

Rockport Board of Appeals  
January 27, 2016  
7:00 P.M.  
Rockport Public Library  
The Brenner Room  
17 School Street, Rockport, MA

- 1) Call to order at 7:00 P.M. Members present Alan Battistelli (Chairing), Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees, Debra Dellacona and Tacy D. San Antonio. Frederick Frithsen and Michael Bace absent.
- 2) Hearing of Kevin Kane for a variance and/or special permit to construct a 207 square foot deck off the rear of the non-conforming dwelling at 15 Atlantic Avenue, Rockport.  
**Continued to February 24, 2016 Meeting.**
- 3) Approval of minutes: December 2, 2015.
  - A) Tacy San Antonio asked that the name Muller on page 2 be changed to its correct spelling Mueller which it will be.
  - B) Lars-Erik Wiberg moved to accept the minutes as corrected and Peter Bergholtz seconded.
  - C) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees, Debra Dellacona and Tacy D. San Antonio voting.
- 4) Hearing of Katherine Reid, Trustee, Main St. Realty Trust for a special permit and/or variance to demolish the existing one-story garage and to construct a new two-story addition in approximately the same location at 15R Main Street, Rockport.
  - A) Opened 7:10P.M. Closed 7:43 P.M.
  - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz. Tacy San Antonio, John N. Rees and Debra Dellacona.
  - C) Materials presented: photos, site plan, floor plan, and elevations.
  - D) Jack Campbell, 4 Bayridge Lane, Rockport represented the petitioner.
    - a) ID2B addition to non-conforming structure.
    - b) VIIC3 within flood zone.
    - c) Have had first hearing with the Historic Commission and are scheduled for hearing on wet zone on January 28, 2016.
    - d) State has signed off on construction.
    - e) Building on peninsula on sea ledge.
    - f) Reduced amount of setback from original plans and less lot coverage.
    - g) It was a one story garage and would like a 2 story.
    - h) The original house has 0 bedrooms: bedrooms and bathrooms are needed.
    - i) Lower level needed for handicapped occupant.
  - E) Alan Battistelli asked about lot coverage to see if a special permit is needed. The present coverage is 37.5% and the proposed is 40.7% where the limit is 50%.
  - F) Peter Bergholtz asked if it was a substantial improvement as he needs to know to write the decision. Agreement that it is and very much needed.
  - G) Alan Battistelli asked to see the elevations which were shown on the display screen.
  - H) Petitioner needs bedrooms for a growing family and handicap access.
  - I) Audience
    - a) Christine Mosher 5 Atlantic Ave, owns 13 Main Street.
      - This structure will wipe out her view and devalue her property.

- Never informed of Historic District Commission meeting.
  - Concerned with paving and drainage.
  - Shed is not located correctly on drawings.
- b) Joel Millitello(Christine Mosher's son-in-law) felt that the surveyors drawings are incorrect and the French drain may be into Christine Mosher's property. Pavers will cause poor drainage.
- c) Heather Mosher, 13 Main Street, feels that they are poor drawings, incomplete, and incorrect measurements.
- d) Joel Favazza, 111 Main St, Gloucester, representing Francis Burden, 23R Main Street. Have met with petitioners and have agreed on a number of items that they would like included in the final decision.
- No windows or doors on the western side.
  - Architectural details on western face
- e) Jack Campbell
- Will have bituminous pavings.
  - Reid's drainage system carries to the ocean.
  - Could put French drain under driveway pavers if the Moshers connect to the system.
- f) Heather Mosher would like to see some surveyor stakes on property.
- 5) Hearing of Jane Carr for a special permit and/or variance to construct a new dormer on an existing non-conforming dwelling at 27 Granite Street, Rockport.
- A) Opened 7:43P.M. Closed 8:00 P.M.
- B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg.
- C) Materials presented: photos, site plan and floor plan.
- D) Jane Carr asking for 5 foot dormer on left side to build a shower as the present tub is under the eaves.
- E) Alan Battistelli stated that a special permit is needed.
- F) Charles W. Christopher asked about the deck that wraps around and if the dormer will meet it.
- G) Under deck is part of the house.
- H) For a 2 story building the dormer needs to be set back 2 feet from the soffit.
- I) Lars-Erik Wiberg requested better drawings.
- J) No audience participation
- 6) Hearing of John-David and Damarais Herlihy for a special permit and/or variance to construct 18 feet by 19 feet addition and a deck of 12 feet by 12.75 feet off the rear of the non-conforming dwelling at 20 Smith Road, Rockport.
- A) Opened 8:00 P.M. Closed 8:13 P.M.
- B) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, Debra Dellacona, John N. Rees and Lars-Erik Wiberg.
- C) Materials presented: photos, site plan, floor plan, and elevations.
- D) Architect Dick Curran, 25 Woolworth Street, Long Meadow, MA represented the petitioners and drew the plans.
- a) Adding a downstairs family room and an upstairs bedroom.
- b) Has kept the first floor in line and the second floor in 2 feet to keep the scale of the roof down.
- c) Have owned house for about 2 ½ years.
- d) This plan will increase the lot coverage from 11% to 15% including the decks.

