

Rockport Board of Appeals
March 31, 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, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and Joyce Fossa. John N. Rees and Frederick Frithsen are absent.
- 2) Hearing of Rockport Real Estate Association for variances and/or special permits to construct a covered entrance, to replace the garage door with windows and doors, to add a loading platform, and to change the use from a retail space to a restaurant on the nonconforming building at 17 Railroad Avenue, Rockport.
 - A) Opened 7:34 P.M. Closed 8:01 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Michael Bace.
 - C) Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) Architect Jack Campbell, 4 Bayridge Lane, represented the petitioner.
 - a) Asking for a reissuance of permit given in 2012
 - b) Essentially the same as previous plans with some slight modifications asked for by the Planning Board in their site plan review.
 - c) Are not finished with the planning Board at this time should be by this coming Thursday.
 - d) Refer back to the plans accepted in 2012.
 - e) Parking will need to be accepted since they are planning on using the onsite parking and parking on the contiguous lot owned by the same owner to meet the parking requirement.
 - f) Seeking waiver for the greenbelt requirement as it would basically wipeout most of the onsite parking.
 - g) A history of the last two restaurant proposals on this site was given.
 - h) Conservation Commission has accepted the plans.
 - i) Convert the interior of first floor to a restaurant. No use of second floor.
 - j) Creating new entry and handicapped access on North side.
 - k) The greenbelt waiver is for the proposed sidewalk.
 - l) Around on service drive constructing a wooden platform with double door and area for trash.
 - m) Charles W. Christopher asked about the shed on the property and if it will be removed. Jay Smith of 45 Mt. Pleasant Street said that the neighbors have not asked for its removal so there are no plans to remove it.
 - n) They will be improving the landscape and pedestrian access.
 - E) Audience:
 - a) Toby Arsenian, 95 Granite Street, stated that he is not opposed to plan but the plan would be improved with more trees on site. The applicants should also be required to come back to the Board if the parking spaces on the contiguous lot become unavailable at some later date.
 - b) Jack Campbell replied that the last decision on the property included the parking spaces off site.
 - F) Alan Battistelli asked the panel how they wanted to handle this.

- a) Does the panel want a continuance until the planning Board finalizes their site plan review or close the hearing and incorporate the Planning Board's stipulations in the final decision?
 - b) The panel voted unanimously to close the hearing with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Michael Bace voting.
- 3) Hearing of William Arvanites and Naomi Foster for a special permit and/or variance to remove the side and rear decks, to construct a one-story addition at the rear, to construct a one-story addition with a roof deck and an uncovered landing and steps on the left side, and to construct an addition to the second floor on an existing nonconforming building; to renovate the existing accessory building on petitioner's property at 6 Allen Avenue, Rockport.
- A) Opened 8:02 P.M. Closed 8:08 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Tacy San Antonio, Lars-Erik Wiberg, Joyce Fossa and Charles Christopher.
 - C) Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) Ellen Levine, Treehouse Design, the existing single family building built in the early 1900s and renovated in the 70s.
 - a) Non-conforming structure encroaches into set back on three sides and separate garage is completely in the setback.
 - b) Non-conforming lot coverage presently at 26% with the limit at 20%.
 - c) Building separation is also non-conforming.
 - d) Removing decks and adding single story addition on left side of house with a roof deck next to the garage. Adding uncovered landing and steps.
 - e) The second story addition will be over the existing first floor.
 - f) By removing decks will be improving non-conformity by lessening encroachment into set back and improving the separation from garage.
 - g) Land coverage will be increased to 30%.
 - h) Many properties in neighborhood are non-conforming.
 - E) No audience participation.
- 4) Hearing of Carl E. Gardner, Jr., d/b/a Gardner Company for variances and/or special permits to construct five (5) dwelling units: one single family dwelling along with an accessory single family dwelling on Lot 1 and one single family dwelling and an accessory two family dwelling on a Lot 2; and to permit driveway access to Lot 1 be combined with the access to Lot 2 at 5 Granite Street, Rockport.
- A) Opened 8:12 P.M. Continued to April meeting.
 - B) Members of the Board sitting are Peter Bergholtz (presiding), Lars-Erik Wiberg, Joyce Fossa, Tacy San Antonio and Michael Bace.
 - C) Materials presented: Materials presented: photos, site plan, floor plan, and elevations.
 - D) Carl Gardner, 9 Woods Lane, Ipswich, MA presented his proposal.
 - a) The property has 112 feet of frontage on Granite Street and a right of way from King Street.
 - b) With no appeal to the Board he could legally build on the lot 2 two-family homes with two driveways.
 - c) The site drops off suddenly from Granite Street.
 - d) Currently there is a nursery on the site that goes back to the 40s.
 - e) Site conditions are difficult and the new homes will be landscaped to absorb water so there will not be as much run off.

