

Rockport Board of Appeals
February 24, 2015
7:30 P.M.
Rockport Public Library
The Brenner Room
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Alan Battistelli (Chairing), Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and John N. Rees. Joyce Fossa absent.
- 2) Approval of Minutes: February 19, 2015
 - A) Peter Bergholtz moved to accept the minutes as presented and Lars-Erik Wiberg seconded.
 - B) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and John N. Rees voting.
- 3) Hearing of Yankee Clipper, LLC for a special permit and/or a variance to approve the existence of a walk-in cooler that is partially in a setback at 127 Granite Street, Rockport..
 - A) Opened 7:40 P.M. Closed 7:53 P.M.
 - B) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, Tacy San Antonio, Frederick Frithsen and Michael Bace. Alan Battistelli recused himself.
 - C) Materials presented: Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) Michael Rauseo the manager of the Yankee Clipper Inn asked authorization for the continued use of an existing cooler that has been in place since 2008.
 - a) It was installed and replaced a smaller shed, that was in the same location.
 - b) It is needed to store food for the Inn.
 - c) When it was installed they thought it was just a piece of equipment and not a structure. The building inspector informed them that it violates the setbacks.
 - d) Mr. Rauseo pointed the structure out on the overhead plans displayed and showed that it was a couple of feet into the setback.
 - e) Michael Bace asked if the shed had been in the setback and was told it was.
 - f) Charles W. Christopher asked if it could be turned to fit and was told that the existing ledge in the area made that impossible. Charles W. Christopher asked if the cooler made noise and was told no.
 - g) John N. Rees asked about its visibility and was told that it cannot be seen from the road or abutters.
 - E) No audience participation.
- 4) Hearing of Lisa M. Glover for a special permit and/or variance to open a take-out beverage and sandwich shop at 6R Dock Square, Rockport.
 - A) Opened 7:54 P.M. Closed 8:08 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: Site plan, floor plan and photos.
 - D) Lisa Glover of 6 Dock Square stated that the existing structure is presently vacant and would like to open a café for fair trade coffees and pastries.
 - a) It will have a seating capacity for 7 people and has gotten the OK from the Rockport Selectmen for outside seating.

- b) It will be a takeout café and she is presently arranging to cook at her home kitchen. No cooking will be done on the premises.
 - c) It will have a handicapped bathroom.
 - d) Alan Battistelli asked about the trash and was informed that she will use a compost service for paper plates etc. Some closed rubbish containers will be under the stairs.
 - e) Alan Battistelli stated that the establishment would be classified as a bakery.
 - f) Tacy San Antonio asked about the business hours and was told that Lisa Glover presently was planning to be open from 6 A.M. to 3 P.M. The business would be open 7 days a week.
 - g) Frederick Frithsen asked how many seats would be outside and the answer was 8.
- E) Audience questions:
- a) Betsy Sartaski, 2 Stone Barn Lane
 - (a) Concerned with trash increase in the area and possible raccoon problem.
 - (b) 6:00 A.M. is too early with the possible noise created at that early hour.
 - b) Lisa Glover doesn't think a lot of noise will be created so it is not an issue and the area under the stairs will have sealed trash receptacles. She will be going to the dump 2-3 times a week.
- F) Tacy San Antonio asked if there would be any employees and was answered that none were planned for at this time.
- 5) Hearing of Scott and Eliza Lucas for a special permit and/or variance to attach a permanent awning to the rear of the building at 2 Doyles Cove Road, Rockport
- A) Opened 8:09 P.M. Closed 8:18 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, Frederick Frithsen and Michael Bace.
 - C) Materials presented: Materials presented: photos, site plan, floor plan, and elevations.
 - D) Attorney Wilhelmina Sheedy 76 Main Street, Rockport, represented the petitioners.
 - a) Proposing an awning as protection from wind, rain and sun.
 - b) Some customers are spreading out beyond the property line and this would define the area of the restaurant.
