

Rockport Board of Appeals  
December 2, 2015  
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, Frederick Frithsen, John N. Rees, Tacy D. San Antonio, Debra Dellacona and Michael Bace.
- 2) Hearing of Nancy O'Connor for a special permit and/or variance to construct a fireplace enclosure which will extend into the right side setback at 22 Smith Road, Rockport.
  - A) Opened 7:00 P.M. At 7:14 it was continued to 7:57 Closed 8:00 P.M.
  - B) Members of the Board sitting are Alan Battistelli, Lars-Erik Wiberg, Frederick Frithsen, Michael Bace and Debra Dellacona.
  - C) Materials presented: photos, general plan, site plan and floor plan.
  - D) Michael Piazza, 8 Rosie Lane, Compton NH, represented the applicant
  - E) Wish to construct a fireplace enclosure five feet in length that is 16 inches into the setback.
  - F) Debra Dellacona asked if there were any out buildings and the answer was no.
  - G) Alan asked how far back it is set from the property line. The answer was unknown.
  - H) Nancy O'Connor of 22 Smith Rd. submitted a floor plan that was not to scale.
  - I) No audience participation.
  - J) Hearing was continued while applicant left to measure the distance from the basement stairway to the property line.
- 3) Hearing of Cumberland Farms/VSH Realty for a special permit and/or variance to renew the permit to continue serving coffee in the store at 9 Railroad Avenue, Rockport..
  - A) Opened 7:14 P.M. Closed 7:20 P.M.
  - B) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, Tacy San Antonio, John N. Rees and Lars-Erik Wiberg.
  - C) Materials presented: application
  - D) Applicant represented by Ken Flint, 2301 Louis O'Grady Drive, Saugus MA.
  - E) Old plans used from previous requests.
  - F) Tables are open for customer use.
  - G) Debra Dellacona asked about parking places. Spaces are used by all businesses in mall. Employees park to the side.
  - H) No audience participation.
- 4) Hearing of Gully Point Condominium Association to delete conditions #1 and #2 in Case No. 060405 concerning the property at 46 Marmion Way, Rockport.
  - A) Opened 7:20 P.M. Closed 7:34 P.M.
  - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen.
  - C) Materials presented: Attorney Letter, application, Decision 060405 and registry filing of decision.
  - D) Applicants represented by Wilhelmina Sheedy, 76 Main Street, Rockport.
  - E) The 4 units at Gully Point had kitchenettes installed and declared dwelling units.
    - a) Unit 1-3 can only be used seasonally and cannot be enlarged.
    - b) Unit 4 can be used year round and can be enlarged.

- c) The units use to be tied to summer sewage and water.
  - d) Presently they are connected year round.
  - e) For expansion or enlargement the units would have to come before the Board.
  - f) 2 letters from neighbors supporting the request were submitted to the Board.
  - g) Peter Bergholtz asked that the original decision be displayed on the overhead.
  - h) Lars-Erik Wiberg asked Mina Sheedy if she could think of any situation in town similar to this and she couldn't.
  - i) Tacy San Antonio asked if they were paying year round taxes and the answer was yes.
- F) Audience
- a) Joe Mueller 47 Marmion Way was in complete support of the petitioner's request.
  - b) Mark Jackowicz, 46A Marmion Way, owner of unit 1, stated that this would keep the small community image that the area presently has.
  - c) Phyllis Freeman who owns unit 4 would like her neighbors to have the same rights that she already enjoys.
- 5) Hearing of James Farnham/ Fox Run Ventures LLC for a special permit and/or variance to convert the existing 2 family main house to a single family dwelling; to convert the detached barn to a single family dwelling; and to construct several additions to the main dwelling at 131 Granite Street, Rockport.
- A) Opened 7:35 P.M. Closed 7:57 P.M.
  - B) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, Tacy San Antonio, John N. Rees and Michael Bace.
  - C) Materials presented: photos, site plan, floor plan, and elevations.
  - D) James Farnham, Fox Run Ventures LLC, 65 Fox Run Road, S. Hamilton, MA represented the petitioner.
    - a) The property is very run down.
    - b) The front house is very close to Granite Street.
    - c) The planned additions do not encroach any further into the setbacks.
    - d) Tacy San Antonio asked how far the barn is from the house and the answer is about 14 feet.
    - e) The barn was previously a craft studio.
    - f) They do not plan to expand the footprint of the barn.
    - g) The original application did not show changes to the barn.
    - h) Charles W. Christopher asked for measurements to the neighbors as he could not see any actual figures.
    - i) John N. Rees asked if the intention is to convert the front structure to a one family and the barn into a one family dwelling. The answer was yes.
    - j) One unit could be sold as a condo.
    - k) John N. Rees commented that a variance would be needed for a separate dwelling because the lot size is not 24,000 square feet which is the required size for an accessory dwelling.
    - l) Charles W. Christopher stated that the shed dormer on the barn would need to be set back from the soffit by 2 feet.
- E) Audience
- a) Attorney Nick Schipiro representing Ron Roma, 129/133R Granite Street, Rockport.
    - Concerned with 2 single family residences on an 8,400 square foot lot.
    - Can have only one single family per lot.

