

ZONING BOARD OF APPEALS

Approved: 11.19.2009
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Meeting Minutes
September 17, 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 September 17, 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, Associate Members Robert Tragert and William Page. Also, attending were Jim Sperber, Building Inspector and Marie Rodgers, Administrative Assistant to the Board. Robert Bodwell was absent.

Citizen Queries: none

Announcements:

Chairman announced the requests for continuations for: **27 Water Street** Greg Mc Carthy and Eric Schmakel; **227 Argilla Road**, Jeff Ries; **48 Bunker Hill Road** - Janet Murawski were all continued to the October 15, 2009 meeting.

Public Hearings:

12 Linebrook Road Paul Brailsford requests a **Special Permit** retroactively pursuant to Sections IX-J and XI-J for an Accessory Apartment. Chairman Gambale read the legal notice and opened the public hearing at 7:34 pm. The Petitioner explained that at age 93 he requires someone else to live with him and a little extra income. The apartment currently exists, but is not used. He showed the Board photos and explained the layout; the accessory apartment is within the existing footprint of the house and comprised 456 square feet. Chairman reviewed the seventeen conditions and the Petitioner acknowledged compliance. Discussion took place regarding a second means of egress (currently the second egress door leads to the rest of the house) Mr. Sperber cited building code that does not allow a second egress to intervening spaces. Petitioner acknowledged compliance with the Building Inspectors recommendations.

Ed Zyvosko of 10 Linebrook Road, is the neighbor directly to the left, he explained that he had no problem with the Petitioner having an accessory apartment; however, he would like to see it end when the home is sold. He stated his concerns and would rather not see a new owner have an apartment. The Chairman explained an accessory apartment is an allowable use and new owners would have to comply with the same process and apply to this Board for a special permit.

As there were no other comments from abutters or others the Chairman closed the public hearing.

Mr. Fierro moved the Board grant the Petitioner request for a Special Permit for an Accessory Apartment pursuant to Sections IX-J and XI-J of the Ipswich Protective Zoning Bylaw. Mr. Perkins seconded, the motion passed unanimously.

140 Jeffreys Neck Road, David Ketchum requests a **Special Permit** and **Variance** pursuant to Sections IX-J and IX-K IX-J.2.(c) XI-J for an Accessory Apartment. Chairman Gambale read the legal notice and opened the public hearing at 8:01 pm. The Petitioner was present with his Attorney Kallman. In response to the Chairman query concerning the request for a Variance, Mr. Kallman stated that he didn't feel it was required, but just to be safe and he cited the bylaw IX.J.2 (c) 'any 'new' outside entrance must be located on the side or rear'. The current door in front leading to the family room has existed for many years; at one time it was a garage. The Board agreed with Mr. Kallman's analysis, as did Mr. Sperber, who said he met with the Petitioner for the first time yesterday and discussed the requirement of a second egress to be in compliance with the building code and this may require additional construction.

Mr. Kallman discussed topography and showed the Board some photos of the home and noted that the house is not visible from the road; all you can see is woods and marsh. Chairman Gambale concurred and reported on his observations when he drove past; from the street the house is secluded by vegetation, making it difficult to view the property.

Mr. Kallman described the floor plan, an area less than 500 square feet. He made note that he will comply with Mr. Sperber's requirements to meet building code.

Chair recognized three neighbors Bob and Sally Kiesling of 21 Eagle Hill Road and Jane Boyer of 19 Eagle Hill Road who all spoke of their concerns regarding utility wires crossing backyards and the potential hazard; electrical wires hover above and below the tree branches, it's very windy and the wires sag way down. The Petitioner explained he spoke with Mr. Roland at the electric department and is scheduled to have a 200 amps service upgraded to update his antiquated system; a utility pole would be placed the end of his driveway. This information seemed to appease the neighbors.

The Board explained the limits of their jurisdiction.

The Board reviewed the seventeen conditions for an accessory apartment and determined that the Petitioner meets all criteria. The septic system complies with BOH; new electric 200 amp upgrade is to replace old wiring and will supply the entire house.

As there were no further comments from abutters or others the Chairman closed the public hearing.

Mr. Perkins moved the Board make a finding that the applicant met the criteria for an Accessory Apartment by showing us the application information he provided under the 17 step process in which we grant the permit. Mr. Fierro seconded, the motion passed unanimously.

Other Business:

43 Avery Street 40B - Release of escrow funds

Chairman Gambale explained that that in June of 2003 a 40B Comprehensive Permit was filed. The Petitioner provided money for consultants' fees; currently the balance is \$224.90. There has been no activity in years. As of 9/1/09 The petitioner has resolved the dumpster issue and is in compliance with the BOH.

Mr. Fierro moved that the applicant has complied and to direct the treasurer to release of the \$224.90. Mr. Perkins seconded, the motion passed unanimously.

Old Business:

At the May 15, 2008 meeting of the Board of Appeals the Board discussed revised 40B Regulations submitted by Lisa Mead. The Board requested DHCD to review; these comments were received 8/21/09. After involved discussion concerning the significance of changing the current regulations of four page documents to thirteen pages and consideration of conflicting language, the Board decided to table the discussion to next month when all members have read the proposed regulation from Lisa Mead and DHCD comments.

Approval of Minutes:

Moved by Mr. Fierro and seconded by Mr. Perkins the minutes from the August 2009 meeting were approved unanimously as amended.

Adjournment

There being no further business, it was moved, seconded and unanimously voted to adjourn at 9:35 p.m.

Respectfully submitted,
Marie Rodgers
Zoning Board of Appeals
Administrative Assistant

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