Wilkinson (resident), Peter Spellios (Selectman), James Emmanuel (landscape architect), David O'Sullivan (architect), Chris Sparages (engineer), Debbie Caniff (resident), Deborah Harris (resident), Bernie Caniff (resident), and additional members of the public (~20)

Meeting to order at 7:04pm by Chair Kornitsky.

M. Kornitsky joined the rest of the board in wishing P. Kane, Director of Community Development, good luck and a thank you for his service as this would be his last meeting with the board prior to ending his role with the Town.

MEETING MINUTES

The Board reviewed the drafted minutes from the April 23, 2018, hearing.

MOTION: by M. Kornitsky to approve the minutes, seconded by D. Doherty, unanimously approved.

ZONING RELIEF PETITIONS

PETITION 18-01

10-12 FAIRVIEW AVENUE

M. Kornitsky asked Nikolas Nikolopoulos (petitioner) what had happened since the previous hearing. He noted that Mr. Nikolopoulos had provided some documents which he reviewed with P. Kane (ANR plan, ZBA decision for the garage, and the deed). M. Kornitsky noted that an abutter had submitted a letter in opposition to the request. The abutter feels that an emergency vehicle may have problems, it would make snow removal hard, and would also make parking difficult. M. Kornitsky noted that the zoning decision for the garage in 1996 provided that the garage was only for one vehicle (as a finding). He stated that it was a variance which was extraordinary relief and that the present request is essentially to extend that relief even further.

Approved 6/26/18 @ ZBA Meeting

There were no comments from the public.

B. Croft asked how many cars currently are in the garage. Mr. Nikolopoulos said it fits two cars but wants the extension so he can fit a total of four cars. The Board discussed the current dimensions of the garage (24' x 30'). M. Kornitsky noted that there are issues with over-burdening a right-of-way.

E. Stuart asked if the Fire Dept had provided comments. M. Kornitsky read the comment letter.

D. Doherty feels it's already an oversized garage in a congested residential area. The other Board members concurred. M. Kornitsky read from the easement restriction which he feels doesn't allow for the extension of the garage. He suggested that the applicant come up with a plan with the neighbor and look into the easement and the snow storage.

M. Kornitsky stated that an applicant can withdraw the petition so he can bring it back to the Board rather than get a denial and wait for the statutory time. Or the Board could continue the hearing if he wants to further refine the plans.

Mr. Nikolopoulos stated that he wants to withdraw.

MOTION: by M. Kornitsky to accept the applicant's request to withdraw the petition, second by B. Croft, unanimous.

PETITION 12-05 (AMENDMENT)

ARCHER STREET

Jill Mann (applicant's attorney) stated that they are applying for an extension on the variance and special permits for the project in 2013. The approval was appealed. There's another matter that's holding up the process to get the permits at this time. They would like an extension for six months. M. Kornitsky stated there was a similar request on another project in town, and it's customary for the Board to grant the extension.

M. Kornitsky stated to the public that it's a request to extend the period to get the permits, not a discussion on the substance of the relief that was granted. He then asked if there was anyone from the public with any comment.

Myriam Rosen (11 Eureka Ave) asked if the extension means they would then start construction in December. Ms. Mann said that some work might start in December, but the primary construction would not start then. Ms. Rosen said she's concerned about access during that timeframe due to snow. M. Kornitsky stated that all the conditions that were placed on the decision would remain in effect.

Evangelos Varvounis (23 Vaughn Pl) asked if they could get another extension if the six months pass and nothing happens. M. Kornitsky stated that it would be possible.

James O'Brien (5 Archer St) asked what street the development would go through. Ms. Mann stated it would be going through Vaughn Place, and that has not changed.

M. Kornitsky suggested that questions about the project itself should be asked of Ms. Mann after the meeting in the hallway.

Eileen Zeller (6 Archer St) asked when the decision was made. M. Kornitsky said the decision was filed Aug 2, 2013. There was an appeal (dismissed) after that date.

Elisabeth Vlahos (15 Eureka Ave) said she wanted to know when the permit was granted. Ms. Mann said it was granted in June 2013.

