

Rockport Board of Appeals
March 30, 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, Tacy D. San Antonio, Debra Dellacona and Michael Bace. Frederick Frithsen and John N. Rees absent.
- 2) Hearing of Vasil Zafiri (Seaside Pizzeria LLC) for a renewal of the special permit to continue operating the pizza restaurant at 9 Railroad Avenue, Rockport.
 - A) Opened 7:00P.M. Closed 7:05 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 plans.
 - D) Petitioner is asking to renew his special permit to continue operating his pizza restaurant for 5 years.
 - E) Mary Sullivan of 3 King Street spoke in support of the request.
- 3) Approval of minutes:
 - A) February 24, 2016.
 - a) Peter Bergholtz moved to accept with a couple of minor changes and Michael Bace seconded.
 - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.
 - c) Charles W. Christopher moved to accept the executive session minutes and Peter Bergholtz seconded.
 - d) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.
 - B) March 9, 2016
 - a) Alan Battistelli moved to accept the minutes and Peter Bergholtz seconded.
 - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Charles W. Christopher, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.
- 4) Hearing of Mary Ellen Sullivan for a special permit and/or variance to extend existing balconies on the second and third floor by 12.6 feet on an existing non-conforming building at 3 King Street, Rockport.
 - A) Opened 7:10 P.M. Closed 7:37 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, Lars-Erik Wiberg, Michael Bace and Debra Dellacona.
 - C) Materials presented: photos, site plan, floor plan, and elevations.
 - D) Robert Gulla, 593 Essex Avenue, Gloucester represented the petitioner.
 - a) Plan to build a deck over the existing roof and another deck above that.
 - b) 11' 9" from the Peg Leg Inn.
 - c) Mary Ellen Sullivan who owns 3 King Street spoke to exactly where the house is situated in the neighborhood.

- d) The existing structure is nonconforming as it is 35' in height.
- e) The plan extends the existing second story deck and builds another over it.
- E) Charles W. Christopher asked about the Conservation Commission.
 - a) The answer was that the Conservation Commission had approved the plans submitted without this deck modification.
 - b) They will be going before the Commission to get these deck modifications approved.
- F) Audience
 - a) Marcia Lombardo, 16 Beech Street spoke in opposition to this request.
 - With the addition of 2 extra decks there will be a major increase of noise and the volume of the noise.
 - A great deal of noise already echoes across the meadow.
 - Michael Bace asked if the noise was coming from this particular building.
 - The answer was that the people from the house are talking and yelling at their kids in the park etc.
 - b) Mary Ellen Sullivan stated that it is a rental property.
 - Screen porch was knocked down and became the kitchen area.
 - Porch is open facing the Peg Leg.
 - It is generally a weekly rental.
 - She lives in unit 29 on a part time basis.
 - Decks were created for fire egress.
 - c) Pat O'Malley, 7 King Street stated that the area can be noisy because of the road and park. It is a noisy neighborhood and this improved the area.
 - d) Alan Battistelli stated that it might be difficult to tell exactly where the noise was coming from.
- 5) Hearing of Donna Schwenk for a special permit and/or variance to increase an existing deck by 2 feet on an existing non-conforming building at 18 High Street, Unit 1, Rockport.
 - A) Opened 7:37P.M. Closed 7:47 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg and Michael Bace.
 - C) Materials presented: photos, site plan, floor plan, and elevations.
 - D) John Buchner, Shoreline Construction, 84 Magnolia Ave. Gloucester represented the petitioner.
 - a) Asking to bring the existing deck out by 2'. It will be 4' from property line.
 - b) Submitted a letter from other condo owners agreeing to this proposal.
 - E) Asked if anyone from audience would like to speak and Terry Schwenk 18 high Street came to the podium.
 - a) The latest submissions have the proper scale and necessary information. This should be in the file.
 - b) Submitted agreement from a few neighbors.
- 6) Continued hearing of Randall Burley for a special permit and/or variance to convert an existing one-family dwelling to a two-family dwelling at 5 Lattoff Farm Circle, Rockport.
 - A) Opened 7:47P.M. Closed 8:03 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, Tacy San Antonio, Michael Bace and Debra Dellacona.
 - C) Materials presented: photos, site plan, floor plan, and elevations.
 - D) Randall Burley submitted that due to family problems he was in a great deal of financial difficulty.