- Applicant needs to get one or maybe 2 variances.
  - Submitted memorandum to Board in opposition to this request. It was stamped in and placed in the file.
  - Request that this petition be denied.
- b) Greg Blaha of 133 Granite Street spoke in favor of the request as it appears reasonable.
- 6) Reopening and discussion of O'Connor hearing.
- A) Applicant returned to meeting with a picture of the cellar entrance.
- B) From the back corner of entrance is 11Feet to property line
- C) The new structure will be 13 feet 5 inches from the line.
- D) Michael Bace moved to approve the request and Frederick Frithsen seconded.
- E) Tacy San Antonio wanted it to be noted that a deficiency letter was sent to the applicant asking for the setback encroachment and none were supplied.
- F) Frederick Frithsen stated that maybe the Board should get firmer about deficiencies not being rectified in a timely fashion.
- G) Vote was taken on the motion and it passed unanimously with Alan Battistelli, Lars-Erik Wiberg, Frederick Frithsen, Michael Bace and Debra Dellacona voting.
- 7) Approval of minutes: October 28, 2015.
- A) Peter Bergholtz moved to approve the minutes of October 28, 2016 as presented and Lars-Erik Wiberg seconded.
- B) It passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, Frederick Frithsen, John N. Rees, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.
- 8) Discussion of Hearings
- A) Cumberland Farms
- a) Peter Bergholtz moved to approve request for five years and Tacy San Antonio seconded.
- b) Motion passed unanimously with Charles W. Christopher, Peter Bergholtz, Tacy San Antonio, John N. Rees and Lars-Erik Wiberg voting.
- B) Gully Point Condo
- a) Peter Bergholtz moved to approve the request and Tacy San Antonio seconded.
- b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen voting.
- C) Farnham
- a) Peter Bergholtz: It needs a variance. If we open the door to accessory dwellings on small lots it will cause an avalanche of requests.
- b) Michael Bace said that there is no hardship.
- c) Discussion between members if the decision can be split to pass the special permit but deny the variance. Changes need to be done to the plans.
- d) Peter Bergholtz felt that the entire request should be denied without prejudice so they can come back to the Board with new plans.
- e) Michael Bace moved to deny the petition without prejudice and Peter Bergholtz seconded.
- f) The motion passed unanimously with Charles W. Christopher, Peter Bergholtz, Tacy San Antonio, John N. Rees and Michael Bace voting.
- 9) Old Business: None

10) New Business

- A) A revision to the decision writing file name protocol is to be sent to all members of the Board.
- B) Alan Battistelli sent out invitations to all volunteers to the Selectman's annual Christmas party.
- C) The Board officially welcomed its newest member Debra Dellacona.
- D) Applications filed with the Board will now be made available to the public on the town website.
- E) The zoning bylaws passed at the last Town Meeting have been submitted to the Attorney General's Office for review. The Attorney General has set an action date for December 20, 2015 but that could be extended.

11) Next Possible Meeting January 27, 2016

- 12) Motion to adjourn made by Charles W. Christopher and seconded by Peter Bergholtz passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, Frederick Frithsen, John N. Rees, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.  
Adjournment at 8:30 P.M.