- e) All windows will be changed to the new style of the addition.
- f) Will be a 5-12 pitch to the roof.
- E) Charles W. Christopher stated that as the addition is going no higher than the present ridgeline and encroaching no further into the setbacks it just needs a special permit.
- F) No audience participation.
- 7) Hearing of Gerhard Huber for a variance and/or special permit to renovate an existing non-conforming garage and to construct a second story on the same building at 1 Gap Head Road, Rockport.
  - A) Opened 8:13 P.M. Closed 9:02 P.M.
  - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, Tacy San Antonio, Lars-Erik Wiberg and Debra Dellacona.
  - C) Materials presented: photos, site plan, floor plan, and elevations.
  - D) Amy Huber 1 Gap Head Road represented petitioner.
    - a) The family is moving back full time and need to fix the garage and add more room.
    - b) Increasing the garage in front by 3 feet and in back adding wine storage in back.
    - c) Will finish the second story of the garage creating 2 guest bedrooms.
    - d) Increasing non-conformity by 1 foot 8 inches in right corner and 2 feet 6 inches towards the street.
    - e) There will be a kitchenette with sink and dishwasher and bathroom over the garage.
    - f) This will be a type of in-law apartment so Alan Battistelli stated that the decision might include that this remain a single family property.
  - E) Charles W. Christopher commented that this was a corner lot so it had 2 frontages. He asked the measurement of the frontage on Marmion Way.
  - F) Alan Battistelli asked about the separation of the buildings and was told it was 10 feet 8 inches where 15 feet is required.
  - G) Audience
    - a) Steve Lindo, 3 Gap head Road
      - Opposed to granting this.
      - Thinks this is an accessory dwelling under the current bylaws.
      - It is within the flood zone so questions whether a building permit can be granted.
      - This is all pushed to the east side of property and same results could be achieved on other sections of the property without further encroachments into the setbacks.
      - New roofline is further encroaching on property line.
      - New propane tanks will increase the present enclosure and that structure will be much larger.
      - Heights of separate structure not shown.
      - Variance needs a hardship and there is no hardship.
      - ID2B2 allows change of non-conformity but no further encroachment.
      - Doesn't meet requirements of accessory dwelling.
      - The attached deck means that the separation of the buildings is not enough.
      - Project under 8C4 cannot be approved since it is not elevated 2 feet.
    - b) Steve Vavak, 0 Jerdens Lane, supports Mr. Lindo's opinions. The east elevation appears to extend out over 4 feet.

- H) Amy Huber stated
- a) That the perspective is deceiving as it only goes out a couple of feet.
  - b) The deck can be removed from the setback.
  - c) Wanted something sturdier to cover the propane tanks, generator and AC.
- I) Tacy San Antonio would like to see the enclosure on the site plan and wants to know how far out it extends and how high it is.
- J) Charles W. Christopher remarked that we will need an update from the conservation Committee.
- 8) Discussion of Hearings
- A) Reid
- a) Alan Battistelli:
    - We can do nothing about the view.
    - It is an official survey and we have to accept it as presented. If it is wrong they will have to settle it between them.
    - Drainage can be conditioned.
    - Willing to add drainage, no windows on east and decorative side can be conditioned.
  - b) Peter Bergholtz moved to grant the request with conditions and Tacy San Antonio seconded. It passed unanimously with Alan Battistelli, Peter Bergholtz. Tacy San Antonio, John N. Rees and Debra Dellacona voting.
  - c) Alan Battistelli moved to above the following conditions be included in the decision and Tacy San Antonio seconded. The motion passed unanimously with Alan Battistelli, Peter Bergholtz. Tacy San Antonio, John N. Rees and Debra Dellacona voting.
    - No windows on the west side.
    - Decorative shingles on the west side.
    - Reference the drainage offer in the decision.
- B) Carr
- a) John N. Rees moved to approve and Charles W. Christopher seconded.
  - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
- C) Herlihy
- a) Peter Bergholtz moved to approve and John N. Rees seconded.
  - b) The motion passed unanimously with Charles W. Christopher, Peter Bergholtz, Debra Dellacona, John N. Rees and Lars-Erik Wiberg voting.
- D) Huber
- a) Lars stated the following conditions:
    - Since 15 feet of separation does not exist the Board must require fireproof shingles (siding).
    - Extension of the use of a single family dwelling and may not be rented out as an accessory dwelling.
    - Deck on the second story may not move into the setback.
    - Overhang or soffit in the setback area can be no more than 18 inches on the east side.
    - Lars-Erik Wiberg also asked that the Board submit this to the Town Attorney and ask if the Gale decision applies to accessory buildings.
  - b) Tacy San Antonio made the motion, that if the Town Attorney's opinion is that a variance is required, the Board denies the petition. If the Town Attorney's position is that only a special permit is required the Board grants the petition with the four

conditions previously listed by Lars-Erik Wiberg. Lars-Erik Wiberg seconded and it passed unanimously with Alan Battistelli (presiding), Charles W. Christopher, Tacy San Antonio, Lars-Erik Wiberg and Debra Dellacona voting.

9) Old Business

- A) Charles W. Christopher received a questionnaire from the Town Attorney from Roma's attorney.
- B) Charles W. Christopher, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace and Tacy San Antonio were listed.
- C) Alan Battistelli will not attend future executive sessions on this issue.
- D) Charles W. Christopher requested that the Board call for an executive session on this issue at the next Board meeting.

10) New Business

- A) Rules of procedure: define jobs and time limits deferred to next meeting.

11) Next Possible Meeting February 24, 2016

- 12) Motion to adjourn made by Lars-Erik Wiberg and seconded by Charles W. Christopher. Passed unanimously with Alan Battistelli (Chairing), Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Tacy D. San Antonio voting.  
Adjournment at 9:45 P.M.