Laurie Videtta (31 Eureka Ave) asked where the decision was granted. M. Kornitsky said this Board granted the request. There was then an appeal in the courts which was dismissed.

Nikola Sands (16 Vaughn Pl) asked if the variance expired after one year. M. Kornitsky said no due to the legal cases which essentially pauses the time restriction.

MOTION: by M. Kornitsky to close public hearing, seconded by E. Stuart, unanimous.

MOTION: by M. Kornitsky to extend the special permits and variances by six months, seconded by D. Doherty, unanimous.

PETITION 18-05

281 ATLANTIC AVENUE

Abdelhafid Zarouite stated that his property has an existing Cape-style home which he'd like to increase in size. He would like to convert it into a Colonial-style home. It would be the same footprint but adding on top of the home.

M. Kornitsky asked if there were any questions from the public. None.

D. Doherty asked if Mr. Zarouite spoke with the neighbor at 10 Blodgett Ave. He confirmed he did and that the abutter's concern is about the view from the upper floor of the new home. Mr. Zarouite provided photos that were taken from the point of view of the new balconies - cannot see into any windows at 10 Blodgett Ave.

M. Kornitsky noted that there was a comment received to make sure downspouts go into the land and not on asphalt. Mr. Zarouite confirmed that any lighting will be pointed down. M. Kornitsky stated that it's a large increase in density. H. Roman asked if Mr. Zarouite had spoken with the people at 282 Atlantic Ave. He said the house is up for sale and the owner's weren't reachable.

E. Stuart felt the density was high but the design is within character. Mr. Zarouite showed photos of the homes nearby.

MOTION: by M. Kornitsky to close the public hearing, seconded by D. Doherty, unanimous.

MOTION: by B. Croft to approve the special permit (nonconforming use/structures) and site plan special permit subject to following conditions: downspouts directed into greenspace and exterior lighting directed downward, seconded by H. Roman, unanimous.

PETITION 18-06

35 LITTLE'S POINT ROAD

Nick Mennino (applicant) opened and introduced Mark & Barbara Klamann, Bruce Paradise, and Andy Rose who are part of the development team. The team came together as neighbors who were concerned about what might happen to the property. The team is made up of residents of the community. He noted the 3D model that was put together to demonstrate their proposal.

The plans call for preserving the estate-like setting. They would add to the easement that's on Blythswood as well as building a lookout park for the public. They would reconstruct the White Court building. Mr. Shutzer was present and

has acted as a mediator between the development team and the Historical Commission. Mr. Mennino said they'll be returning to the Commission on June 5. He introduced the attorney, architect, landscape architect, and engineer.

Robert McCann (attorney) noted that it's unusual to have a neighbor take such an active interest in planning out the reuse of a property. He provided a letter and petition of signatures from neighbors in support of the project. Mr. McCann stated that one neighbor hadn't signed but stated they are in support (to Mr. McCann). He also provided a document confirming the ability to construct a portion of the building over a sewer easement reached with the Town. He confirmed that they went through the Planning Board with support. They've also gone through a number of meetings with the Historical Commission and a demo delay has been put in place. They are close to a resolution. Discussion has included that elements may be preserved by a third party like the Peabody Essex Museum. He then provided a timeline estimate for the construction of the project.

Mr. McCann noted that the project will go to the Conservation Commission but not due to the structure. A portion of the pool and the viewing area and landscaping fall under the Conservation Commission. He then outlined the dimensional stats of the property and what's required under the zoning bylaw.

