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ZONING BOARD OF APPEALS

Meeting Minutes
February 12, 2009

Pursuant to a written notice posted by the Town Clerk and delivered to all Board members, the Ipswich Zoning Board of Appeals held a meeting on Thursday February 12, 2009 at 7:30 p.m. in Room A at the Town Hall. Members attending were Chairman Robert Gambale, Roger LeBlanc, Benjamin Fierro, Timothy Perkins, Robert Bodwell, Associate Member Robert Tragert and Marie Rodgers Administrative Assistant to the Board. The Building Inspector was not present.

Citizen Queries: there were no citizen queries.

Chairman announced withdrawal of a Special Permit/Variance pursuant to Sections XI.J and XI.K footnote 2 to reduce the lot area for an existing multi family dwelling at 10 Highland Ave at the request of the Petitioner, Richard Dorr. The Board voted unanimously to withdraw the petition without prejudice. Also, 227 Argilla Road Jeff Ries request a Special Permit pursuant to Sections XI-J for an Accessory Apartment will be continued to the March meeting.

Public Hearings:

2 Granite Court Eric Levesque request a **Special Permit** pursuant to Sections VI –A and B and XI (J) for reduction of the side setback no more than 50% of the requirement as established in VI.B Table of Dimensional and Density Regulations and a **Variance** pursuant to Sections XI – K (F) to locate the shed closer than five feet from the principal building. Chairman Gambale read the legal notice and opened the public hearing at 7:36 pm. The Petitioner was present to explain his request for relief of right side yard lot line, he “starved for storage” the lot is 3,098 square feet; he has no access to the basement from the exterior of his home; the steps descending to the into the basement from the interior are narrow; the high water table limits storage because of the constant water in the basement. The proposed 10x14 shed would be located no closer than 2 ½ feet to the side lot line. Variance is for the location of the shed closer than five feet to the principle dwelling. He could push the shed back, but a large tree is in the way; he has received estimates to remove the tree and it would be very costly; albeit, he wouldn’t want to remove a very healthy tree. He submitted photos for the Board to see.

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In response to the Chairman query regarding constructing the shed on sona tubes, the Petitioner related his conversation with the Jim Sperber and cited the state building code, anything smaller than 400 SF does not require sona tubes, as long as the eve is not greater than ten feet, frost protection is not a concern.

The Board discussed the five-foot minimum distance allowed from the principle dwelling. It was determined to be the minimum distance acceptable for fire/emergency vehicles gain access to the rear of the house. The Petitioner said he has adequate space (15 feet) on the left side of the house, seven and one half feet on his property; his house is 22-feet wide. The Petitioner expressed confidence that fire/emergency vehicles would be able to gain access to the rear of his house.

Discussion ensued regarding alternative location for the shed and the fact that the criteria for a Variance were not met. The proposed shed is one-foot and a half from meeting the criteria; tweak the location of the shed and it would meet the criteria; the Board can grant Special Permit to reduce the back and side by 50%. Agawam Auto and Marine sits 2.5 feet from the property line, if he pushes the shed back it reduce the space behind Agawam for maintenance or further use. The Board did not ask to have the tree removed.

The Petitioner expressed concern for damage to the tree roots when he digs 18 inches down for the slab. The Board could grant relief for no closer than five feet to the rear lot line and 2 1/2/ to the side lot line and he could design a shed that fits as long as he's five feet away from the house.

The Petitioner withdrew his request for a Variance.

There were no comments from abutters or others.

The Board determined the proposed 10x14 shed shall be located no closer than 5 feet to the rear lot line and 2.5 from the side lot line and would be no closer than five feet to his primary residence. The request is under footnote 2 of the Dimensional requirements it is a non-conforming lot and qualifies under footnote 2 for the relief sought by the applicant. The Board reviewed the criteria for granting SP- no fiscal impact on town services; no impact on traffic flow and safety, adequate utilities, design is compatible with the neighborhood, no impact on natural environments.

In response to Mr. Perkins query, the Petitioner said Farley Brook is located on the left underground close to one hundred feet on the other side of his neighbor. The shed would not be located on the Farley Brook pipe.

The Board closed the public hearing.

Mr. LeBlanc moved to grant the Special Permit to allow the construction of an accessory structure, to be no closer than 2 ½ feet to the right side line and no closer than 5-feet to the rear side line and also said structure to be no closer than five feet to the principal structure; and has met the criteria for granting a Special Permit. Mr. Bodwell seconded, the motion passed unanimously.