 - c) The awning would cover the entire back area of restaurant right to the property line like other buildings on the Neck.
 - d) The roof will be canvas or corrugated metal with plastic sides that roll up and down.
 - e) Scott Lucas, 2 Doyles Cove Road added that the 14 foot awning would have a pitch for water to roll off. This would create boundaries for customers and there would be less outdoor seating available.
 - f) Michael Bace asked about how the structure would be fixed to the ground and was told by 7 ft. 4 in. angle iron.
 - E) Letters were read from neighbors who were concerned with the spillover of customers. Mr. Lucas stated that this would make definite borders for customers to stay within.
 - F) No audience participation.
- 6) Continued hearing of Yijie He and Qunxiao Wu for a special permit and/or variance to change the use from a retail space to a restaurant in an existing non-conforming building at 3-5 Main Street, Rockport.
- A) Opened 8:19 P.M. Closed 9:04 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: general plan, plot plan, floor plan, elevations and photographs.
- D) Attorney Robert Visnick, 11 School Street, represented the petitioners. Mr. He was in an accident and unable to attend.
 - a) The applicants have run the Midori Restaurant in Gloucester and Rockport needs restaurants. The owners will schedule hours to work with the Rockport Music Center.
 - b) Restaurants are legal in the area but it is a nonconforming lot so it needs a change of use and relief from parking requirements. All restaurants in the area have the same restraints.
 - c) They intend to use a state of the art exhaust system and trash will be stored inside for removal at least three times a week.
 - d) If the Zoning Board allows the change of use they will then go before the historical commission and the Selectmen (for a liquor license).
 - e) Alan Battistelli stamped in new plans. It will have 2 handicap accessible restrooms and second egress would be through the downstairs shop. It will have a Sushi bar and a beer and wine bar.
 - f) Lars-Erik Wiberg asked if trash would go through Pier Avenue and answer was yes. Alan Battistelli is also concerned with trash as its proper care is very important. Robert Visnick stated that they will use state of the art storage and refuse facilities.
 - g) Charles W. Christopher is concerned with the exhaust system. Robert Visnick replied that the system will be dictated by the Board of Health, Building Inspector and historical commission.
 - h) Charles W. Christopher asked how they planned to suppress the noise level. Robert Visnick answered that the equipment they used will be as quiet as possible.
 - i) Lars-Erik Wiberg voiced concern with deliveries as some cannot get into Pier Avenue. Robert Visnick felt this is not unique to this restaurant as all businesses have to coexist.
 - j) Lars-Erik Wiberg stated that the intensity of use is definitely increased. Robert Visnick stated that all of these issues can be addressed in the Board's decision.
 - k) Robert Visnick replied to Michael Bace concerns by stating that delivery to the restaurant can be smaller trucks and deliveries can move in and out quickly. Noise will be dampened by having the refrigerator in the basement and using the existing air conditioner.
- E) Audience participation
 - a) Eric Patey, 3 Boulder Top owns 2 Pier Avenue and is against the change of use as it will be detrimental to the neighborhood due to increased noise, odor, vibrations and garbage.
 - b) Deborah Cowan property manager 1 Main Street and 27 School Street is against the change of use.
 - c) Ellen Hoyer emailed that she was not in favor as neighbors own legal parking spaces on Pier Avenue that should not be used for business. Restaurant will be noisy because of the air conditioners.
 - d) Jennifer Kelley, 7 Main Street, shares an alley way and is concerned with parking, trash, seagulls and noise from late hours at the bar.
 - e) Dawn Noble, 9 Vine Street owns 2-6 Main Street is in favor of the change of use.

- f) Seth Yora, 219 Main Street, is in support of the change as it is good to add quality eating establishments.
 - g) Mr. Visnick stated that he is in this district and deliveries can be from loading zones on Main Street.
 - h) Tacy San Antonio asked about take out and will it have late hours. There will be 45 seats in Restaurant and takeout. The hours will be flexible.