Mr. McCann went through the relief being sought:

- Flood Plain special permit - he read an email from the Building Inspector who felt the construction (except the viewing area) wouldn't fall under this special permit requirement. They're seeking the special permit for the viewing area and the walls in that area.
- Wireless Communication special permit - Mr. McCann noted there's an existing cell tower. They would need to temporarily move the tower and then put it back in the cupola. They would like to add more antennas on the chimneys of the new structure. M. Kornitsky asked what should be set as the limitation of number of antennas. Mr. Rose said they're negotiating with Verizon and would like to add another provider's antennas. He said all would be in the cupola, but there's an alternative proposal to use the chimneys. All equipment is within the underground garage. Nothing would be visible.
- Payment in Lieu per Inclusionary Zoning - they would like to pay the \$302,000 in lieu which they've received as the rate from the Affordable Housing Trust. P. Kane distributed a letter from the Trust confirming the calculation.
- Independent Living Facility (ILF) Special Permit - the Planning Board noted support for this. The condo docs will include the age restriction. Planning Board noted support for more housing units for senior living.
- Dimensional Special Permit - they're seeking to rebuild an existing non-conforming structure. The existing building is three stories where the limit is 2.5. The existing and proposed buildings both are under the 35 foot height limit. The Planning Board and Historical Commission gave indication to support the three stories. Mr. McCann noted that the plans main intention is to rebuild the original building and celebrate it. A lot of parts will be preserved and reused.
- Findings needed: consideration of noise during construction (all vehicles and work will be on site to limit impact), pedestrian and vehicular traffic (the property was previously a college and the new use is a significant reduction on number of trips per day), harm to the environment (Planning Board addressed this in their letter but they'll go through Conservation Commission as well), consider visual impact (it's an existing mansion and will be reconstructed as it is today with two new buildings that fit with the White Court building; you'll see White Court showcased in the center of the property), criteria of preservation of the town's heritage (this has been a significant property since 1895. Mr. McCann said they're bringing back that original building to preserve that history.)
- Site Plan Special Permit - Mr. McCann directed the Board to the Planning Board's letter of support
- Sections 3.6.5.0 and 3.6.5.2 - relief on the 50 foot buffer on the sides under ILF (while there is a smaller buffer, they're planting a significant number of trees and shrubs and reducing the area of visible parking)

- Section 4.8.4.2 - regarding the relief on height.
- Dimensional Variance - Mr. McCann provided a memorandum regarding the request. He outlined the four typical grounds for granting the variance as well as the specific language within the town's zoning bylaw. He pointed out the Johnson case that gives grounds for the granting of the variance due to the existing structure story count. B. Croft asked about the cases referenced (which were for use variances) and that as Mr. McCann noted a granting of a use variance is harder. He asked Mr. McCann what the hardship is that they feel applies. Mr. McCann said that the developers looked at numerous project types to do at the property. The developers are reducing what they could have built out and rebuilding White Court. If the third story isn't possible, the larger project most likely would happen. M. Kornitsky pointed out that if the developers used the letter of the zoning bylaw, they actually could build higher due to how building height is measured. Mr. Rose said the hardship is the unique historic structure. Without the relief, they wouldn't be able to rebuild the historic building, it would be a taller, peaked roof, and the community would lose the history.

Mr. McCann noted the conditions recommended by the Planning Board: discussions with the Historical Commission, inclusion of the widened 10-foot easement and build out of the path as well as the viewing area, signage be approved by ZBA, snow storage areas identified, natural lawn care, undergrounding of utilities, and a construction schedule.

Doug Jones (landscape architect) walked through the landscaping plan. He noted that the three buildings share a common basement and underground parking garage. There are 54 spaces in the garage and 25 surface spaces (three being handicap accessible). There's an automatic entry gate to the property. On the ocean side, there's a pool proposed along with patio area. There's 2.3 acres of open space being preserved on the water side. The existing easement on Blythswood is widened by 10 feet onto the White Court property. The developers will then build the path, winding the path around large trees so they don't have to be removed. The path terminates at a viewing seating area on the water's edge. There are 93 trees proposed of varying sizes and types.

Tom Saltsman (architect) walked through the building designs. They would be bringing back the original White Court building. It was a shingle-style blended with Classical. The two flanking buildings play off of that. There are six units in each building with two units per floor. The buildings work with the estate and don't overpower the landscape. The new buildings would be stucco and White Court back to clapboard. They used mansard roof instead of gambrel in the flanking buildings. He then walked through each floor plan.