- f) Lot 1 having its own driveway would be unsafe so asking for a common driveway. Peter Bergholtz stated that Mr. Gardner was looking for a variance for the driveway.
 - g) Mr. Gardner asked for a special permit for the accessory dwellings. He needs this for the site plan review.
 - h) Planning Board Chair Henry Betz 12 Penzance Road stated that a number of issues have come up and the Planning Board is not ready to make its decision.
 - i) The panel voted unanimously to continue this hearing to the April meeting with Peter Bergholtz, Lars-Erik Wiberg, Joyce Fossa, Tacy San Antonio and Michael Bace voting.
- E) Audience:
- a) Sue Himmel, 7A Granite Street is opposed because of proximity of structures to her home. It will have a negative effect on Neighborhood. Long term effects should be explored more.
 - b) Mr. Gardner's answer was that the trees will not be cut down and the difference in traffic between a 4 to 5 dwellings is very small.
 - c) Stephanie Cole, 30 Granite Street is opposed to the plans presented by Mr. Gardner.
 - There are too many buildings proposed.
 - Drainage issues.
 - Emergency access from King Street is difficult.
 - Adverse impact on sewage system in the area.
 - Large construction vehicles will adversely impact houses in the area.
 - Increase of traffic accessing Granite Street.
 - d) Mr. Gardner's answer is: The frontage is legal. Access to King Street is a legal right of way and would only be used in emergencies.
 - e) James Cole 30 King Street read a letter from Charles and Sharon Marvel of 24 King Street that voiced their concern with pedestrian and vehicular use of the right of way from King Street adversely effecting them and drainage issues.
 - f) Mr. Gardner said that his plan would improve drainage and will tie into sewer.
 - g) David McKinnon 36 King Street concerned with:
 - Privacy so wants lower structures or planting coniferous trees as privacy screen.
 - Airborne toxins in the air when the structure that housed the greenhouse's coal burning heater is demolished.
 - The navigation of the intersection of King Street, Summit Avenue and Granite Street will become even more hazardous.
 - The driveway as it is laid out is hazardous.
 - h) Mr. Gardner answered that the demolition will be controlled. Disagrees that the driveway is dangerous and all of the concerns can be dealt with.
 - i) Bob Whalen, 2 Granite Street, not opposed to developing the lots but sees drainage as a problem and the common driveway is really a road.
 - j) Mr. Gardner again stated that this is a residential zone and the right of way is only for an emergency.
 - k) Toby Arsenian, 95 Granite Street, asked for reading of what is needed to grant variance and a special permit. He is opposed to the variance for a common driveway. There are not enough parking spaces in the plans.