27 Water Street Greg Mc Carthy and Eric Schmakel requests a **Special Permit** and **Variance** pursuant to IIB.2 - Sections XI.J and XI.K to raze the existing structure and construct a four unit residential building within the same footprint.

Chairman Gambale read the legal notice and re-opened the public hearing at 8:00 p.m. The Petitioners were present, represented by Attorney Rich Kallman and Larry Graham of HL Graham Associates. Attorney Kallman reviewed the history of the Melanson's Boat Yard. The building was built in 1954 the building is two stories comprises 7500 square feet on lot of 5300 square feet. Mr. Melanson sold the property to Arthur Harrington in 1985 and retained a life estate for his mother Julie Melanson, but never retained any rights for himself. His mother died a few years ago. Mr. Harrington continued to allow Mr. Melanson to live on the property. Last year Mr. Harrington died and the heirs are selling the property. The Petitions were successful bidders subject to going through this approval process. Mr. Melanson is still living there, he has lost a housing court decision that evicted him from the property. He has an attorney and has appealed to the appeal court, briefs have been filed; it will take several months to go though the appeals court process. The Petitioners have the property under agreement. Mr. Melanson's attorney, Joseph Digiovani has not submitted anything on Mr. Melanson's behalf thus far.

He reviewed the sections for the Special Permit and Variance pursuant to IIB.2 - non-conforming structure for other than a single and two family – this is mixed use building with a residential unit on the top floor and the boat yard commercial use on the bottom floor; this board is allowed to allow the extension of non-conforming structure, for an alteration of the building, for a substantially different purpose or for the same purposes and what is proposed now the is to construct a four unit residential building within the same footprint, same purpose to a substantially greater extent.

Lengthy discussion ensued regarding the appropriate provision.

Attorney Kallman spoke briefly to the renovation plans to maintain the steel beams and preservation of other elements of the structure.

Attorney Kallman has a letter of authorization from Russell Channing, Attorney for the Harrington estate, granting permission to the Petitioners to proceed with this Petition. He will provide the Board with a copy of that letter.

Larry Graham of HL Graham LLC reviewed the existing conditions. He outlined the proposed work and related his observations of the sea wall. He found the perimeter of the foundation of the building in very good condition. There is a lot of structural steel and it is hoped to build on top of the existing foot print. The Petitioner Greg Mc Carthy interjected that in addition to the steel structure there are large 10' x10' post and beam and would like keep as much of the wood structure as possible. Mr. Graham continued the proposal is to construct four residential units two below and two above, access would be from the front and back would be center, parking is 1 ½ per unit =six spaces located out in front to the building. The parking located with good sight visibility to the west and back to the east, perpendicular to Water Street; as the other residence on water street park straight in or parallel park along the street.

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He referenced the three page Conservation Commission letter dated 1/15/2009 signed by David Pancoast, Conservation Agent (hereby incorporated by reference) it wasn't anything they didn't expect. They will take their advice and direction before they file a formal filing for the 'change in use' topic dealing with setback to the resource.

Also, they will look into the issue of abandoned gasoline tank on the property at 27 Water Street; it is on a list of possible old tanks, disclose by Will Maker in an e-mail dated 2/2/09.

The units will be owner occupied condominiums. The Special Permit is for use and the Variance for density In response to Chair's query regarding the distance from the building to the property line on the left side set back, facing the building. Mr. Graham said five feet.

Chairman Gambale asked who owned the property where the launching beams are located; Mr. Graham answered that they are on 'no-man's land' right now, that piece of property has lot number and area to it but does not have a name in the assessor's office and will need more research. Additionally, in response to the Chair, Mr. Graham asserted that there are no intentions to use that portion of property for future building or any type of activity – just removal of materials and leave be.

Attorney Kallman related his informally visit before the Planning Board and the four units were appropriate and as was required parking. Currently, there is no formal design – just renderings; the proposed multi-family project will go before Planning Board and Conservation Commission, also the design review board. It is the hope of the Petitioner to keep the design in line with the historic use.

It was determined that the proposed floating docks are not under ZBA jurisdiction.

Bill Nelson of 29 Water Street asked for a copy of the conservation letter. Copies were handed out.

Lee Nelson of 29 Water Street questioned what are the plans for this piece here? Mr. McCarthy responded to keep at same level; it's the access to get down to the float.