E. Stuart asked about the guest parking and if it's just on the surface. Mr. Jones said the garage provides three spaces for each unit.

Mr. Shutzer spoke as the mediator between the developer and the Historical Commission. He was initially against the project. He acknowledged that the plans call for a rebuild of the historic building. He noted that the developers had asked him to act as the mediator which he agreed to. There were two meetings that were then held that went through requests and proposals. The Historical Commission wanted an engineering report that the structural integrity didn't provide for reuse - which was since been put together. The Commission also wanted to see the property and its interior to note elements to be preserved. That has now occurred. He also reviewed the comments that the Commission submitted to the ZBA and noted two items were outside their jurisdiction. He read an email from Justina Oliver (chair of the Commission). It appears there should be a positive end result at the next Historical Commission meeting. He then went on to discuss the building height request. He noted that the Commission wants the scale to be preserved. They have no objection to the number of stories. He provided an image of the portions of the existing building that will be removed and preserved. He noted that the existing White Court has been significantly modified from its original design. The Commission would like the agreement included in the ZBA's decision to give it some more strength.

M. Kornitsky opened the hearing to public comment.

Charlie Wilkinson (27 Little's Point Road) lives at the adjoining property and supports the request because it maintains the historic character. He grew up with the building before all the changes were made to the White Court building and will be happy to see it return to the original look. He voiced support for the number of stories due to the neighborhood scale and look.

Peter Spellios (member of Board of Selectmen, speaking on his individual capacity) stated that he feels the process for this project and the next one (133 Puritan Road) is important. The fact there was only one public comment and it was in support speaks volumes about the project. He felt that the development team is doing a number of things that weren't asked of them. This is one of the remaining estates and it's important that its being kept. The 133 Puritan Road project was originally a 40B project that wasn't supported by the community. That developer worked with the Town and the neighborhood to redevelop their plans.

MOTION: by M. Kornitsky to close public hearing, seconded by D. Doherty, unanimous.

MOTION: by M. Kornitsky to approve the application for the relief as requested and described tonight including dimensional variance with making findings of fact as described in the petitioner's memorandum and the nature and scale of the structure and to preserve the open space and that the parking will be located underground and relying on the Johnson case to permit the variance requested and to make a finding that the applicant has met the burden in demonstrating a hardship, and grant relief for use special permit, dimensional special permit, independent living facility, flood plain, wireless communication subject to there being no exterior antennas and everything being located inside other than outside generators, site plan special permit, and the other relief as outlined by Mr. McCann, and relief from the 50 foot buffer zone, and requiring as condition the payment in lieu as outlined by the Affordable Housing Trust, project to be built as provided, and the conditions as recommended by the Planning Board be met, and that any limitations be imposed by the Historical Commission that are within their purview if there is an agreement to remove the demolition delay, seconded by D. Doherty, unanimous.

PETITION 18-07

133 PURITAN ROAD

Ted Regnante (attorney) introduced the team: Jesse Schomer (attorney), James Emmanuel (landscape architect), David O'Sullivan (architect), Robert Corcoran (applicant), and Chris Sparages (engineer). He gave an overview of the property and its location and dimensional stats. It currently has two pre-existing nonconforming structures. They're proposing a six-unit independent living facility. Four units in the existing mansion, one unit in the carriage house, and one unit in a new construction building. There's nine garage spaces as well as surface parking. There will be a condominium structure with a requirement that all residents be over 55 years of age. Both existing buildings will be gutted with the exterior being preserved. There will be small additions to each structure to square them off and then two garages attached to the mansion building. One new building will be built where a tennis court currently exists. The existing pool will be removed. New patio areas will be built and a new inground pool behind the new construction unit. Some existing trees will be removed but the landscape plan calls for a number of new trees and plantings as well as two rain gardens. The seawall will also be repaired which has been approved by the Conservation Commission. The Building Inspector has determined that the project doesn't require a demolition. The Historical Commission provided favorable recommendation with architectural comments. The Affordable Housing Trust agreed to a payment in lieu for \$151,000 for the one required unit. The Planning Board provided favorable support and requested a photometric plan. They will apply for a Chapter 91 permit from DEP for the seawall work.