- l) Mr. Gardner said that according to MA general law this area can justify a variance. There is a 500 Ft. limit to a driveway.
 - m) Joan Hazelton, 3 Granite Street, said there will be no view from side angle on King Street.
 - n) Mr. Gardner replied that 2 driveways would make it worse.
 - o) Christina Wilcox, 24R King Street, is concerned with
 - Any use of the right of way as it would be hazardous to people living in the area and could damage the foundations of older structures.
 - The construction of so many structures would be detrimental to the neighborhood.
 - Adverse impact on traffic.
 - Request that the Board deny this request.
- 5) 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 9:24 P.M. Closed 9:30 P.M.
 - B) Members of the Board sitting are Alan Battistelli, Charles W. Christopher, Joyce Fossa and Michael Bace.
 - C) Materials presented: general plan, plot plan, floor plan, elevations and photographs.
 - D) William Merry, 13 Laurel Acres, submitted modified plans with the garage 15 ft. 2 in. from the property line so he no longer needs a variance as it does not encroach on the setback. He is asking only for a special permit to increase the present non-conformity which is allowed under the Gates Decision.
 - E) The Board asked Mr. Merry to submit a full size plan for the files.
- 6) Request for Extension for Decision 080102 by Anthony Accardi of Pigeon Cove, LLC at 144-146 Granite Street, Rockport.
- A) Members of the Board who sat on original panel are Charles W. Christopher, Tacy San Antonio, Alan Battistelli, Lars-Erik Wiberg and Joyce Fossa.
 - B) Materials presented: Letter asking for the extension.
 - C) Charles W. Christopher made a motion to extend the decision. Peter Bergholtz seconded and it passed unanimously with Charles W. Christopher, Tacy San Antonio, Alan Battistelli, Lars-Erik Wiberg and Joyce Fossa voting.
- 7) 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.
- A) Members of the Board who sat on original panel are Peter Bergholtz, Charles W. Christopher, John N. Rees, Alan Battistelli and Michael Bace.
 - B) Materials presented: original plans and new plans with the proposed modifications. The proposed modifications will shrink plans down by 20% and have a pitched roof. The peak of the roof will be at 27 ft.
 - C) Peter Bergholtz moved to accept this as a minor change. Michael Bace seconded and the motion passed unanimously with Peter Bergholtz, Charles W. Christopher, Alan Battistelli and Michael Bace voting.
- 8) Review design modifications of Decision 140803 by 154 Thatcher Road Realty Trust at 154 Thatcher Road, Rockport. Determine if modifications are significant enough to require a new hearing.
- A) Members of the Board who sat on original panel are Alan Battistelli , Lars-Erik Wiberg, Joyce Fossa, Frederick Frithsen and Michael Bace.
 - B) Architect John Judd, 33 Forest Hill Avenue, Lynnfield, MA, represented the petitioner.

- C) The plan is to no longer use the rear block constructed building but to build a new structure in the same footprint. There is no change in dimensions from the original plan.
- D) Alan Battistelli moved to approve request to take down the building and build in the same footprint. Lars-Erik Wiberg seconded and it passed unanimously with Alan Battistelli, Lars-Erik Wiberg, Joyce Fossa and Michael Bace voting.
- 9) Alan Battistelli moved to modify the agenda so that the hearings could be discussed. Seconded by Lars-Erik Wiberg and it passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and Joyce Fossa voting. The motion passed.
- 10) Discussion of Hearings
 - A) Rockport Real Estate Association
 - a) Peter Bergholtz moved to approve the request and Tacy San Antonio seconded.
 - b) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Michael Bace voting.
 - B) Arvanites and Foster
 - a) Tacy San Antonio made a motion to approve and Lars-Erik Wiberg seconded.
 - b) It passed unanimously with Alan Battistelli, Tacy San Antonio, Lars-Erik Wiberg, Joyce Fossa and Charles Christopher voting.
 - C) Gardner continued to April meeting.
 - D) Merry
 - a) Michael Bace made a motion to approve and Charles W. Christopher seconded.
 - b) It passed unanimously with Alan Battistelli, Charles W. Christopher, Joyce Fossa and Michael Bace voting.
- 11) Approval of Minutes February 24, 2015.
 - A) Peter Bergholtz moved to accept the minutes.
 - B) Tacy seconded and it passed unanimously with Alan Battistelli, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and Joyce Fossa voting.
 - C) Peter Bergholtz left after voting on the minutes.
- 12) New Business:
 - A) Discussion of Open Meeting Law Guide March 18, 2015 and forms. New modifications must be signed and turned in.
 - B) Joyce Fossa made a motion to change the Board's meetings to the last Wednesday of the month at 7:00 P.M. pending availability of the meeting room. Tacy San Antonio seconded and it passed unanimously with Michael Bace, Joyce Fossa, Tacy San Antonio, Alan Battistelli, Charles W. Christopher and Lars-Erik Wiberg voting.
- 13) Next Possible Meeting April 29, 2015
- 14) Motion to adjourn made by Charles W. Christopher and seconded by Michael Bace. It passed unanimously with Alan Battistelli, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and Joyce Fossa voting.
Adjournment at 10:00 P.M.