Michael McGarty of 32 Water Street said that it was his understanding that his mother was an abutter - Danforth at 6 Hovey Street – property adjacent to Gantry his mother owns that property area of the seawall side of the street.

He expressed his concern for the limited parking on the street, in winter with the snow and summer with the boats to the wharf traffic. Secondly, the height in the renderings looks like it's higher. The Nelsons built their building with the intention was to match the height of the boat yard building, he hopes it doesn't go higher and higher.

The Petitioner Greg Mc Carthy explained the eve line matches the line on the Nelson house, it may little taller because of the wide the pitch, but the eve height and the look on the street will be more balanced.

Jim Kresser 2 Scottons Lane said parking is going to be an issue, especially for anyone walking Water Street – he expressed his opinion that he thinks it's a great looking old building and is happy to hear that their going to try and save it. He thinks it should have a nautical look and urged the ZBA to exert their jurisdiction to control the look of the building; he's not sold on four units; there is a stone wall directly

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across from the proposed parking, turning in and out of the spaces proposed will not be easy, there not a lot of space, it's a very small lot with a big building on it.

Discussion ensued regarding building design, the proposal for four, two bedroom units with square footage of 1600 to 1700 square foot units. The Petitioner recognized the need for compliance with fire sprinklers, handicapped access, dumpster on site. Backing into a public way may require a Variance from this Board. Potential guest parking for at the wharf was discussed; Mr. Kresser said the parking spaces at the wharf are not ploughed in the winter.

Discussion took place regarding the property remaining in continued use as a boat yard. The Jim Sperber did an inspection about two years ago, after a fire and wrote a letter to Mr. Melanson indicating at that time the boat yard use had not been abandoned. Attorney Kallman will provide the Board with a copy of a letter.

Chair initiated discussion regarding a site visit to look at the size of the building in comparison to other building on the street, the parking situation, the traffic, the stone wall across the street and view the back side from turkey Shore and Labor-in-Vain Roads; all issues will be considered. Attorney Kallman will provide the Board with a photo of the rear of the property.

Mark Hagan of 3 Hovey Street questioned the total number of parking spaces and voiced his concern regarding the narrow street stating "you can barely ride a bike down the street". He added, to be practical there will probably be eight cars and where will they park.

The Board responded that currently the proposal meets the criteria in the bylaw for the number of parking spaces. This Board doesn't look at parking so much because the Planning Board will review parking and they'll figure out how to solve it, we can't make them do more than 1.5 per unit because that's all the bylaw calls for.

Jim Kresser of 2 Scottons Lane disagreed and said this proposal is here for discretionally relief and it is well within the Board's power to decide what is realistic for parking there. There isn't room for cars to park along the street, it's a tough street, there are skate boards and baby carriages, the only real relief for parking we can expect will come from this Board. Attorney Kallman clarified that this project will require a Special Permit for multi family project before the Planning Board.

Mary Kresser of 2 Scottons Lane questioned which Board limits the number of units, Chair responded - this Board. She suggested a reduction to three units with one along the river side, with parking underneath and two up and everyone will have a nice view. Also, she suggested angle parking would be easier than straight in.

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Lee Nelson of 29 Water Street said the Board has her permission to walk down the edge of her property in order to see the back side of the site.

Site visit was scheduled for Saturday February 28, 2009 @ 10:00 a.m.

This hearing was continued to the March 19th, 2009 meeting.

Old Business:

Discussion was held at length regarding 66 North Ridge Road. At the January meeting the Board granted relief relative to the side yard setback for a proposed garage located at 66 North Ridge Road. At the suggestion of Board, the Petitioner conduct further research on a Special Permit issued 8.6.1981. Larry Graham of Graham Associates, Inc. submitted a letter dated 1.28.09 (hereby incorporated by reference) without resolution or conclusions as to why the present dwelling was not constructed in compliance with the 1981 decision relative to the westerly side yard setback. The Board determined that the issue should be resolved by the building Inspector.

Minutes:

Moved by Mr. Gambale and seconded by Mr. Perkins the minutes from the January meeting were unanimously approved.

Adjournment

There being no further business, it was moved, seconded and unanimously voted to adjourn at 9:50 p.m.

Respectfully submitted,

Marie Rodgers
Zoning Board of Appeals
Administrative Assistant

These minutes were approved by the Board on March 19, 2009.