Mr. Regnante went through the zoning relief being sought:

- Independent Living Facility Special Permit - for the development of the six units as well as a waiver of the 50-foot buffer

- Special Permit (nonconforming use/structure) - the existing buildings do not meet the dimensional requirements of side yard setback (2.5 feet where 10 feet is required), front yard setback (7.3 feet where 25 feet is required), multiple principal structures on one lot (will be cured by granting of an ILF which allows multiple buildings), distance between structures (21.9 feet currently to be reduced to 15.1 feet to add the garage to the mansion)
- Dimensional Special Permit - seeking modification of the front yard setback of the new structure to be 20.5 feet rather than 25 feet (at Puritan Road setback) as well as an increase in the building coverage calculation to allow 25.6% rather than 25%.
- Coastal Flood Area Overlay District Special Permit - a portion of the property is in the VE and another portion in the AE flood zone. The work would comply with the performance standards as set in the zoning bylaw.
- Inclusionary Housing Special Permit - seeking the payment in lieu option for the one required unit.

Mr. Regnante confirmed that they've had a number of meetings with Selectmen as well as the neighborhood. They are focused on preserving the two historic structures.

Chris Sparages (civil engineer) said he's been working on this project for over a year now. He walked through the property's location. He gave an overview of the existing conditions of the property. The home was built in about 1911. Topographically the site is higher at the south side and slopes to the north gently. They did test pits on the property to determine native soils. There are several wetland resources: coastal beach on the seaward side of retaining wall, the seawall is a coastal bank, the seawall acts as the start of the 100 foot resource buffer area, there's an AE flood zone along the Puritan Road portion of the property and a VE flood zone which is a coastal high hazard area along the harbor side of the property (no new structures within the VE zone). There are three existing curbcuts (one for the carriage house and two for the circular drive). There's a concrete and wrought iron fence on the property lines with the two roadways. The mansion house calls for three additions: two garages on the front and a back corner portion to square off the building. The mansion will have four units. The carriage house will have a small addition at the back to square it off. It will be one housing unit. The sixth unit will be in a new building on the north side of the site. It will have a new driveway cut and a three-car garage. The circular driveway will be removed and two short driveways will be built for the garage additions. The garage of the new construction unit will not face Lincoln House Avenue. They plan for a number of DEP best management practices and are proposing two rain gardens along the Lincoln House Avenue side of the site. The southern rain garden will flow into the second rain garden which will feed into a grass treatment swale that runs along Puritan Road to the seawall. This improves stormwater treatment and infiltration. The amount of open space is relatively the same though slightly improved under the proposed plans. The proposed water and sewer connections have been reviewed by DPW. Gas and electric service will be brought in underground at the site. The seawall repair will be performed using temporary staging and access via Sandy Beach. Erosion control will include silt fence as well as waddles at the storage area of the site. They did a traffic analysis: Puritan Road is a local collector with Humphrey Street being the main arterial and using senior housing, came to a count of about 39 traffic trips in a day. They don't foresee any impact on the roadways as a result of the project. Trash collection will be privately hauled as it's a multi-family development. They will have building-mounted LED lights (3,000 kelvin) at the building entrances of each building. The lights are downward pointing.

David O'Sullivan (architect) stated that their approach was to respect the historic nature of the site. They will perform repairs to the exterior. There will be no additional dormers added. The main entrance to the mansion remains the dominate feature. The carriage house will remain as is. He walked through the existing conditions for the floor plans. They'll preserve a couple fireplaces and close in the side porch of the mansion. Each unit in the mansion will have an elevator. The mansion garages were pushed to the side to make the main entrance remain dominant. He went through details regarding elements to be preserved. The Historical Commission has made a number of suggestions which they will incorporate into the plans. The new construction unit is 34.2 feet tall and includes a small office in the attic level. It includes dormers and details to connect it visually with the mansion building. Mr. O'Sullivan then walked through some

renderings of the project. They can accommodate all of the Historical Commission comments except for rotating the garages. Equipment will be on the ground behind landscaping.