- a) Trying to stay in town and if he can rent the room over the garage he can keep his home.
 - b) Submitted agreements from abutters.
 - c) Building an external stairs for the renter. The stairs meet the setback requirements.
 - d) Lot is 10,029 square feet when 15,000 square feet is required for a 2 family dwelling.
 - e) Looking for a special permit to use as a rental.
 - E) Alan Battistelli stated that this seemed to need a variance.
 - F) Michael Bace said that 2 family changes should be allowed in situations like this.
 - G) Debra Dellacona said it might decrease the property values if everyone did this.
 - H) Lars-Erik Wiberg stated that the bylaw doesn't address this.
 - I) Michael Bace stated you should be able to get this with a special permit but our bylaw requires a variance.
 - J) Tacy San Antonio asked how the size of the lot compared with other lots in the neighborhood and asked about the number of cars that were able to park.
 - K) She was told that other lots were smaller than 15,000 sq. ft.
 - L) Alan Battistelli stated that only an area for 2 cars was needed.
 - M) No audience participation.
- 7) Request for Extension for Decision 080102 by Anthony Accardi of Pigeon Cove, LLC at 144-146 Granite Street, Rockport.
- A) Anthony Accardi represented himself.
 - a) Asking for an extension as the development of the Cape Ann Tool company has stopped.
 - b) Investors are not willing to invest until the Cape Ann Tool Company's development continues.
 - B) Peter Bergholtz moved to provide the extension that was requested and Tacy San Antonio seconded.
 - a) It passed unanimously with Alan Battistelli, Tacy San Antonio, Charles W. Christopher and Peter Bergholtz voting.
 - b) Alan Battistelli will send a letter with this decision to the applicant and to the Town Clerk
- 8) Approval of minutes of the Zoning Administrator meeting March 24, 2016. Charles W. Christopher approved the minutes.
- 9) Discussion of Hearings
- A) Zafiri
 - a) Charles W. Christopher moved to approve a 5 year special permit and Lars-Erik Wiberg seconded.
 - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
 - B) Sullivan
 - a) Alan Battistelli felt that neighbors didn't seem to be able to differentiate where the noise was coming from.
 - b) Charles W. Christopher thought the size seemed to be getting rather large.
 - c) Peter Bergholtz rode by the house and liked the appearance of the work done so far.
 - d) Michael Bace moved to approve the request and Charles W. Christopher seconded.
 - e) The motion passed unanimously with Alan Battistelli, Charles W. Christopher, Lars-Erik Wiberg, Michael Bace and Debra Dellacona voting.

- C) Schwenk
 - a) Tacy San Antonio made a motion to approve the 2' extension of the deck as presented in the plans submitted and Peter Bergholtz seconded.
 - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg and Michael Bace voting.
- D) Burley
 - a) Tacy San Antonio commented that the Board turned down a similar request last month.
 - b) Michael Bace said that the Board could not consider finances as a hardship.
 - c) Peter Bergholtz said if we grant this we will have an enormous line of people requesting the same.
 - d) Lars-Erik Wiberg commented that the bylaw seems to be silent on two family homes in a semi residential district.
 - e) Tacy San Antonio moved to deny this appeal and Debra Dellacona seconded.
 - f) The motion passed unanimously with Alan Battistelli, Charles W. Christopher, Tacy San Antonio, Michael Bace and Debra Dellacona voting.
- 10) Continued discussion and vote of Fabian Site Plan Review and conditions
 - A) Peter Bergholtz moved to approve that conditions of the site plan review be included in the decision on case #160203 with two corrections of the zone and height, modification of condition 6 and elimination of number 10. Seconded by Lars-Erik Wiberg.
 - B) It passed with unanimously with Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio and Lars-Erik Wiberg voting.
- 11) Old Business: Members of the Board will review rules of procedure.
- 12) New Business
 - A) Secretary Helen Barnett brought up the fact that the Board of Appeals was incorrectly named Zoning Board on the Town website.
 - B) The board members agreed the official name was Board of Appeals.
 - C) Alan Battistelli will ask that the name be corrected.
- 13) Next Possible Meeting April 27, 2016
- 14) 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, Tacy D. San Antonio, Debra Dellacona and Michael Bace voting.
Adjournment at 8:54 P.M.