 - i) Tacy San Antonio asked if the noise of the roof fan can be contained. Robert Visnick replied that they will consider noise levels of equipment that is used keeping it as quiet as possible and in harmony with the neighborhood.
 - j) Peter Beacham, 4 Quarry Run, felt the applicants should be able to find solutions to the concerns voiced. Technology can solve problems that have been brought up. He is in support of the change of use.
 - k) Eric Patey, 3 Boulder Top, stated that deliveries are a concern but takeout customers parking for pickup is a real problem.
- 7) Continued hearing of William Merry for a variance and/or special permit to construct a 16 foot by 26 foot 6 inch garage along with a 20 foot 3 inch by 20 foot addition connecting the garage to the existing non-conforming residence at 13 Laurel Acres Road, Rockport.
- A) Opened 9:04 P.M. Continued to March 31, 2015 meeting
 - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, John N. Rees, Frederick Frithsen and Michael Bace.
 - C) Materials presented: general plan, plot plan, floor plan, elevations and photographs.
 - D) William Merry, 13 Laurel Acres:
 - a) Presented pictures of other garages in the neighborhood.
 - b) Showed the house's present appearance.
 - c) The lot drops off 4 feet and the addition goes over no build zone.
 - d) Pictures show that the topography is a problem.
 - e) Reviewed setbacks to show that the new plans are less nonconforming than the previous plans.
 - E) Michael Bace stated that it is a new nonconformity and therefore needs a Variance. The Board needs to follow the law and a garage is not considered a necessity.
 - F) Petitioner asked for a continuance to the March meeting in order to adjust his plans.
 - G) The Board granted the continuance and will hear the petition at the March 31, 2015 meeting.
- 8) Old Business: Review design modifications of Decision 140703 by William Ruhl at 53 Marmion Way, Rockport. Determine if modifications are significant enough to require a new hearing. Mr. Ruhl was not present so it will be reviewed at the March 31, 2015 meeting.
- 9) Discussion of Hearings
- A) Glover
 - a) Tacy San Antonio brought up the second egress and if it is sufficient. Alan Battistelli said that it will have to meet the building codes and the Building Inspector will enforce them.
 - b) Trash must be removed at least 3 times a week. It is a coffee shop with baked goods.
 - c) Another condition will be that the outside seating cannot be used before 7:00 A.M.
 - d) It must have outside visible trash receptacles for customer use.
 - e) Peter Bergholtz moved to approve with conditions and Lars-Erik Wiberg seconded. It passed unanimously with Alan Battistelli, Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen voting.
 - B) Yankee Clipper, LLC

- a) Charles W. Christopher stated that the cooler has been there since 2008.
 - b) Peter Bergholtz made a motion to approve the request and Lars-Erik Wiberg seconded.
 - c) It passed unanimously with Charles W. Christopher, Peter Bergholtz, Tacy San Antonio, Frederick Frithsen and Michael Bace voting.
- C) Lucas
- a) It is a temporary structure.
 - b) It should be conditioned that signage be used to keep customers on the property.
 - c) Michael Bace moved to approve and Frederick Frithsen seconded.
 - d) It passed unanimously with Alan Battistelli, Peter Bergholtz, Tacy San Antonio, Frederick Frithsen and Michael Bace voting.
- D) He/Wu
- a) This needs to be conditioned:
 - (i) No parking signage must be posted on Pier Avenue side of building.
 - (ii) Subject to Building Inspectors approval of the egress.
 - (iii) Conditioned that noise ratings on air conditioner vents and compressors.
 - (iv) Trash removal at least 3 times a week.
 - b) Lars-Erik Wiberg moved to approve with the discussed conditions and Peter Bergholtz seconded. It passed unanimously with Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
- E) Merry continued to next meeting.
- 10) Next Possible Meeting March 31, 2015
- 11) Motion to adjourn made by Peter Bergholtz and seconded by Lars-Erik Wiberg. Passed unanimously with Alan Battistelli, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and John N. Rees voting. Adjournment at 9:45 P.M.