James Emmanuel (landscape architect) walked through the landscaping plan. The portion of the property along the seawall will be kept as open space. Some planting buffer is proposed next to adjoining residential property. The existing fence and vegetation along Puritan Road will be improved. The rain gardens will have shrubs, perennials, and grasses. They've marked out snow storage areas on the property. The two Norway maples (non-natives) on Lincoln House Ave will be replaced. There's a proposed hedge separating the mansion and the new construction unit.

Robert Corcoran (applicant) stated that a neighbor had a question about saving the large trees. They can't do that due to the layout but will be planting new trees.

M. Kornitsky asked for public comments.

Debbie Caniff (69 Lincoln House Avenue) is concerned about maintaining the shutters on the mansion and if the new construction will have shutters. Mr. Corcoran confirmed it will. She asked if there will be a restriction about the number of cars that can be parked outside. Mr. O'Sullivan said the units in the mansion each get one garage space. There is space for one additional car in front of the garage doors. She also asked if the flat roofs of the garages will be used as decks. Mr. O'Sullivan said it's not designed for it and suggested it be restricted in the condo docs. She asked about the iron fence that will be restored and if it will still be wrought iron. Mr. O'Sullivan said they will replicate the fence with iron fence. She asked if this project will also have wireless towers. Applicant stated it will not. She's concerned that the rain gardens won't be maintained. Mr. Corcoran said there are maintenance documents that will require the proper upkeep and will be in the condo documents. She asked about the existing telephone pole right at the property line with the abutting property. Mr. O'Sullivan said it will be taken down. She asked how the trash collection will be done, if it'll be a dumpster. Mr. Corcoran said it'll be curbside but privately handled. She also asked about the exterior light fixtures. Mr. O'Sullivan noted the plan was to show how far the light will fall.

Deborah Harris (39 Lincoln House Avenue) asked if there is any opportunity for abutters to take part in landscaping design. She's concerned about losing the Norway maples. They're large trees that offer a canopy. She's concerned it'll look very stark. Mr. Corcoran said he's willing to work with the neighbors on the landscaping. She said there's also a large tree at the intersection of Lincoln House Avenue and Puritan Road for the rain garden. She hopes there's a way to provide for large trees to screen the view of the garage. There's also a large tree at the corner of Puritan Road and the seawall. Mr. Sparages said that they plan to keep that tree. Mr. Emmanuel said the trees were selected for their seashore hardiness. They have a look similar to the architecture.

Bernie Caniff (69 Lincoln House Avenue) said that Mr. Corcoran has been very cooperative and done a lot of what the neighborhood has asked for. He said that Jill Sullivan, a neighbor, said she's in favor.

B. Croft asked about the Historical Commission's comment on the roof line for the mansion. Mr. O'Sullivan said they'll reduce the height of the portion on the south to keep the existing roof line element.

R. Landen noted that the Historical Commission suggested detached garages and asked why they kept them attached. Mr. O'Sullivan said that they looked at doing free standing garages but it would require a variance. E. Stuart asked about the roofs of the mansion roofs. Mr. O'Sullivan said that they're white rubber roofs as they're more sustainable.

H. Roman asked about the two separate structures and if there are elevators. Mr. O'Sullivan said they're looking at whether they can add the elevator in the carriage house.

MOTION: by M. Kornitsky to close the public hearing, H. Roman second, unanimous.

M. Kornitsky constituted the board as all but D. Doherty.

MOTION: by R. Landen to grant the relief for all the special permits requested under attachment A in the petition with the condition that there be no outdoor decks above the garages on the mansion and to include the conditions in the Planning Board letter and to continue to work with the Historical Commission regarding architectural details and to consult with the neighbors for their input on plantings, seconded by H. Roman, unanimous.

MOTION: by M. Kornitsky to close the meeting, seconded by B. Croft, unanimously approved.

Meeting adjourned at 10:47p.

S. Peter Kane
Director of Community Development